

Rebalancing the Scales



Prioritising Victims of Crime in the Criminal Justice System

**Edited by Priti Patel MP
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Foreword

As Justice Secretary I meet victims of some of the most harrowing crimes imaginable, and too often they have told me that they are treated as an afterthought by the justice system. I am absolutely determined to put this right. The Government is transforming the Criminal Justice System so that it delivers better care and consideration for victims and witnesses. We have revised the Victims' Code so that victims know what they are entitled to, that the justice system will work harder for them and that they will get the help and support they need and deserve.

The Code will tell victims what they can expect from the moment they report a crime to the end of a trial, and who to demand help from if it is not provided. At each stage it will set out the entitlements for victims as well as the duties of our Criminal Justice System services. We consulted the public on the new Code that for the very first time includes information on the Victim Personal Statement. This gives victims a louder voice in the Criminal Justice System and lets them explain in their own words the full impact of the crime. Information on Restorative Justice for victims of adult offenders, helps to bring together those harmed by crime or conflict with those responsible for the harm, to find a positive way forward.

Victims will also have a louder voice if things go wrong through improvements to the complaints process, and I'm looking at how best to investigate and report on complaints made by victims, either locally or nationally. More criminals will be made to pay back for their crimes through the Victim Surcharge. This is part of a package of reforms to make offenders pay up to £50 million a year more towards victims' services, from help with things like home security through to specialist counselling. There will be up to an estimated £100 million available to provide vital services in 2014/15.

Victims and witnesses too often find going to court as harrowing as their initial experience. I want to make this less intimidating and help witnesses get support earlier to give their best possible evidence. We are running pilots of recorded pre-trial cross-examination in three courts in England - Leeds, Liverpool and Kingston-upon-Thames – with the intention of rolling it out more widely if it proves a success. This will mean that for the first time the most vulnerable victims and witnesses can be cross-examined before the trial, and from outside the court room, in front of a judge.

Victims and the public must have the confidence that criminals will be appropriately punished, and rehabilitated, for their crimes. Anyone who goes to prison will now be supervised in the community when they are released. We want better understanding of sentencing and have recently brought in changes stating that courts must explain, in ordinary language, the reasons why certain sentences are given. Through giving victims a louder voice and helping them navigate their way through the Criminal Justice System we can help them to cope and, where possible, recover. The services provided by victims' organisations like those highlighted in this report are invaluable. But through working in partnership to we can achieve even more, providing victims with the package of support they need and so rightly deserve.

Rt Hon Chris Grayling MP
Justice Secretary

Acronyms used

AAFDA	Advocacy After Fatal Domestic Abuse
ACPO	Association of Chief Police Officers
APPG	All Party Parliamentary Group
CICA	Criminal Injuries Compensation Authority
CJS	Criminal Justice System
CPS	Crown Prosecution Service
DFT	Department for Transport
DPP	Director of Public Prosecutions
DVA	Domestic Violence and Abuse
ECHR	European Court of Human Rights
EUCAT	EU Compensation Assistance Team
EV	Escaping Victimhood
FCO	Foreign and Commonwealth Office
FLO	Family Liaison Officer
IPCC	Independent Police Complaints Commission
MHU	Mental Health Unit
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
MPS	Metropolitan Police Service
NAPO	National Association of Probation Officers
ONS	Office of National Statistics
PAS	Prisoners Advice Service
PCC	Police and Crime Commissioner
PM	Post Mortem
PTSD	Post Traumatic Stress Disorder
RJ	Restorative Justice
RJC	Restorative Justice Council
SAMM	Support After Murder and Manslaughter
VLO	Victim Liaison Officer

PART ONE:

THE PARLIAMENTARY PERSPECTIVE

By Priti Patel

A Member of Parliament meets her constituents on many occasions, but most often when they have a problem and they write or come to a surgery asking for help. It is our duty as MPs to try to solve those problems. When you do so, you usually find your constituents' problems are far from unique – they are generally replicated in thousands of cases across the country. For me, this has never been truer than when dealing with victims of crime.

As a newly-elected MP for Witham, in Essex, in 2010, I soon came across two heart-rending cases. The first was a family who had lost a loved one to murder, only to find the murderer tormenting them from behind bars through publicity and numerous hollow appeals to the European Court of Human Rights. The second was a family who had lost a son to a murder overseas, and found that as well as dealing with the trauma of homicide they had to struggle, largely alone, with foreign bureaucracies, language difficulties and spiralling travel costs.

As soon as I raised these cases with fellow MPs, ministers or the media, it was like opening an echo chamber as countless similar cases emerged. This is despite more than thirty years of rhetoric from successive governments about putting victims of crime first. Time after time, victims and their loved ones have first had to help themselves before receiving recognition and support from the State. The first Victim Support group was set up forty years ago as a self-help group by victims of crime in Bristol. More groups spread across the country in response to local need before eventually receiving Home Office funding and growing to become the organisation which today provides the backbone of emotional and practical support to victims. In addition, victims with particular needs have developed their own specific support groups – for instance Support After Murder and Manslaughter Abroad, which gave such valuable help to my constituents in the case above.

Support for victims of crime is important – making sure it is well-resourced and effective is vital. But more is needed: real reform to the Criminal Justice System, so as to really put victims first. Consider these facts:

- Between 50% and 60% of crimes are not even investigated by police in some of our biggest cities ¹
- In a survey of homicide victims more than half (55%) felt the CPS was “unsupportive” of their needs and “aloof” ²
- Studies have found that confidence in the justice system falls 10% after you have become a victim of crime ³
- Just one third of people feel the system meets the needs of victims of crime, while 80% believe it respects the rights of suspects and criminals ⁴
- Less than 1p in every pound spent by the Ministry of Justice goes to support victims of crime ⁵

¹ “Half of all crimes are not investigated because police focus on cases that are 'a priority for them and not victims” Daily Mail, 16 July 2013

² 'Review into the Needs of Families Bereaved by Homicide' Louise Casey (2011)

³ Analysis of the 2002/03 British Crime Survey by the Institute of Public Policy Research (2003)

⁴ Freeman, Laura.

Support for victims: Findings from the Crime Survey for England and Wales. Ministry of Justice Analytical Series (2013) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/194181/findings-crime-survey.pdf

⁵ Ministry of Justice: Spending Review settlement (2011)

Why is there such little confidence in the system's respect for the needs of victims? I believe that courts and criminal justice agencies still fail to provide victims with enough information through the trial process – if the offender is even brought to court in the first place. Then, despite steps in the right direction, victims still have too little role in influencing sentencing decisions, leading to too many lenient sentences. They may make impact statements to the court, but judges are officially told to ignore their opinions about sentencing. Perhaps as a result, too many offenders escape jail or are given short or unduly lenient sentences, which see them freed - often within months - to commit more robberies, burglaries and assaults. The European Court of Human Rights recently ruled that ordering the most inhuman killers to spend their entire lives in prison was a breach of their rights – so even the most evil inmates must be cheered by being told they may one day walk the streets again.

Some progress has been made to support victims. Since 2011, prisoners' earnings are effectively 'taxed' to provide a fund to support victims, which should raise £1million a year. Fines also include an element which goes to the Victim and Witness General Fund. A new European Directive on victims' rights will establish a bare minimum of support. This and other changes will be incorporated in a new version of the Victim's Code, which sets out what victims can expect from all agencies involved in their case.

But I believe more is needed. Why is it that rafts of legislation have been passed to protect the rights of criminals before the courts, when there is no single law enshrining the rights of victims? I believe that victims of crime will only get the voice they deserve in the system when all the codes and policies are set down in law and made legally enforceable.

We need a new Victim's Law which would enshrine a victim's right to information from the Crown Prosecution Service (CPS); access to their lawyers during the proceedings; help in court; the offer of counselling and a dedicated caseworker to help them with problems like housing and childcare. This support is sometimes available from the dedicated volunteers of Victim Support and other organisations, but the right to receive it needs to be set out in statute.

As a parliamentarian, I believe that I can do most to support victims of crime by continuing my campaign to enact such a law. Rebalancing the Scales tells the stories of many unique organisations tackling different facets of the problems facing victims of crime – from stalking, to child sexual exploitation, to murder. Many of these groups began as personal responses to personal tragedies, but have grown as they have uncovered enormous unmet need. I pay tribute to the selfless work of the authors of the following chapters and the organisations they represent. I suspect that as you read these chapters you, like me, will feel humbled – but also angry. Angry that people should suffer the difficulties and indignities of being a victim of crime in addition to coping with the trauma of the crime itself. I hope you will recognise the sterling work done by these campaigners and the movements which they lead – but also recognise that things have got to change.

Priti Patel MP
Co-Chair
All Party Parliamentary Group on Victims and Witnesses

Editorial note to reader:

Rebalancing the Scales aims to bring the voice of small victim's organisation to the forefront of the criminal justice debate. However, we are only able to scratch the surface of the true impact of victimisation. I regret not being able to cover the many complex issues faced by victims including rape; the scope of this report prevents me from doing so. This report is not best placed to handle such specialist and sensitive matters, and I will highlight some of the documentation that looks at this issue including the Ministry of Justice, Home Office and the Office for National Statistics joint paper, "An Overview of Sexual Offending in England and Wales" (January 2013), which provides a statistical analysis of the issue of rape, and "The Crisis in Rape Crisis: Understanding and supporting women and their organisations" released by the Women's Resource Centre in March 2008. For an anecdotal overview of the impact of going through the criminal justice system for victims of rape, I would refer Dr Sara Payne MBE's report, "Rape: The Victim Experience Review" (November 2009) which was released in association with the Home Office. It is my hope that, through this body of work and the message of putting victims first, the extent of the needs of men and women affected by rape are fully realised through the criminal justice system.

PART TWO:
THE PRACTITIONER'S PERSPECTIVE

Chapter One

Victim's Experiences of Stalking in the Criminal Justice System

**By Laura Richards and Harry Fletcher,
Co-Directors of Paladin National Stalking Advocacy Service**

INTRODUCTION

On November 25 2012, following our successful Parliamentary Stalking Law Reform Inquiry, two new offences of stalking were introduced. However, training to identify stalking behaviours and understand risk and the new laws has been patchy and inconsistent. We know through our casework that stalking is not fully understood by criminal justice professionals. Too often stalking goes unreported, and when it is reported there is a lack of understanding and low priority given to cases by police forces, the Crown Prosecution Service and Probation trusts. In many cases the stalking campaign is missed and effective risk assessment and management is lacking which can have lethal consequences. Stalkers steal lives, and in the worst cases take lives, as seen again in recent high profile murder cases.

143 victims took part in a survey to inform changes within the Criminal Justice System. The survey revealed deep dissatisfaction with criminal justice professionals, as well as secondary victimisation by the system, a lack of confidence in the judicial process and the horrific long term nature of stalking behaviour. Stalking is life changing. It is frequently injurious to the victim's psychological, physical and social functioning irrespective of whether they are physically assaulted. Offenders engaging in stalking behaviour can follow a path that can ultimately lead to rape, serious harm and murder. Early identification, intervention and prevention opportunities are missed and too often people pay with their lives.

Paladin has also been directly involved in the high profile Twitter abuse cases across July and August advocating on behalf of high risk victims in the wake of multiple threats to rape and kill that were made online. When there are threats to harm, rape and/or kill, these threats should be taken just as seriously online as they are offline.

Sadly, these cases are not unique and we have heard from many more who have been rebuffed by social media platforms; told that it's not in breach of guidelines and that nothing can be done, but instead instructed to ignore threats, 'block them' to avoid provoking them'. In many cases, Police advice mirrors this and victims are closed down and isolated further mirroring the abuse, and the perpetrators are not held to account.

Five teenagers have taken their own lives as a consequence of a barrage of online abuse by trolls. In the latest case, Hannah Smith committed suicide due to online abuse via the platform AskFM. We need to ensure Social Media platforms, as well as police services in England and Wales, take responsibility and sign up to a charter going forward that puts the safety of those who use their services first.

THE SCALE OF THE PROBLEM

One in five women and one in 10 men will experience stalking in their adult life (Homicides, firearm offences and intimate violence: 2009/10 Supplementary volume 2 to Crime in England and Wales 2009/10 2nd Edition. Home Office Statistical Bulletin 01/11). The British Crime Survey suggests that at least 120,000 individuals are affected by stalking and harassment each year. However, only 53,029 cases are recorded as crimes. Data is not collected centrally by the police on the number of investigations or the number of offences of stalking which are reported at local stations. However, stalking was recently criminalised in Scotland in 2010, in the Criminal Justice and Licensing (Scotland) Act.

A neighbour arguing about hedgerows is wholly different from instances of one person fixating upon another and stalking them in an obsessive, persistent and terrifying manner. Often the perpetrator is not charged. The stalking behaviours may well seem unremarkable. But in the particular circumstance and context and with repetition they take on a far more sinister meaning.

On the rare occasion that perpetrators are charged, their charges only apply to part of the behaviour, rather than the totality of the behaviour - stalking in its entirety. The totality of the behaviour and pattern of stalking is continually missed. The Home Office has collected statistics on the number of offences recorded by the police since 2008. Offences recorded under the Protection from Harassment Act 1997 are now grouped together under Home Office classification 8L Harassment.

Victims do not tend to report to the police until the 100th incident (Sheridan 2005) and we suspect that many perpetrations are serial in nature, with stalkers going from one victim to another and some stalking multiple victims at any one time. It is rare for individuals to be convicted for putting people in fear of violence as it is so difficult to prove but those that are convicted tend to get a short community sentence. In some cases there is evidence that participation in a domestic violence programme actually had a negative impact because the behaviour and mindset of the perpetrator was obsessive and mental health treatment may have been more appropriate. (Stalking and Harassment: A study of perpetrators – NAPO 2011).

Data became available following the tabling of parliamentary questions drafted by Prisoner's Advice Service and NAPO and put down by Members of Parliament who are members of the All Party Justice Unions' Parliamentary Group. The figures suggest that in 2009, 53,029 offences were recorded by the police of whom 6,581 were subsequently found guilty in court. This represents 12.9% of the total number of recorded offences. Only 2% of perpetrators receive a custodial sentence and 10% received other sanctions, such as fines.

Latest statistics show that the majority of victims (80.4%) are female while the majority of perpetrators (70.5%) are male (National Stalking Helpline, 2011). The majority of stalkers are known to their victims either as ex-partners or acquaintances, but some people are stalked by complete strangers.

FINDINGS FROM THE SURVEY

Victims of stalking were asked to complete a 12-point questionnaire. By November 2011, 143 victims had completed the Victim's Voice Survey. The survey found that one in two victims had been stalked for longer than 18 months, with 42% being stalked for more than 24 months. This highlights the long term nature of the stalking behaviour and the real risk of escalation without early identification and intervention and prevention. Stalkers generally do not tend to stop, until they are stopped, either through incarceration and/or treatment or a combination:

'The police arrested him. He admitted it all and accepted a caution. But he did not stop. I decided the safest thing to do was to move. I have moved over 10 times since this started. Living in constant fear and with alarms is soul destroying and impacts every area of your life' (Survey participant evidence)

'I have been making reports to the police for nearly 3 years and the police didn't take action, saying they have many things to do and that stabbings and robbery were serious offences that they were busy dealing with. This involved damage to my car, property, and offending me and my parents and the police did not arrest him'

METHODS STALKERS USE TO CONTACT VICTIMS

The majority of victims said that multiple forms of contact were used to stalk them including phone calls, e-mails, turning up, leaving messages, child contact and court process and Facebook. The survey found that 62% of victims said phone calls were used, 51% following, 50% text messages, 50% use of third party, 30% e-mail, 25% letters, 25% breaking in and 20% where gifts were sent.

A number of victims also highlighted that the family courts and child contact processes were also used by the stalker, as well as social media including Facebook and Twitter. Multiple forms of contact, including the prevalence of cyber contact was also a principle finding from the National Stalking Helpline (2011).

TYPE OF RELATIONSHIP

The survey revealed that 57% of stalkers were ex-partners, 13% strangers, 13% neighbours, 12% ex-colleagues, 11% acquaintances, 6% family members, 3% patients or clients and 3% were friends. Others stated they had been on a few dates previously, or it was a partner of an ex-partner, a student and/or someone in their class. The majority of victims have had an intimate relationship with their stalker, and it was often when they tried to leave and separate that the stalking occurred and often escalated, starting with persistent calls and texts, followed by threats, criminal damage and violence. We know this is the most dangerous time for women fleeing abusive relationships. Early identification, intervention and prevention are crucial, informed by a risk assessment. Cases can then be managed using a collaborative and multi-agency approach, which we know works to keep women and children safe.

POLICE CONTACT

Of the 143 women who took part in the survey 69% contacted the police. Others who did not contact the police said:

'I did not contact Police as I did not believe they would do anything especially as my husband was a former Police Officer'

'As I work in the criminal justice system I am aware of how difficult it is to make a case of harassment. Therefore I have been reluctant to contact the police'

When victims did contact the police, 65% (of the 69%) said that they were not satisfied with the police response:

'They failed to act, released him without charge, despite a witness statement, accepted his sob story and being contrite and allowed him to continue with his behaviour the minute he was released, giving him more confidence that he was untouchable'

'There are over 100 incidents and no action, wrong dates and information given to CPS. The IPCC upheld my complaints and I still can't get help'

'I was told that because the stalker has not threatened me directly or harmed me they feel they cannot act'

CROWN PROSECUTION SERVICE (CPS) INVOLVEMENT IN THE CASE

The victims reported that in 78% of cases the CPS were not even involved. Of the remainder, 77% said they were not satisfied with the CPS response:

'On the second offence, the CPS solicitor did not understand or convey the seriousness of the offence to the court and it is my belief that the miscomprehension brought about the third breach of Restraining Order six days after the court hearing'

'There is no continuity with the prosecution as there is always a new prosecutor appointed. Often they have no expertise or knowledge of stalking and harassment and therefore are unable to prosecute effectively'

'CPS tried to plea bargain to a lesser charge of breach of the peace...[they] also attempted to prosecute for an assault on me by a third party which they reduced to breach of the peace in plea bargain'

CHARGING AND SENTENCING

The survey found that in 47% of the cases, the perpetrator was not charged and in 41% of cases the case did not even progress that far. Therefore, in 88% of cases the perpetrator got away with it and did not receive any form of sanction through the Criminal Justice System. This is in line with parliamentary answers from spring 2011 which reported that just over half of all complaints did not result in a prosecution.

THE VICTIM'S EXPERIENCE OF THE CRIMINAL JUSTICE SYSTEM RESPONSE

72% of survey participants were unhappy with the Criminal Justice System's response; including the police, probation, the courts and the Crown Prosecution Service:

'The Harassment Act is interpreted differently by different police officers - some issuing harassment warnings (just in case) others saying they can't issue a warning as damage to my property can't be proved as to who it was'

*'The police, Crown Prosecution Service, magistrates etc do not have enough continuity in this area. Some police forces have excellent training in this field; others are awful
'The process from start to finish was unsupportive and unclear. The case was adjourned due to the CPS not providing evidence and the case against the perpetrator was weakened due to lack of preparation'*

'Each incident was treated as an individual and not looked at as a whole...many reports were not pursued and I did not feel protected or listened to at all. They made me feel that I was in the wrong'

'Sentences given out to perpetrators are an insult to the victims and are so minimal that they encourage the cycle of abuse to continue'

ENHANCING PROTECTION

Victims were asked, based on their experience of being stalking and dealing with criminal justice professionals to cite examples of things that would have made them feel more protected:

*'Arrest and appropriate use of the Act, with a sensible sentence following'
'A holistic look at the case and a proper investigation rather than another 'log number' and recorded crime incident''*

“It would be reassuring if the police would at least log the incidents; I've been made to feel that I am at fault for bothering them by asking for help”

“There should be a proper psychiatric assessment done by a Psychologist who understands stalking behaviour. This would help with risk assessing and devising treatment plans”

“More powers to allow the police to use their discretion and act accordingly and adapt their investigation to individual cases”

“I didn't feel that the police were taking the situation seriously. I knew that my ex had a gun although he didn't have a license for it. I don't know if he would have used it but he was desperate and an alcoholic. He used to sit at the end of my road and wait for me - I was too scared to go home and the police just weren't interested. When they finally got around to taking my statement they told me that they hadn't realised just how much had happened - then they interviewed him and he admitted to more. Nobody listened to me. I was lucky. The police caution seemed to be enough to scare him off for a while and then he died (he was an alcoholic and drunk himself to death). If he was still alive I was still be looking over my shoulder. They only seemed bothered with his rights and not mine”

LEGAL AND PRACTICE CHANGES

Finally, and critically, the victims were asked what needed to change in order to prevent the escalation of stalking behaviour:

“I now work with victims of domestic violence and I work in court. What happens over and over again is that victims report breaches and the police do not act unless there is a pattern of behaviour. They want there to be more than one instance of a breach. The second breach of any order could be the time that he kills her. Magistrates need more training on stalking. I have seen magistrates release defendants on bail who should not be released as they see stalking as less serious than physical violence”

“The police need to take stalking and cyber stalking very seriously. Computer hacking and surveillance technology is being used by stalkers and the police don't seem to be equipped to deal with this fact”

“More awareness to be given to women, young teenagers to make them more confident about what behaviour they should not put up with when in a relationship/ending a relationship”

“Stop blaming the victim and conduct proper time consuming investigations. Too much time spent on trivial crimes/motor vehicle and other”

“More visible information, billboards, leaflets, advertising, visible support help lines”

“I think the Police need consistent training on how to recognise a case of stalking and how to safeguard the victim and share information with the victim and other agencies. Stalking is not always obvious unless you have received good quality training”

Perpetrators

During the summer of 2011 Napo asked its members to provide case histories of individuals who have been convicted of significant stalking behaviour in the last 12 months. By autumn 2011 Napo had received 80 studies. The majority came from Probation Victim Liaison Units or from Probation staff working in jails.

It became apparent during the study that court report writers, following training, very often concentrated on the immediate matter before the court and did not take into account previous histories or behaviours. In Napo's view this means that significant stalking and harassment evidence is therefore being missed by the courts and sentencers and this clearly affects the sentence handed down by the court on a finding of guilt. This is a view that is also shared by the leadership of the Magistrates' Association.

Probation staff are concerned that the evidence shows that sentences handed down by the courts are often too short for rehabilitation or treatment to occur and the cumulative behaviour is not taken into account by the courts when determining outcome. It is not routine for example that psychological or psychiatric assessments are requested by the courts in respect of the perpetrator. Indeed, they are often turned down. In Napo's view, as a consequence of this is that women who are being stalked are placed at particularly grave risk.

Case Summary

The 80 cases submitted by Napo members are strikingly similar. They are disturbing and frightening for victims - and all of the experiences are harrowing. The overwhelming majority of victims were in constant fear; many were physically injured; most experienced varying levels of assault; many were the victims of criminal damage and in extreme cases victims were either murdered or were the subject of attempted murder. There is evidence that perpetrators threaten friends and the family of victims in order to get information either in real life or through texts and the internet.

There were a number of common characteristics that appear in all cases. Most victims claim there are a significant number of incidents which occur before they go to the police and often their complaints are not investigated thoroughly. The stalking usually occurs over a long period, often lasting for years. It tends to be a mix of real life and cyber stalking. There is overwhelming evidence that perpetrators behaviour escalates if there is no criminal justice intervention or treatment. It appears to be the case that stalking behaviour is not properly recognised by the majority of professionals.

In most cases there is a history of domestic violence with numerous incidents before matters are reported to the police, and then inconsistent experiences as to whether it is taken seriously by police. In a number of cases men were placed on domestic violence courses which were not appropriate as the behaviour is obsessive and linked to mental ill health and the courses do not produce the right outcomes. Interestingly, it appears that many of the perpetrators had a background in the armed forces or had similar disciplined service experience at some time in their past – a trend which could warrant further academic analysis.

Section 4 of the Protection from Harassment Act 1997, which deals with provisions for victims in fear of violence, is not used very often. When the individual is charged with harassment it is very rare for a custodial sentence to be imposed and staff report that sentences are normally too short to be meaningful. The exception seems to be when victim liaison units are involved but normally at this point behaviour has escalated into violence and the custodial sentences are significant.

Staff report consistently that they believe current legislation and training appear to be inadequate. It is very clear from the case histories that risks to victims are not identified at an early stage in proceedings. There does not appear to be a system of procedural routine requests from courts or others for psychiatric assessments of the perpetrator's state of mind or behaviour. Indeed, in some cases recommendations for reports are turned down. Unless staff have experience and training in mental health, referrals for those assessments are not forthcoming. Sometimes analytical reports written on perpetrators do not include information on previous offending but concentrate on the index offence and this is a reflection of current training and practice.

There is evidence that perpetrators often refuse to cooperate with supervisors or are disruptive when placed on programmes. Many staff express disappointment that perpetrators are not remanded in custody and that this is seen by them as a signal to continue campaigns of stalking.

Breaches of restraining orders are commonplace and usually result in either community orders or short custodial sentences, which do not allow for any intervention or treatment. There is evidence of individual perpetrators breaching restraining orders on numerous occasions, indicating that it does not act as a deterrent for most men. Perpetrators also frequently breach exclusion zones, and punishments for this tend to be community based or in the form of very short custodial sentences. There is also evidence that in many cases threats continue to be made from jail either using illegal mobile phones, through correspondence or in some cases through official phones on prison landings. There is evidence that some men use civil and family courts to continue their campaign of harassment and stalking. Often threats to harm and even kill are not properly investigated, possibly because of lack of resources.

There does not appear to be any consistent way in which the authorities deal with stalking by text, email or information technology. There do not appear to be any controls which regulate the activities of internet services or other social media providers.

Finally, there is overwhelming evidence that perpetrators use control, power and manipulation to adversely affect victims. Many victims resign themselves to the possibility of not ever getting the resolution or closure they seek. All the evidence points to stalking behaviour being hidden and perpetrators being neither treated nor properly punished.

RECOMMENDATIONS

Recommendations for Social Media Platforms including Twitter and AskFM

1. An agile REPORT button
2. An appropriate number of trained staff sat behind the REPORT button who proactively monitor, assess and take effective action on a case-by-case basis. Facebook, for example, research each report and then decide the appropriate course of action.
3. A bespoke 'Red Flag' button for those under sustained attack. The 'Red Flag' method would be recognised as something more serious and in need of immediate action because of the possible threat to someone's safety. There could need to be a way that Twitter/AskFM can contact the victim to understand the context of what is happening and give advice on next steps. For example, if there is a threat to life it would be to report to the police.
4. A proactive response and immediate suspension of account(s) when threats to rape/harm/kill are made and flagged.
5. An agreement to work with police to obtain relevant data to support investigative lines of inquiry.
6. Full disclosure about the numbers of times harassment is reported, how long an investigation takes and what the outcome is
7. Where Twitter/AskFM is being used to harass/stalk and/or make threats to kill consideration should be given to the temporary freezing of IP addresses for unusual activity e.g. multiple accounts or repeated contact for which a request has been made to desist. Other sites can do this and it can act as a deterrent.
8. An agreement to work with a diverse set of safety experts and organisations in the UK devoted to online safety to bring the best resources to Twitter /AskFM and advise on safety issues.

Recommendations for Police

1. Training for Criminal Justice Agencies to include, police, CPS, probation, Judges and Magistrates on the new laws

2. Training for Criminal Justice Agencies to include, police CPS, probation, Judges and Magistrates on stalking and harassment, online and offline and awareness of cybercrime including social networking sites, evidence collection and new CPS guidance.
3. A Single Point of Contact (SPOC) and deputy with 'out of hours' capacity in each police force trained in stalking and harassment and cybercrime
4. Quick reference guidance regarding social networking sites, online abuse, evidence collection and legislation issued to all Police Services by the College of Policing.
5. Proactive tracking and targeting of trolls who make threats to life and/or cause serious psychological harm to targeted individuals.
6. Central specialist unit given national implications such as Police Central e-Crime Unit or CEOP Virtual Task Force.
7. Development and use of Stalking flags for offences to be used by police services
8. Breaches of restraining orders to be enforced.

Other Options

1. 'A right to be hidden' - target hardening people online by removing them from online private and commercial databases such as UKbiz, E-trace, 192.
2. Sex and relationship education for all young people to include online/offline safety and equality.
3. Formal guidelines should be developed by the police on how to investigate, gather evidence and, if necessary, charge individuals involved in serious online abuse. Guidelines should also be issued by the CPS on matters that should be taken into account in determining whether an individual should be charged because of their involvement in online abuse (and under what grounds charges should be brought). Guidance should also be issued by the judiciary on matters to be taken into account when sentencing following a finding of guilt under relevant legislation.
4. Consideration should be given as to whether a new offence is needed of encouraging or inciting a person to commit suicide or self harm, either online or offline. Recent social media threats are a form of harassment by an individual(s) of another person. Consideration should therefore be given as to whether they should automatically be investigated under Sections 2 and 4 of the Protection from Harassment Act (1997) (either engaging in a course of conduct or putting an individual in fear of violence).
5. There is evidence that groups of individuals are engaging in threatening conduct to a specific person, sometimes coordinating their behaviour via forums and social media. The APPG may wish to consider whether the offence of joint enterprise should cover this activity and whether one instance of serious abuse by a group of people should constitute an offence.
6. To consider whether any further amendments are needed to Sections 2 and 4 of the Protection from Harassment Act (1997) to deal with any psychological harm that is caused to a victim of online abuse.
7. Consideration should be given on the issue of whether a legal definition is now needed as to what constitutes online abuse, or "trolling" and, therefore, how this contravenes the criminal law.
8. Guidance including personal safety advice should be made available to the general public on the dangers and risks of engaging in online activity.

CONCLUSION

It is clear that victims of stalking are consistently being let down and the Criminal Justice System (CJS) is failing them. Unintentional secondary victimisation by the CJS appears to be common place for victims of stalking, many of whom are left seeing the system as incapable and powerless to identify stalking and intervene and protect some of society's most vulnerable people.

It is only after the offender has escalated their behaviour and harmed, injured, wounded and even murdered victims that the CJS reacts. This is far too late and far too reactive. Intervention

and prevention opportunities are missed and too often people pay with their lives. A victim's life, and those around them can be completely shattered and torn apart and/or they can be seriously injured and in some cases murdered.

Victims are rarely taken seriously and most of the time they are told that the police cannot do anything, as though 'their hands are tied by the law'. Our research suggests that too often the accounts of perpetrators are given precedence over those of the victim, and without the thorough checking for corroborative evidence, victims are not sign posted to appropriate support or given safety advice and risk assessments are absent. Too often we hear that perpetrators have rights, whilst victims only have codes and charters.

Perpetrators are rarely punished or receive the appropriate treatment they require. They are allowed to continue with their unacceptable behaviour, increase in confidence and escalate their offending, in many cases stalking multiple women and moving from one victim to another. Whilst their confidence increases as they continue 'to get away with it', the victim's trust and confidence in the CJS conversely decreases and they fear no one can help or protect them.

Creating two new specific offences of stalking goes some way to recognize these crucial points. However, without training on the new law there is a risk that we will see a continuation of the status quo. Currently, only 40,000 police officers are trained on the new laws regarding stalking and the CPS have received no training to date. This needs to be addressed as a matter of urgency. Cyber and digital stalking, harassment and bullying is also only likely to be increase and be facilitated by new technologies. This has been highlighted by recent high profile cases and the fact stalking sits within a wider agenda manifesting as part of many other serious forms of antisocial behaviour and violent crimes such as domestic abuse, honour based violence, sexual violence, racial abuse, on-line and offline bullying, serious assault and murder needs to be recognised.

Chapter Two

The Impact of Crime as Victims Embark Upon Recovery

By Debra Clothier, Director of Escaping Victimhood

Note from the author

I have focussed primarily in this report on those who have been bereaved through murder or manslaughter, but some of the symptoms, difficulties and solutions are equally valid across other offence types, especially rape, domestic violence, other violent crime and stalking. It is important in our view that assumptions as to need should not be based on offence types.

Debra Clothier

Introduction

You may hear on occasions about the sentencing of an offender bringing ‘justice’ and ‘closure’ to the victims. This tends to be said by the press, police or others working in the criminal justice system. For some victims of crime, particularly those who have suffered a serious crime such as the loss of a loved one through murder or manslaughter, that is often untrue and having raised expectations can lead to further distress.

Criminal justice agencies often stress that securing a successful prosecution will afford the survivors ‘closure’ (this is not a word that Escaping Victimhood (EV) likes to use). It does not. It affords the police, the courts and the media closure but does not enable victims to be free of the emotional life sentence that can result from a sudden violent attack or traumatic bereavement. During the court process survivors may receive offers of help but, once a conviction is secured (or if no conviction is possible because the culprit is unknown or has died or the trauma results from a natural disaster), the victims find themselves isolated and unsupported and struggling to find ways of regaining control of their lives.

Those that have had a loved one murdered may go through the court process with all of its shocks, traumas, expense and delays, which I am sure will be covered by other authors in more detail for this report, with the expectation that a conviction and long prison sentence will be the end of their suffering and they will be able to start to recover their previous lives. ‘Many researchers agree that that the grieving process can be delayed, disrupted or distorted by the demands of the criminal justice proceedings, and that once these are concluded, feelings which had put been ‘on hold’ may start to take over’ (Victim Support).⁶

When the court process is completed, barring any subsequent appeals, the CPS, police, and Witness Service cease to be in contact in most cases. Thankfully, now the Homicide Service does maintain contact with the bereaved families after this time, if victims’ families said they want contact. But those bereaved before April 2010 have been left to all intents and purposes to ‘pick up the pieces’ without professional specialised services.

The realisation by some victims’ families that they do not feel better or feel that ‘justice’ for their loved one has not been served, and that their needs have not been met, can lead to very negative outcomes for them, their families and the wider community. The previous Victims Commissioner, Louise Casey⁷ found that:

⁶ “Half of all crimes are not investigated because police focus on cases that are ‘a priority for them and not victims’” Daily Mail, 16

⁷ ‘Review into the Needs of Families Bereaved by Homicide’, Victims Commissioner. (2011) Louise Casey CB

- The vast majority (80%+) had suffered trauma-related symptoms;
- Three-quarters suffered depression;
- One-in-five became addicted to alcohol;
- 100% said that their health was affected in some way, and eight-out-of- ten (83%) said their physical health was affected;
- Nearly three-fifths (59%) found it difficult to manage their finances following the bereavement;
- One-in-four stopped working permanently;
- One-in-four had to move home;
- Three quarters said it affected their other relationships;
- 44% who experienced relationship problems with a spouse said it led to divorce or separation;
- 59% had difficulty managing their finances;
- A quarter (23%) gained sudden responsibility for children as a result of the killing;
- The average cost of the homicide to each family was £37,000, ranging from probate, to funerals to travel to court, to cleaning up the crime scene. The majority got no help with these costs and some were forced into debt. ⁸

A number of UK studies have looked at the impact of a homicide. ⁹ Escaping Victimhood gathers some brief information from potential participants in advance of their attendance on a programme (for those bereaved through murder or manslaughter), asking what problems they are dealing with as a result of the loss. This is an example of just one of the responses:

As a result of your bereavement, had you had difficulties around:-

- **Finances, such as debt?** *Yes, had to be made bankrupt*
- **Family relationships?** *Yes, I split with my partner*
- **Housing?** *-*
- **Health, mental or physical?** *Yes, my health suffered and I had cancer*
- **Feeling lonely, isolated?** *Yes very- people avoid you*
- **Employment?** *Could not work due to my health and depression*
- **Motivation?** *I had no motivation and dropped out of college*
- **Self Confidence?** *Lost all my confidence and had panic attacks*
- **Any other?** *Our grief consumed us for a lot of years, EV really helped*

There are some well recognised common responses to traumatic events:-

- Sadness, anger and rage, shock, numbing
- Guilt
- Anxiety, tension and restlessness
- Pervasive fear associated with dread of anticipated violence toward self/others, sense of vulnerability
- Compulsive behaviours of self- protection, hyper-vigilance
- Compulsive need for a tangible reassurance of family presence and safety of other family members
- Behaviours and emotions directed towards retribution
- Reconstructed memories of an event not witnessed
- Difficulty sleeping, impaired concentration, irritability
- Mental and behavioural avoidance

⁸ 'Review into the Needs of Families Bereaved by Homicide'. (July 2011) Louise Casey CB.

⁹ Parkes, C.M (1993) 'Psychiatric Problems Following Bereavement by Murder or Manslaughter's, in 'Bereavement Care' Vol.12 No.1.

Mezey, G. Evans, C., Hobdell, K. (2002) 'Families of Homicide Victims: Psychiatric responses and help seeking'. In 'Psychology and Psychotherapy: Therapy, research and Practice. Vol.75.

Harrison, R. (1999) 'The Impact of Stranger Murder' in 'The Therapist' Vol. 6, part 1.

Malone, L. (2007) 'In the Aftermath: Listening to people bereaved by homicide' in 'probation Journal. Vol.54 (4).

Of course, not everyone suffers from all or any of these symptoms and there may be pre-existing factors which can influence the response to the traumatic event and after such as:-

- Pre-existing family relationships and dynamics
- Previous psychological problems
- Previous stressors
- Poor social (and organisational) support
- Substance misuse
- Accumulative stressors
- Acute stress reaction

These lists show the range of factors which can influence what those bereaved through murder or manslaughter can go through. Those difficulties are not easily or quickly recovered from. There is evidence to show that symptoms can get worse over time¹⁰ if not addressed appropriately. In Stephen Joseph's book *'What Doesn't Kill Us'*¹¹ he says 'it is commonly accepted that two major roadblocks to recovery are a lack of social support and a preponderance of other life events to contend with in the aftermath of trauma'. Victims of serious crime have to deal with both of these in abundance and for some it can lead to suffering from Post- Traumatic Stress Disorder and other serious medical conditions.

'The most characteristic symptoms of PTSD are re-experiencing symptoms. PTSD sufferers involuntarily re-experience aspects of the traumatic event in a very vivid and distressing way. This includes flashbacks where the person acts or feels as if the event was recurring; nightmares; and repetitive and distressing intrusive images or other sensory impressions from the event. Reminders of the traumatic event arouse intense distress and/or physiological reactions. In children, re-experiencing symptoms may take the form of re-enacting the experience, repetitive play or frightening dreams without recognisable content.'

Avoidance of reminders of the trauma is another core symptom of PTSD. This includes people, situations or circumstances resembling or associated with the event. People with PTSD often try to push memories of the event out of their mind and avoid thinking or talking about it in detail, particularly about its worst moments. On the other hand, many ruminate excessively about questions that prevent them from coming to terms with the event (for example, NICE Guideline – Post-traumatic stress disorder (PTSD) about why the event happened to them, about how it could have been prevented, or about how they could take revenge).

PTSD sufferers also experience symptoms of hyper-arousal including hyper-vigilance for threat, exaggerated startle responses, irritability and difficulty concentrating, and sleep problems. Others with PTSD also describe symptoms of emotional numbing. These include lack of ability to experience feelings, feeling detached from other people, giving up previously significant activities, and amnesia for significant parts of the event.

Symptoms of PTSD often develop immediately after the traumatic event but in some (less than 15% of all sufferers) the onset of symptoms may be delayed. PTSD sufferers may not present for treatment for months or years after the onset of symptoms despite the considerable distress experienced, but PTSD is a treatable disorder even when problems present many years after the traumatic event. Assessment of PTSD can, however, present significant challenges as many people avoid talking about their problems even when presenting with associated complaints.

¹⁰ Mezey et al (2002).

¹¹ S. Joseph. (2011) *'What Doesn't Kill Us. The New Psychology of Posttraumatic Growth.'*

Recognition of PTSD - Effective treatment of PTSD can only take place if the disorder is recognised. In some cases, for example following a major disaster, specific arrangements to screen people at risk may be considered. For the vast majority of people with PTSD, opportunities for recognition and identification come as part of routine healthcare interventions, for example, following an assault or an accident for which physical treatment is required, or when a person discloses domestic violence or a history of childhood sexual abuse. Identification of PTSD in children presents particular problems, but is improved if children are asked directly about their experiences.’¹²

What is required for a long term positive outcome is the acknowledgement and appropriate response by a range of agencies. These include not just criminal justice response but also that of the health sector, housing agencies, benefit agencies, employers and educational establishments, acknowledging the specific needs of this group of people, which often go unnoticed and unmet. But why do they go unnoticed?

There were 636 deaths recorded as homicides in England and Wales for the period between April 2010 and March 2011. The numbers vary from year to year, but there has been a downward trend over the last 10 years. In relation to other crime types this is, thankfully, a low number. But what this means is that, when you look at localities the numbers affected are even lower, and this can lead to a lack of awareness amongst service providers and communities and in turn can result in further isolation. An example of this would be in the health sector. If a mother of a murder victim goes to her GP reporting that she is not coping she is likely to be given anti-depressants and/or referred for a short course of Cognitive Behaviour Therapy. There is evidence to suggest that these treatments are not always appropriate or effective in this group of people. GP's at the moment are unlikely to be aware of the services that are available to these people which, have proven to be more effective.

Recommendation

The Department of Health should assign member/s of staff to have a responsibility for the needs of victims of crime. The awareness of those needs and in turn commissioning arrangements should then be filtered to the Health and Wellbeing Boards and Clinical Commissioning Groups.

In 2012/13 homicide had a very high detection rate of 90% (ONS).¹³ However, this still means that 10% of families did not go through a court process and will not receive any form of ‘justice’ or public acknowledgment of what they have suffered and lost.

I believe that another reason for isolation for participants and a general lack of awareness to these issues is, in part, due to people not wishing to consider what it would be like for them in a similar situation. No-one wants to think about losing someone close to them, in this way, it is almost unthinkable and possibly unbearable. To try and distance themselves from this difficult emotion, people can blame the victim or the victim's family, assuming that they will get the help they need from elsewhere or just not knowing what to say or do. Some of the people EV has come into contact with have said that they have had to move because of the way a community has reacted to them or their families. Employers have ignored what has happened or even sacked them. Schools have suggested the children of a murdered parent be moved to a different school. Even seeing a counsellor can be fraught with difficulties, some victims have explained to the Bereavement Counsellor what has happened and the Counsellor (not trained in this specific field) themselves has then become distressed, so stopping any further disclosure.

¹² NICE Guidelines 'Post-traumatic stress disorder (PTSD) The management of PTSD in adults and children in primary and secondary care.' Clinical Guideline 26 March 2005. www.nice.org.uk/CG026distributionlist.

¹³ Crimes detected in England and Wales 2012/13 ISSN 1759 7005 ISBN 978-1-78246-167-(8 July 2013) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224037/hosb0213.pdf

Other ‘battles’ to be fought along the way

I call them ‘battles’, as that is what they must feel like to the already vulnerable and traumatised. Other contributors may have mentioned about some of the stressors following the bereavement such as media intrusion, but even after any court process has been completed, it is not over for most victims of serious crime.

If the perpetrator has mental health problems, not only may the victim or their family have to negotiate their way through a criminal justice process but a health process (mental health tribunals for example) as well, which may be even less aware of the needs of victims than the court process.

Retrieval of body parts sounds gruesome and it is. The body of their loved one is not always released, as a whole, with parts being kept as evidence later to be released following the completion of the court process. This isn’t always carried out in the most sensitive way. We have been told of police officers turning up at a house unannounced with a box with the part inside and handing it over! Even if the body is released intact, it may be many months or in some cases years after the bereavement took place.

Dealing with the complaints process of the number of agencies that may have been involved either at the time of death, or afterwards if they have not carried out their duties appropriately, can seem insurmountable to the victim or family. Dealing with any results and processes of any serious case reviews which might have taken place can be difficult and emotional.

The Criminal Injuries Compensation process remains an onerous and lengthy process for most and in some cases unsatisfactory in outcome, causing further harm and distress. Following a murder or manslaughter, families can be left with the responsibility for bringing up any surviving children. This can be a massive change of lifestyle both emotionally, practically and especially financially, exacerbated possibly, by the any remaining incarcerated parent (perpetrator) still having legal rights over the children. Families therefore have to go through further upsetting legal processes through the Family Court to be able to make decisions for the children they have been left to bring up.

Even many years after any bereavement or incident of serious crime, when the perpetrator becomes eligible for parole the victim is reminded of the trauma all over again. We have found that families and individuals can feel that they have recovered some normality in their lives, only to have that disappear again at the Parole and release stage. If they need help and support sometimes for the first time it is important therefore that there are services available at this stage to meet the need.

The Probation Service’s Victim Contact Scheme has a responsibility for contacting victims or their families in some situations. However, within the Probation Service itself it is often seen as the poor relation or forgotten altogether when it comes to decisions about structure and resources. It is important that these departments are properly resourced and trained in order to be able to provide for the needs of the victims they have contact with and are encouraged to refer on to agencies and organisations that can help meet those needs.

Staff members of the Parole Board need to be trained to be aware of the needs of victims and their families so Parole Board hearings can be carried out in the most sensitive and as transparent way as is possible. Victims and their families often feel, and are, excluded from this hearing or part thereof. This should not be done routinely and where it is necessary, this should be explained.

What does Recovery look like? Is it even possible?

‘Moving on means moving away from the loved one’, ‘Letting the anger go feels like betrayal and what would be left behind but the loss?’, ‘I feel stuck’, ‘I feel like I have gone mad’.

These are some of the responses from some people in this situation. The rationale of EV is that individuals were functional and balanced before the incident, but as a result of the trauma their equilibrium has been disturbed. Therefore with appropriate responses to their loss, grief and post-traumatic reactions they may be able to begin to recover and grow through natural urge toward the self-actualising tendency. Traumatic loss provokes a loss of control over wellbeing and routine, loss of safety, loss of belonging within one's family unit and relationships, loss of self-esteem, status and a real and powerful sense of being locked into the past at the point of trauma, unable to escape the horrific reality of what has occurred. This stage can be exacerbated and even sometimes encouraged, albeit unintentionally, by some organisations who perpetuate the status quo, which can often be a negative and angry place. EV and some other organisations are keen to seek recovery and a more positive future, whatever that might look like for the individual.

EV runs residential programmes in a safe comfortable venue, where participants can learn about the impact of the trauma on them, so they understand that they have had a normal response to an abnormal event. They are taught skills to be able to see the bereavement as part but not the whole of their life's journey and empowered to make the changes they wish to make. They are given opportunities to express how they feel through various activities and one to one sessions as well as groups, to meet what they see as their individual needs, not what others prescribe for them.

EV has concerns about the realities of what it means for the individual when an agency/organisation is told to prioritise its service in a particular direction and make a decision on who deserves it and who does not. For example, police officers assessing need, as proposed currently by Government. The current situation where victims themselves make the decision as to whether they require support/services makes much more sense if you wish to deliver services to those in need, regardless of any 'group' they belong to. Those working for EV know from many years of experience of working with victims of crime that you cannot pre judge the effect a crime can have on someone by the label the justice system puts on it. We may believe the crime to have been serious but the victim, for a number of reasons, possibly does not need support from any organisations, whereas the victim of a 'minor' crime may need much more support than would be expected, based on the presence of pre-trauma factors.

It should also be noted that services need to be age appropriate. For example, a young man of 18 years old, whose mother is murdered may need a different type of service approach than a 35 year male/female, if for no other reason than, as a preventative measure from that young man entering the criminal justice system through unresolved anger problems. Some services and research has been carried out on a local basis but service provision needs to be national.

EV has concerns about what the 'needs assessment' would consist of and believe that the police are not the appropriate agency for this. Police are not able to assess any 'health' needs of victims and will not be aware of what services might be available. They are not trained appropriately for this sensitive function and are only involved in the first stages after a crime has been committed usually. They have a different role which involves a conflict of interest in their community. They are perceived by many victims not to be objective. For example, if a victim of a crime was known to the police as an offender it is possible that they would not be perceived as vulnerable or in need of services. Yet we know that there is a proven link between not having your needs met as a victim and future offending.¹⁴

There is no mention of how the 'needs assessment' would be monitored for effectiveness or accuracy. Nor for victims who are not offered a service to be able to appeal that decision.

¹⁴ Hoodie or Goodie? The link between violent victimisation and offending in young people' 2007 Prepared for Victim Support by: R. Owen and A. Sweeting BMRB Social Research Part of BMRB Limited (British Market Research Bureau).

Restorative Justice

Escaping Victimhood arose from restorative practice, values and experience – meeting the needs of victims of crime and respecting their wishes in the process. EV is an enthusiastic supporter of good quality Restorative Justice (RJ) and wishes to see it develop more widely so that any victim of crime, whose offender has been apprehended, has a right to be considered for a high quality restorative process. This should be carried out to the Principles and Best Practice Guidance (see Restorative Justice Council (RJC)) at the right time for both victim/family and perpetrator. Staff carrying out RJ need the support of their managers, adequate resources to do the work well and opportunities to learn and develop. Feedback from victims is a key part of any evaluation to improve the work of an organisation.

We hope that in any future Victims Code both probation and prisons are not omitted from any duties for RJ provision or information. Probation and prisons work with offenders of the most serious offences where RJ has had the best outcomes in terms of meeting needs and reducing offending. All agencies will find it almost impossible to carry out RJ if these major agencies are not part of that process.

All areas of the country should be expected and be monitored for their provision of RJ. In difficult economic times if an agency does not have to deliver a service they will take that option, regardless of outcomes for offenders and victims. Police and Crime Commissioners (PCC) who will hold most of the victims services commissioning from 2014 should also have a duty which can be challenged if not met by one of the commissioned agencies or the PCC by not commissioning a service at all.

EV also hope that any restorative provision does not have to compete with other victim services for resources, there needs to be provision made for both general/specific support and RJ.

Complaints

A complaints process can be a very confusing and frustrating process for most victims. It is not always clear who has responsibility for which bit or bits that have gone wrong. CPS, police, Witness Service, PCC and others could be involved. Victims can be sent from one to another with no satisfactory resolution even at that early stage. In order to access the Ombudsman, the current process specifies that a victim or their family must go through an MP first. This is not the case with most other complaints processes and adds another layer of bureaucracy to overcome.

We propose that there should be a central point of contact whatever the nature of the complaint and MPs should be removed from that process (unless the victim or family wishes to involve them) as with other complaints to the Ombudsman.

Any system needs to be independently audited as to the Victim's experience and any redress of problems. Overall we would have like to have seen the Code be more robust in terms of the 'rights' of all victims of crime, regardless of age, crime type or victimology.

Conclusion

A previous participant says it better than I could:

'If only Victims of crime had many more opportunities to have access to more workshops such as Escaping Victimhood, we wouldn't have to prolong the suffering we have endured. We carry a life term of pain resulting in a downhill struggle of coping to live day by day from the impact of the stolen/robbed loved one, torn and severed from the roots of the hub of life that it once had, that we can no longer share and grow along with. EV has aided me in this trauma by helping us to understand

what we feel and thereon providing a positive structure, aiding the acceptance of the situation we are in and not fighting against it. Enabling us to work through our tragedy, learning to do the best and only way we can to move forward. Escaping Victimhood has taught and helped me to have the knowledge and priceless wisdom that I contain to this day. There aren't enough words in my heart to say how very grateful and honoured I am to them all.'

All agencies, services, organisations, Government departments and politicians who come into contact with victims of crime should be aware of the possible harm that has been caused to them and should seek to minimise further harm. They should be open with information wherever possible, not make assumptions as to need or vulnerability, work in partnership to look to a more positive future whilst understanding that contact could be a very long process.

Chapter Three

Advocacy After Fatal Domestic Abuse

By Frank Mullane and Lesley Welch
Advocacy After Fatal Domestic Abuse (AAFDA)

We gave it everything we could By Frank Mullane

'...violent death is considered a public issue where the need for justice takes precedence over the needs of homicide families' (Armour, 2002)

AAFDA provides emotional and specialist practical support to families following domestic homicide, including peer listening. Many families want to tell their story to someone who has experienced a similar loss; they often say 'We know that you will recognise some of our thoughts'.

AAFDA helps families to understand, contribute to and influence domestic homicide reviews, inquests, mental health reviews and other inquiries. We advocate for families, sometimes with employers and local authorities, and can draw upon a network of volunteer expertise from disciplines including criminology, forensic investigation, domestic violence and homicide, and legal advice. Our support of families at difficult meetings includes preparation, advocacy and note taking. We refer some families to organisations that provide other services, including trauma therapy. We act as intermediaries to acquire free holidays for families, sometimes attracting grants for free travel. We work with many organisations to improve domestic violence services and how domestic homicides are reviewed.

There have been several significant improvements to the criminal justice system in the last few years, including a revised Victims' Code, the appointment of a Chief Coroner, statutory Domestic Homicide Reviews, the Crown Prosecution Service engaging with victims, and a Victims' Commissioner.

Every day, we talk with devoted and caring people who are working extremely hard within the criminal justice system to help those who have experienced serious crime and I suggest, having engaged with a significant number of families over many years, that this can have an important effect. Some people bereaved through homicide are comforted when they look into the eyes of a criminal justice system worker who really cares; perhaps some healing, however minor, takes place. This positive effect may also apply to officials as individuals, as well as to the relationship between victims and the State, especially where it is thought that the State has failed. In my experience, if officials are perceived by the family as being indifferent or insincere, even if, in reality, they are not, the opposite effect is sometimes experienced by all concerned. This is a complex area that would benefit from skilled research.

It is important, then, for those in the criminal justice system who meet families after homicide to be truthful, open and sincere, including when describing next steps. Trust is quickly broken if it is perceived that an official is being disingenuous at a time when senses have been made acutely receptive by the most horrific of crimes.

Knowing the full Facts of the Case

After homicide, many families have enormous difficulties in achieving fundamental objectives, including finding out the facts of the case. In court the defendant and State are represented by lawyers, but no one represents a victim's family. The voice of the deceased is not represented either, particularly so if a guilty plea removes the need for a trial. Many families have reported how their loved one was seemingly vilified in open court while no one was able to speak up for the

deceased. One family has been fighting for fourteen years to re-balance historical documentation to reflect the view of the deceased, not only for personal reasons, but because the information could help others to understand why these homicides occur. Monckton-Smith found the lack of representation of the victim's voice to be common.

'...victim's voices both primary and secondary, are rarely given priority, giving perpetrator perspectives primacy and, consequently an enduring rhetorical and philosophical presence in the historical documentation of the case which will often come with , what may appear to be , institutional approval for the veracity of the perpetrator's subject position.' (Monckton-Smith, 2012:6)

I have seen lists, produced by organisations, detailing families' needs after homicide but never included has been the need to find out the full facts of the case. Helping families to acquire this information may serve at least two purposes: first, getting this information may be an important part of coping and recovering after homicide, two objectives recognised in the Government response to the consultation *'Getting it right for victims and witnesses'* (Ministry of Justice, 2012), and second, it may save significant public resources later by avoiding the resumption of inquiries justifiably sought by families because the initial inquiry was inadequate.

After Jacintha Saldanha took her own life following a hoax which led her to release medical details of a Royal Family member, Prime Minister David Cameron MP attended a Select Committee and, regarding Jacintha's family, was asked by Keith Vaz MP, *'Do you think it is important that they be given the full facts of what happened in this case?'* Mr. Cameron replied *'Yes, of course... I think that, when these things happen, having the full facts of the case does not bring anybody back, but it does help people to come to terms with what has happened.'* (House of Commons, 2013).

Recommendation 1 – Government to recognise that a significant need of many families bereaved through homicide is to acquire the full facts of the circumstances leading up to the homicide.

One way, perhaps, of increasing the likelihood of full facts being released to families is to equalise the advocacy power of parties at a hearing – for example, at an inquest. Coroners should be able to require statutory and corporate parties to disclose the amount of funds they have made available for their legal representation for the inquest and to order that a proportion of that be awarded to the family of the deceased for their legal representation. After all, the inquest is a fact finding exercise.

Recommendation 2 – Require statutory and corporate bodies to give a proportion of the funds they have made available for their legal representation for the inquest to the families of the deceased to pay for their own legal representation for the inquest.

Not knowing the facts after a homicide can be extraordinarily frustrating for a family and can mean that those searching for that information will suspend almost every other activity until they get it.

'It is sobering, if not surprising, to read that bereavement through crime is so often followed by loss of employment, the breakdown of relationships and mental health problems.' (Casey, 2011:3).

It took a great deal of time and effort for my family and friends to secure the full facts surrounding the murder of my sister and nephew. This effort eventually resulted in a report that answered all of our questions (Walker et al: 2008), but it shouldn't have taken such a gargantuan struggle to reveal the facts and, for this, we received an apology from the police. I spent a great deal of my time at work on these activities and although I had mostly incredibly supportive managers,

I often had to work long hours to keep myself employable. However, this could not last and about nine months before the review was published, I was told that my work performance would not attract a favourable appraisal. I had secured two promotions during our journey in the criminal justice system but the demands of the job were increasing and I was unable to meet them and keep my attention on the domestic homicide review, so I left under redundancy.

Recommendation 3 – Statutory protection at work for those bereaved through crime, including financial assistance for small employers that might otherwise struggle to support this position long term.

Underestimating Families

'We gave it everything we could', a family told me after battling the criminal justice system just to secure fundamental and basic rights. They formed a great team after their mother/sister was killed by her husband. Their grief was immeasurable and ineffable but they had to summon up the strength to remove heavy blood stains from the house where the victim was killed.

As one family member said to the media, 'it's like being told - it's not your mess, but you clean it up.' (AAFDA, 2012).

Together the family has channelled their extraordinary resilience and commitment into providing well thought through and skilful challenges to various bodies in the criminal justice system, which are attracting interest from the highest levels.

It's said often that families of homicide victims will not be able to offer objective advice, that they will be too emotional, as if experiencing and articulating emotion was of no use and necessarily denied one from being able to think rationally. But emotion needs to be witnessed before the impact of crime can be identified as recognised in the restorative justice process and in victim impact statements which can affect the sentencing decisions of judges. Some families AAFDA has helped felt that, occasionally, officials expected them to be tearful at certain times, as if the emotions of someone bereaved should follow a script written by the State. After my sister and nephew were murdered in 2003 by her husband, my family worked for five years to uncover the full facts. At one meeting with an agency, officers seemed surprised at how organised we were, as though, perhaps, we should not have been so composed. A little bemused, we felt the need to explain that later that evening we would be lighting candles and having a good cry in private but, for now, we would be focussed on the meeting for which we had thoroughly prepared. Many officials have this simplistic view of how families should seem after homicide and are surprised if they show capabilities and skills other than great emotion. However, these families were three dimensional before the killings; they didn't shed two dimensions because of the killings.

The resilience of families is often underestimated too. Understandably, officials are nervous about upsetting persons who have lost family to homicide. This is an honourable position, but it can be misplaced and slow progress. I recently met a family in America, who agreed:

'Be ready, most survivors will want to know everything they can. If you are still uncomfortable about giving an answer that you think will be hurtful, remember what this survivor has been through already: he or she has heard that his or her daughter is dead, killed by someone who said he loved her someone who was part of the family endured a funeral, emptied her home, and assumed responsibility for her children and pets. Believe me: if they say they can handle it, they can. Survivors, by definition, are resilient and persistent.' (Bostrom, 2010)

Inquests

An inquest regarding a death tries to elicit answers to four questions: Who died? When? Where? How? One man, whose granddaughter was shot dead by her stalker, came to see me and

lamented, *'I already know who died, when and where but I don't know how'* (AAFDA, 2008), by which he meant in what circumstances. It is the extent of effort put into getting this answer that causes much contention at inquests.

How far a coroner will go to reveal the answer to the “how” question may be in part informed by law, but there are other drivers. The reforms brought in on 25 July 2013 place an emphasis on coroners conducting inquests that help prevent further tragedy (*Chief Coroner, 2013*). It seems to me that to do that effectively, some inquests will need to identify and evaluate the actions and inactions of agencies in the lead up to the death, that is, answer the ‘how’ question. This will require an understanding of, not only the dynamics of domestic abuse, but also what is required of agencies that become aware of persons being domestically abused and/or stalked. How else could the coroner decide if changes were merited?

Recommendation 4 – Coroners are offered training in understanding the dynamics of domestic abuse and stalking, including coercive control, the most dangerous form of domestic abuse (Stark, 2007).

The Ministry of Justice invited AAFDA to provide a briefing for coroners on domestic abuse in 2010. AAFDA would like to refresh this briefing to include coercive control in line with the Government’s new definition.

AAFDA has been made aware that more than one family has been advised by police or another agency that they didn’t need a lawyer for the inquest as the coroner would take care of everything. Regardless of the merit of that advice, those families might have had a shock when the police and other statutory agencies arrived at the inquest represented by a barrister, perhaps a QC, paid for from the public purse. Families are frequently unaware of the extent of their rights regarding inquests and may perform passive roles as a result. This may suit some families of course, but, for others, it may be a source of regret. Without representation from the family, it is possible that coroners may not know who all the relevant witnesses are and the statutory bodies may not have or provide all the evidence that is relevant.

I am told that there is complex law governing this area, and I am not a lawyer, but families do need some understanding of the terms used in inquests so that they can exercise their right, as interested parties, to make representations to the coroner and so that they can understand the impact on them of the coroner’s decision regarding, for example, the scope of the inquest. Having some understanding of what different inquest scopes may mean, for example Article 2 European Court of Human Rights compliant *Middleton* and *Jamieson* style inquests, may help. Significant problems may arise when families get to the end of an inquest with more questions than they had before its start, or with several questions unanswered.

One coroner I recently had the privilege to observe appeared to conduct a very thorough investigation and supplemented it with a powerful Rule 43 statement (report to agencies highlighting issues revealed at the inquest with a view to preventing further deaths) leaving nothing to the imagination. AAFDA helped one of the families to prepare for the inquest and sat with them – in effect, as a “McKenzie’s friend” – as they prepared to ask questions of witnesses; however, by the time it was their turn, their list of questions had reduced significantly as the coroner, Mr. Andrew Tweddle had already asked so many of them. He was persistent and forensic in his questioning of witnesses but, perhaps more importantly, he evidenced by his demeanour and follow up questions that he cared deeply that the facts were revealed. Mr. Tweddle also extended great courtesy not only to the families of the deceased but to each witness and advocate. We left feeling that a thorough job had been done and the experience, though emotional and heart rending for the family, provided some satisfaction for them too, in large part due to the coroner’s pursuit of justice and the manner in which he had conducted himself.

At another inquest, AAFDA made application to ask questions on behalf of the family as they had requested. The coroner refused this and expressed a preference to hear directly from the

family. The father stood up to ask the ten questions we had prepared with help from a QC but was unable to continue after the second question due to grief. Very recently, a coroner allowed AAFDA's application to ask questions at the inquest on behalf of a family. Our advocacy so far, has included helping to broaden the scope of the inquest via written representations, and oral representations at the pre inquest hearing. I am hopeful that this openness to lay assistance, where families cannot afford legal help, will be allowed more often.

Recommendation 5 – In cases where families cannot afford legal help, more coroners to consider allowing lay representatives to ask questions at inquests on behalf of families.

'...Munby J gave permission for a family friend to represent a mother in family proceedings. His decision confirms the law on McKenzie friends and rights of audience. Although it is a family case, the law is of wide application.' (Munby, 2008).

Domestic Homicide Reviews

These reviews became statutory requirements in April 2011 and their purposes are to improve domestic violence services for all victims and to prevent domestic homicide. As a member of the Home Office quality assurance panel, I have assessed around 70 of these reviews and been personally consulted by families, other charities, local authorities or criminal justice officials on over 50 of these reviews. Up to the time of writing, AAFDA had directly helped around 30 families with these particular inquiries, a number which is increasing rapidly this year. We feel that the best reviews are exercises in humility, which in this context, means revealing the truth, being open to learning and achieving change if warranted.

I suggest that some of the learning and benefits from these reviews is generated by undertaking the review process itself. These inquiries are helping to raise the profile of domestic abuse and further enhancing a culture of multi-agency working. One officer recently said that his *'Senior Investigating Officers were now situating their investigation in the multi-agency context'* (AAFDA, 2013).

AAFDA campaigned to ensure that a key part of these reviews offered the opportunity for families and friends of the deceased (and of the perpetrator) to be, not just involved, but to become an integral part of the inquiry - that is, to influence scope, content and impact. Victims of domestic abuse often tell friends, community members and family of their difficulties way before the criminal justice system is alerted and they may only reveal certain insights and thoughts to these people. Sometimes victims keep diaries, perhaps as a result of being told by some agencies to keep a record of the abuse. These diaries may be one of the only opportunities the victim's voice has of direct representation into the criminal justice system.

How else will reviewers really understand the lives of the deceased and the compromises they faced while trying to stay unhurt and even alive, unless they talk with those who knew them best? The reviewers are unlikely to get the full picture from agency records or the forensic narrative as told by the Court trial or inquest. I suggest that acquiring this fuller understanding may enable those providing services to victims to be more effective and to recognise that what is currently provided is not always what is needed.

'If these reviews take a broad approach, they have the potential to give a more balanced assessment of the antecedents to a killing.' (Monckton-Smith, 2012:5)

To further help families to have the opportunity to be integral to domestic homicide reviews, rather than just be involved, we hope to initiate meetings in which the family become the interviewers and put questions to the officers providing or overseeing the various safeguarding services. So that the perspective of families permeates the end to end process, consideration should also be given to inviting them to attend the Home Office meeting that quality assures the review concerning their family member.

Recommendation 6 – Domestic homicide review practice to include opportunities for family members to interview service providers as well as to be interviewees and to attend meetings of the Home Office panel that quality assures these reviews.

It is important that domestic homicide reviews identify and understand the perspective of the perpetrator too. One study found that *'for the most part, the murders they committed were neither random nor spontaneous'*. (Adams, 2007:251).

One of the first tasks AAFDA undertakes on behalf of the family with any inquiry, is to ask those managing it for a timeline, even if dates are indicative. Our experience is that this information is rarely volunteered and updated without a request from the family. Sometimes, those with responsibility for conducting inquiries, including coroners, will respond that they don't have fixed dates yet, but further probing will elicit that they have earmarked certain ranges of times by which they expect certain milestones to be achieved, for example, a pre inquest hearing or a meeting of the domestic homicide review panel. That information may be of significant value to some families who may be arranging holidays or work patterns.

The extent of family involvement in domestic homicide reviews varies significantly and may be a function of many factors. Clearly, some may not wish to participate. I suggest another factor is the extent to which the family is informed about the process and the opportunities it provides for their contribution. A frequent lament from families is, 'If only I had known ...', so making informed decisions about whether or not to participate in a review may help families avoid regrets. Another factor is the willingness of the commissioning authority and the Chair of the review to seek the family's participation and to facilitate their further involvement. Participation by families in these reviews may be a journey over time rather than just a single interview with the Chair. One study identified four phases to the review, including engagement with the family to input to the terms of reference. (Morris et al, 2012).

Several families who were unsure about participation in domestic homicide reviews changed their minds after speaking with a representative from AAFDA. In personal communication to me, one remarked:

'We were not going to get involved with the review until you helped us understand it. We are so grateful to get a second bite at the cherry.' (AAFDA, 2012).

Another family that AAFDA worked with wanted to address the domestic homicide review panel. These panels include representatives from the statutory and voluntary agencies and they assist the Chair to conduct the review. Initially, the family's request was met with some concern in some panel members that it may upset the family and that the event may inhibit how the agencies interacted at the meeting. But the Chair of the review and other panel members were keen that the family should have this opportunity. It resulted in a very worthwhile meeting for the family and feedback from the panel reported that they found it a positive and enlightening experience.

Including families and friends in these reviews is also about enabling them to shape the services provided in their community, in short, accessing democracy. Meeting families bereaved through homicide may help policy makers to better connect their thinking to the everyday lives of those affected by those policies.

Some families may not know that the commissioning authority, the local Community Safety Partnership, has decided not to conduct a domestic homicide review. The Home Office panel that quality assures these reviews can recommend that the review should be held, but until August 2013, the family may not have been told that this conversation was being had. In August 2013, refreshed statutory guidance was issued and, as a result of lobbying by AAFDA, it includes a requirement for the Community Safety Partnership to *'inform the victim's family, in writing, of its position as well as any subsequent correspondence from the Quality Assurance Panel regarding its position'*. (Home Office 2013:9).

Achieving Change

'...the hot discourse of the campaigner and the cool reasonableness of the official'
(Rock, 1998, xiv).

Sometimes, when families want to contribute to change we hear some people remark, 'Leave it to the professionals'. That comment can send some troubling messages including that 'the professionals' have a monopoly on useful knowledge and only they will apply it correctly. Criminologist David Wilson, questioned if families are in the best position to advocate for changes (Wilson, 2009). Some will be. Many families who experience homicide display exceptional fortitude and the extremeness of the crime sometimes gives them real clarity when identifying issues that need resolving. These qualities are a resource that 'the professionals' should embrace because the families' commitment can ensure change is implemented. Think of Stephen Lawrence's family and the Hillsborough families. These people are still having a major impact partly because, as another family commented referring to the criminal justice system agencies, *'Whilst they may forget, we don't'* (AAFDA, 2013).

This does not mean that everything a family demands should be granted. It simply means that we become sophisticated enough to welcome the families' views into the debate and we are smart enough to harness their energy and authority.

One family told me of a horrendous situation in which their name and address were publicly and loudly called out at the council offices where people were queuing for specialist help. This led to AAFDA persuading a local authority to pilot a privacy card, which when presented, prompts those providing services in public areas to immediately offer the holder of the card a private space.

Recommendation 7 – Develop the use of these privacy cards, or some other signalling process, nationally in agencies providing public services, including job centres and council one-stop shops.

Help from those who have been bereaved through Homicide

Individuals who have lost a family member to homicide who go on to form or join organisations that help other families are often described as offering peer support. That is sometimes defined as offering emotional support, typically by spending time with the family and listening. That is a key service, but peer support also means the provision of practical and often, specialist help through informing, guiding, advocating and enabling by people who have suffered similarly and who have considerable knowledge and experience. Peer led organisations often have quick access to key thinkers, other specialists, practitioners, policy makers and politicians. They are often very professionally managed and have excellent training. I have heard some senior people in the sector describe organisations that offer peer support as valuable, while they refer to those that don't as professional. It can seem as if they believe that those bereaved by homicide are precluded from offering peer support in both a valuable and professional manner. When deciding if an organisation is professional, observers might consider looking beyond the reason why it was formed to the services it provides, its knowledge base, values, training, governance, policies and practices.

It does not follow that every family wants to speak with someone who has suffered similarly. However, AAFDA's experience, and that of the other organisations forming the Homicide Action Group, a forum of small to medium organisations which provides direct services to those bereaved by homicide, is that a great many do. One survey of 400 families, introduced as the largest survey of bereaved families ever undertaken, revealed that:

'It is hard to overlay the importance that families attach to finding others who have also been bereaved through homicide.' (Casey, 2011:53).

As government develops the national homicide service, it should consider that the service should not be made up of homogenous organisations. The oft heard cry that ‘we need consistency’ is, I suggest, flawed thinking as this requirement may simply drive standards down to the level that most will meet. We should expect minimum standards but also embrace a rich diversity of service provision and providers as this progressive mix will continually freshen the debate and lead to a continuous improvement of the sector.

Recommendation 8 – Government to ensure that peer led organisations receive meaningful funding in recognition of the demand for the considerable experience and knowledge they bring to families and the frequently specialist services they provide.

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More than equal partners Lesley Welch

Victims' role in policy and practice in the prevention of domestic violence and abuse

Since survivors¹⁵ and campaigners came together in the early 1970s to set up women's refuges and work against domestic violence and abuse (DVA), enormous strides and achievements have been made in services. Local and national developments have generally followed what Women's Aid has labelled prevention (awareness-raising, education and training), provision (services to support survivors) and protection (legal protection and sanctions against perpetrators).¹⁶ Government strategies have promoted a "coordinated community response",¹⁷ with guidance and contributory funding to local areas for services to support survivors¹⁸ of DVA.

Why, then, despite these gains in services and changes in public attitudes to DVA, have domestic homicide¹⁹ figures remained roughly static since collection began,²⁰ with on average 2 women per week killed (96 per year), and 27 men per year? This is despite the Crime Survey for England and Wales (formerly British Crime Survey) showing a decrease in levels of DVA²¹ of as much as 53% between 2001 and 2008.

The needs of the families that AAFDA supports after domestic homicide show both how far we have come and how far we have yet to go. Analysis of domestic homicide reviews (DHRs) will eventually, I anticipate, show that the failures that result in homicide by someone who professes to love the victim(s) are not so much policy failures, as failures in the detail of how policies are implemented. We know that many services are struggling to meet increasing demand. Moreover, prejudicial assumptions about the causes of DVA and victim-blaming mean that survivors who seek help may not get it, either at all or in a form that they can use.

Survivors tell us that the Criminal Justice System (CJS) is, in many instances, inappropriate to sort out the problem of DVA. For example, bad behaviour - even abuse, does not necessarily negate the love that survivors feel for their abusers. Many survivors go to considerable lengths to protect their abusers from the criminal consequences of their actions and many mothers do not want their children's fathers to have criminal records. Only about one-third of DVA incidents are reported to the police.²² Nonetheless, the CJS is the port of last resort, the only legal way to

¹⁵ Although most practitioners accept that describing someone who has experienced domestic violence and abuse (DVA) as a "survivor" is interchangeable with using the word "victim", some feel that the word "survivor" carries respect for the strength needed to face daily life with DVA, including when a survivor's coping mechanisms may have negative consequences, such as use of drugs/alcohol, separating from family members, etc. In this article, I use "survivors" for all who experience DVA, with the use of the word "victim" restricted to those who die as a result of DVA. However, since legislation refers only to "victims", of necessity a discussion of the criminal justice system will at times need to refer to "victims" who are also survivors.

¹⁶ Families without Fear: Women's Aid Agenda for Action on Domestic Violence: Recommendations for a National Strategy 1998, available at <http://www.womensaid.org.uk/domestic-violence-articles.asp?section=00010001002200410001&itemid=1334>

¹⁷ For example <http://www.standingtogether.org.uk/standingtogetherpartnership/standingtogetherccr/>

¹⁸ In brief, Independence Domestic Violence Advisors (IDVAs), and Specialist Domestic Violence Courts (SDVCs), and associated Multi-Agency Risk Assessment Conferences (MARACs); and support for male victims. Many of these services have, however, been hit by spending cuts.

¹⁹ "Domestic homicide" in this context refers to killings by partners or ex-partners, not the wider definition currently used in the guidance for Domestic Homicide Reviews, which includes members of the same household.

²⁰ Annual average 2001-2011 in Office for National Statistics Focus on: Violent Crime and Sexual Offences, 2011/12 http://www.ons.gov.uk/ons/dcp171778_298904.pdf

²¹ "The main BCS finds the number of incidents of domestic violence to be 626,000 in 2001/2, falling to 293,000 in 2008/9" (Walby, S The Cost of Domestic Violence: Up-date 2009 (UNESCO Chair in Gender Research, Lancaster).

²² As cited in Westmarland, N. and Hester, M.: Time for Change. An Assessment of Services for Domestic Abuse Perpetrators in Bristol (Bristol 2007), "one of the most conservative estimates - that calculated from the British Crime Survey - ... [finds] that around one in five incidents are reported to the police". Since then estimates of DVA incidents have decreased and police reports have increased.

force an abuser to stop (although this is often ineffective) and the route to holding abusers to account. We can't sit back and hope that abusers will decide of themselves to become nicer people (although they certainly can do, with or without the help of behaviour-change programmes). The response of CJS agencies to survivors, as laid out in policy, procedures and the Victims' Code, is crucial to the long-term prevention of DVA and saving of survivors' lives, so that they do not go on to become victims of homicide.

Analysis ²³ shows repeated 'weak spots' in the CJS, where survivors cease to be protected. This attrition, whereby likelihood of successful prosecution is gradually reduced at each stage of the CJS due to repeated stress, results in the following:

- Only about one-third of DVA incidents are reported to the police.
- Large numbers of those incidents are not recorded as crimes, so that CJS intervention cannot proceed.
- The Crown Prosecution Service may decline to prosecute, on the grounds of insufficient evidence for a conviction. This may be down to insufficient evidence being collected and is frequently laid at the door of victims 'refusing to cooperate' (i.e. to give a statement, to appear in court or to withdraw a previously given statement).
- Even where a case gets to prosecution, conviction rates can be very low.

A recent study ²⁴ described a range of reasons why women would not report these crimes, including a lack of trust in the police, fear of re-victimisation by the criminal justice system, and the emotional strain of going through a prosecution.

When this happens, it is little wonder that many survivors perceive that reporting to the police has no positive result for them and can actually trigger further abuse; whereas abusers learn that sanctions are very rare.

Good specialist DVA support services are based on understanding the dynamics of DVA and acknowledging that survivors are better informed than anyone else; for example, they are often aware of threats of future abuse, and can be seen as "professional by experience": ²⁵ Effective service providers, therefore, work to principles of good practice, such as the following

1. Believing the survivor's account, unless there is clear evidence to the contrary.
2. Respecting her/his judgement and decisions.
3. Understanding the complex dynamics of DVA: how perpetrators abuse, the impact on survivors and any children, and how it affects wider family and wider community.
4. Understanding gender-based violence and other issues of equality (see below).
5. Anticipating the compounding impact of diversity on DVA, basing this on what the survivor is saying. Practitioners should not assume, for example, that they know from their training or a practice manual what a Black or Minority Ethnic woman, or a survivor with mobility impairment or learning difficulties, or survivor of same-sex abuse may be experiencing and its impact on her/him. Practitioners need to understand 'diversity within diversity' and not expect the impact to be the same for every person in any given community.
6. They need to work with the survivor as partners in safety planning.
7. Where children are being cared for, understanding that the non-abusing parent is best placed to protect them and that her/his decisions are likely to have as primary motivation the safety of the children, over and above the survivor's personal safety.
8. Recognising that many abusers will stop at nothing, including murder, in order to further abuse; and accepting that accounts of abuse that may sound fantastic are all too likely to be true.

²³ Hester, M.: Domestic Violence – Making it through the Criminal Justice System (Northern Rock 2003)

²⁴ Westmarland, N.: Women's views on the policing of rape, domestic violence and stalking across the North East and Cumbria (North Rock 2012)

²⁵ An insightful description in Hague, G.; Mullender, A.; et al - Professionals by Experience: A Guide to Service User Participation and Consultation for Domestic Violence Services (Women's Aid 2002)

These principles are the starting point for good practice and should not be overturned unless there is evidence to the contrary.

Recommendation 9 - CJS agencies to follow the above principles of good practice. No principle of justice would be put at risk, since contrary evidence would be taken into account. On the contrary, adopting them would produce better evidence, especially in the prosecution process itself, as it would result in enhanced and more effective collection of evidence, as survivors would be much more likely to cooperate.

As noted in the previous section of this chapter, bereaved families' "senses have been made acutely receptive by the most horrific of crimes". For survivors, their very survival relies on reading every nuance of an abuser's behaviour and professionals can expect that their own behaviour and responses will be picked up by a survivor.

Working with survivors, or "victims", requires regarding them as more than equal partners, as partners whose knowledge of the crimes that have been committed against them is of the best quality and quantity. AAFDA wishes to see that its experience of supporting bereaved families as more than equal partners is applied to working with survivors/victims. This finally may help to bring about a reduction not only in domestic violence and abuse, but in domestic homicide itself.

www.aafda.org.uk

Chapter Four

Support After Murder and Manslaughter

By Rose Dixon, CEO of Support After Murder and Manslaughter (SAMM)

Introduction

Being bereaved through murder or manslaughter is a horrifying experience that leaves people feeling traumatised, frightened and hyper anxious. The first Victims' Commissioner (Louise Casey) identified in her report* that over 80% of respondents had suffered trauma-related symptoms, three-quarters suffered depression, and all said that their health was affected in some way.

Research carried out by St George's Hospital identified that 93% of people bereaved through homicide were found to be suffering from Post Traumatic Stress Disorder (PTSD). The research also found that the Criminal Justice System can traumatise people further and can leave them feeling as if the only person who has any rights is the offender/perpetrator.

The effects of this type of bereavement are long term and many people never get back to what we would call a normal way of life. They are often left with very distressing symptoms of PTSD and feeling helpless and alone. The most frequent thing I say to people on the telephone is: "It's OK, you are not going mad!" Many people go into flight, fight or freeze and experience palpitations and major panic attacks and many other symptoms of severe stress. When they do not know what is happening to them they get even more fearful and get locked into a cycle of fear that aggravates the symptoms of stress.

Experience of the crime

The vast majority of families bereaved in this way are decent ordinary people and they are fully supportive of the police in their role of investigating the murder. However they may have had little or no contact with the police in the past and now suddenly they have them in their home for many hours each day asking questions and carrying out what they think is a very intrusive investigation. This can be alarming and frightening for them, and as they are probably feeling shocked and traumatised, it is a very difficult time for the family. For example, one mother asked me why a strange man had to sort through her daughter's underwear drawer. Although it was a police officer doing this, for that mother it felt very intrusive and a violation of her daughter's privacy that a man was handling such personal items.

Many people suffer from intrusive thoughts of what the victim experienced in their last minutes/hours of their life. They will imagine the victim being beaten, stabbed, raped and find these traumatic images stopping them from sleeping and carrying out the normal daily activities of living.

The family will probably have to deal with the press fighting to get their "story". Many people ask the press to go away from their front door to be told by the journalist: "My editor says I have to stay here until I get a story." If they cannot get information from the family, they will get it from other less reliable sources and print anything they can in order to sell the newspaper. This intrusive media attention is very hard for families to cope with.

Most people who are bereaved have a strong need to see and touch their loved one, but in a murder case, the victim has become a body of evidence. Family will probably not be able to touch them initially and may in some cases they are advised not to see the body. If they are lucky, they will be allowed to see their loved one when they are in the care of the funeral director. But by then they may have been subjected to many Post Mortems (PM) and a long period of time may have elapsed and the body may be in a very poor condition. If this is the case, their last memory of their loved one will be a very traumatic one.

The person accused of the murder can appear to have all the rights. He or she will dictate to the family the number of PMs that are carried out on the victim's body. The coroner will order an immediate forensic PM carried out by a Home Office approved pathologist. If anyone is arrested for the murder, then he or she has the right to insist on another independent PM. If he or she sacks their defence team as frequently happens, then the new defence team can insist on another independent PM and the bereaved family can do nothing to stop this. In murder cases it is not unusual for there to be three PMs, and if two people are arrested, they both have the right to have an independent PM carried out. And then again if they sack their defence teams, they both can have another PM thereby subjecting the family to the knowledge that their loved one has had five PMs. No wonder these poor families are re-traumatised by the system.

Because of the prolonged length of time it can take to carry out these PMs, the family may have to wait many months and in some cases years to have their funeral. We have a SMM member who had to wait two years before she could bury her young son. I have been involved in a case where the pathologist has carried out a PM then gone off on a lecture tour abroad for many months before doing the PM report, which left the defence waiting for the report before deciding whether or not they want an independent PM. In this particular case, the pathology report was eventually completed about six months after the victim was murdered and the defence were happy with it and said they did not need to have an independent one. That meant that the victim lay in a mortuary for six months, and at the end of that time was released to the family for the funeral. A mother could not understand why her son lay in a mortuary for six months just because the pathologist could not do the report before her trip abroad.

Again many families feel re-traumatised that the Criminal Justice System allows them and their loved one to be treated in this way. If we are dealing with a black family they often say to me: "we are being treated like this because we are black!" or if we have a family from the travelling community they say: "we are being treated like this because we're travellers!" They cannot believe that in a civilised society we treat bereaved people in this way.

Everything seems to be geared to the accused/offender and the victim's family do not seem to count in the whole process. Financial difficulties are often experienced by bereaved families as they suddenly have to find a large sum of money for a funeral. Nowadays a fairly ordinary funeral can cost 4 to 5 thousand pounds and many people get into debt as they struggle to find the money for this and for the headstone.

A large number of bereaved families have problems with the offender's family and friends threatening them, which can further traumatise the victim's family. I have had to request that the police carry out a risk assessment on many of our members as they have had windows smashed, petrol-soaked rags put in their letter boxes and their cars are regularly vandalised. Many members have had to have protection put in place and have unbreakable glass fitted in their windows, non-flammable containers attached to their letter boxes, panic alarm systems installed etc. When experiencing all this on top of the actual trauma of having someone you love murdered, it is no wonder many people just cannot cope and experience a nervous breakdown and may never be able to work again.

Employers can be very unsympathetic and treat some murder cases as just bereavement. Most companies if they have a compassionate leave policy allow three days leave. The National Health Service allows five days but after that short a time you would not have even begun to take on the reality of this type of grief. Even General Practitioners (GPs) tell people "go back to work; it will take your mind off it!" One lady was told by her GP to go and get a hobby. "Try country dancing, it will take your mind off it", was his advice. If people are lucky enough to access trauma counselling or are referred to a psychologist, it can adversely affect their ability to take out a bank loan or mortgage in the future as they will be seen as a poor risk.

If the murder takes place in the family home then the house becomes cut off to the family and they have to find other accommodation as a forensic team take over their home. Families are

told to find somewhere to stay, perhaps with other family members or friends. They are not allowed to take items from the house as they may be evidence.

If the murder has taken place close to the family home and people have to walk or drive past the site to get to work or school, then they can be deeply traumatised by this constant exposure to the scene of the murder. Moving houses can be the only solution for them. This in itself causes problems as it may take a long time to sell their house. If they are in social housing they can find it almost impossible to move as they do not have enough points to be re-housed. Their traumatic grief is not understood by housing departments and they do not understand why they cannot stay in the current property. Being traumatically bereaved is not criteria for re-housing.

One family had a teenage son murdered and the charge was reduced to manslaughter and the offender got three years in a youth offender institute. The 15 year old brother of the victim got no help and was excluded from school because the headmaster could not guarantee his safety because the offender's brothers and cousins attended the same school. Mum begged everyone for help for her 15 year old son but had no help given at all. The local education authority refused to give him home tutoring and eventually when he was 17 years old he met a relative of the offender who laughed at him and said: "your brother got killed by my relative and he only got 18 months. That's all your brother was worth!" The victim's brother lost his temper and hit the other guy and was arrested and charged and eventually was put on probation for the offence. Whilst on probation he was offered all kinds of help. His mother cried with me and asked me "Why did he have to get a criminal record before he was offered some help?"

Court Experience

When the family eventually gets to court, they think they are going to get answers to questions about what happened to their loved one. The reality is that the only person who really knows what has happened is the offender and he or she will often give a version that makes them look better to the jury. Instead of getting answers, many are distressed by the way their loved one has their character called into question. The defence almost needs to paint the victim as a bad person in order to explain why their client committed the murder. In court their loved one is frequently referred to as "the body or the deceased." The accused will be referred to as Mr, Miss or Mrs and their surname but the victim is reduced to being a body and not worthy of having a name. This is distressing and disrespectful for the family to hear.

One mother had to sit and listen to the defence say her son was 25 years old and had had a few pints while the offender was only 19 years old and had not had a drink. The defence made out that her son had been drinking and was older and wiser than the offender. This was in spite of the offender attacking her son in an unprovoked knife attack and killing him and calmly going home destroying his blood-stained clothing and going to bed while he left his victim to bleed to death on the ground. This mother said she would have loved to stand up in court to tell the jury that her son was a kind-hearted young man who was a positive contributor and role model to society. As an example, he regularly carried an elderly neighbour down three flights of stairs and put him in his wheelchair and pushed him to the local pub so that the elderly man could spend time with his friends. Her son would then bring him home carry him up three flights of stairs again, take him to the toilet to save his wife from having to do so and then leave him sitting comfortably in his favourite chair. Her son did this twice a week for many months without expecting anything in return. If she had been able to tell the jury this they may have had a much different picture of her son and the type of man he was.

Coming in contact with the family and friends of the offender in the court building can be very frightening and intimidating for the bereaved as murder is now reality to them. In many courts they now try to have separate rooms for the bereaved family to use away from the accused but something as simple as going to the public toilets can be fraught with anxiety and distress as they risk coming face to face with the family/friends of the offender and again feel intimidated and frightened by them.

In most cases the family has to sit in the public gallery while the press can have special reserved seats in the body of the court. If they are in the public gallery they have to try and find seats and will invariably be sitting among the accused persons' family and friends. Families tell that they feel as if they are not part of the process and are not important. The pathologist will give a very graphic and full report about the extent of the injuries inflicted on the victim and although the bereaved family can go out of the court room whilst this evidence is given, many feel as if they owe it to their loved one to hear the full testimony. They frequently have to listen to the defence try to justify why their loved one was murdered.

It is almost inevitable that the bereaved family will not be happy with the sentence passed by the judge. If the charge is reduced to manslaughter the offender will frequently get in the region of three to five years and if they play the system and behave in prison then they will only serve half their sentence and have time knocked off for the time they spent in custody before the trial. One family was horrified to discover that their son's killer would only serve nine months in a youth offenders unit because he had spent nine months on remand before the trial. This mother said to me "my lovely son was only worth 9 months to the state!"

Another mother whose son's killer only served about 10 months after the trial found her other son dead in their home. He left a note saying: "he couldn't bear to go into town and see the offender laughing in his face at getting away with murder! I will kill him if I see him again and then I will be just as bad as he is so it is easier if I kill myself instead!"

Many families experience guilt and feel as if they should have kept their loved one safe. This is particularly strong if it is your child that has died. As a parent you never think you are going to have to attend your child's funeral. Many mothers say to me "I should have stopped him going out that day" or "if only I had said no, you can't go there." It does not matter what age the child is. I have dealt with a 92 year old lady whose 73 old son was killed and she was just as distressed as if he had been 7 year old.

Experience of the criminal justice system

Most of our 4,000 members feel betrayed by the Criminal Justice System. SAMM members frequently ask me "How come you can kill someone and get three years and only serve 18 months and then be free to walk the streets again but if you steal money you may get a much longer sentence?" They perceive that in our culture we seem to value money and property higher than life.

The first human right is the right to life yet if someone kills someone else in Britain they expect in reality to still have their human rights respected. What about the human rights of the victim? What about the human rights of the bereaved family? Part of the human rights legislation refers to people's right to live a decent family life. Sadly our members often cannot do that. They live with the pain and trauma every day of their lives and know that eventually in most cases the offender will be released back into the community.

Many of these families are not informed when the offender is lodging an appeal against either their sentence or the conviction and the first they know of it is when they hear this through the media. There seems to frequently be a breakdown in communication between the court, probation service and the police in relation to appeals. Many of our families who contact the police when they hear about an appeal are told that the police were not even aware of an impending appeal.

Major life events such as a new baby and weddings can bring back the trauma as they realise the reality of that loved one being missing in their lives. People cope with grief in different ways and this can cause a breakdown in communication within families as some people want to talk about the victim all the time and constantly visit the grave. Others cannot talk about it and internalise their feelings and do not want to visit the grave. This can be a recipe for disaster and a huge number of marriages and partnerships can fail in the horrendous aftermath of homicide.

Children

Children are often the forgotten victims in homicide. If they are very young they tend to be sent off to stay with extended family, often grandparents in order to protect them. In fact most of the research carried out in this area indicates that they should stay within the close family unit that they are used to and be told the truth in an age-appropriate way. Because children do not have the vocabulary to express how they feel they are often overlooked and it is thought that they are not suffering. When children return to school, teachers are often not aware of the pain and suffering they are experiencing and the only way they know to express their distress is by being naughty. This can lead to anger issues and to children being punished when they are in fact really crying out in the only way they know how for help and support.

After the trial

Bereaved families are given the option to be kept informed of the progress of the offender by the Probation Victim Liaison Officer (VLO). If the family opts into the scheme, they should be kept informed by the VLO. But we are made aware of many cases where the first time a bereaved family finds out that the offender is out on home leave from prison is when they come face to face with them or they read about it in the newspaper or see it on TV. We have numerous cases of offenders being released after a parole board hearing and the VLO has not been in contact with the family. I do not know how this breakdown in communication occurs but for the bereaved family it is very distressing. When families talk about the CJS they emphasise that it is the Criminal Justice System, it most definitely is not the Victim Justice System.

There are about two women a week who are murdered by their ex or current partner/spouse. Many of these cases are reduced to manslaughter because the accused will often say their partner or spouse was having an affair and that "they just lost it!" as if that is an adequate reason to kill someone. Often these women have been victims of domestic abuse for many years and have had numerous contacts with their local police who have failed to provide adequate protection. The extended family (often elderly grandparents) suddenly have to take responsibility for bringing up small children with little or no help, whether that is practical or financial. If a father is still the legal guardian then he can insist that they child/children are taken in to prison to see him. We have instances of distressed children being taken to the prison by social workers against the wishes of the people who are caring for the children and in some cases the child themselves say they do not want to go.

If someone is detained under the mental health act they can begin to apply for parole within six months and thereafter annually. In some cases these people can be in mental health system for a very short time and then be discharged back into the community very soon after their trial.

Recommendations

The National Homicide Service is a small start in the "joined up" working that is needed. However, it is only a start. All agencies need to be fully aware of the traumatic stress that these bereaved families are under. Even people who have been working within agencies dealing with these bereaved people for many years are not fully aware of the devastating effects of this type of grief.

There needs to be an awareness of all the complicated needs of people bereaved through murder or manslaughter. Louise Casey, Britain's first Victims' Commissioner, produced an excellent report on the needs of families bereaved through homicide and this work should be followed through. This type of bereavement does not go away. It has very long-lasting effects and there are constant reminders of the crime and the suffering of the victim. Even twenty years later when someone comes up for a parole hearing the family will be thrown back to day one. The way traumatic memories are stored makes it very difficult for people to move on. Ordinary memories are kept initially in the short term memory store and then over a period of time they are processed by the

brain and moved to the long term memory store. When they are recalled they are remembered as being in the past. With traumatic memories, they are stored in the “here and now” memory store and when they are recalled it is as if they have just happened. To illustrate this: If I tell you what it was like walking into a mortuary and seeing my beautiful 22 year old daughter lying on a marble slab I do not remember it as having happened in the past. As soon as I think of it I can see the mortuary and I can smell it and I feel cold because it was very cold in there. I am in fact totally experiencing it in the “here and now” as if it has just happened to me instead of happening 21 years ago. Because of this effect many traumatically bereaved people cannot get back to a normal type of life and need long term support often for the rest of their lives.

The agencies involved with bereaved families need to undergo training from an organisation such as SAMM to fully appreciate the distress and trauma that these families experience. Our evaluation forms from such training highlights the importance of this type of training. The Criminal Justice System should treat victims and in the case of homicide, the victim’s family as equal partners and not just focus on the needs and human rights of the offender.

If an offender is sentenced to a prison term then the bereaved family can opt in to be kept informed by the Probation Service Victim Liaison Officer (VLO) about major things such as when the prisoner is being moved to a lower category prison or coming out on day leave from the prison.

If the offender is detained under the mental health act on a section 37/41 of the mental health act 1983 and the Domestic Violence Crime and Victims Act 2004 (DVCV) there is no requirement for the hospital or the Mental Health Unit (MHU) to inform the Victim Liaison Service when a patient is granted escorted leave.

This seems very unfair to our members as they can potentially find themselves coming face to face with the killer of their loved one on the streets where they live or in a supermarket. If the MHU do not notify the VLO of the escorted day leave then how can the VLO inform the MHU that the victim’s family may live or work nearby and may bump into the offender? We feel that this matter needs to be reviewed urgently. We fully understand the implications of patient confidentiality but the needs of the bereaved family must also be considered.

Sentencing needs to be reviewed. The derisory sentences for manslaughter are often insults to bereaved people and to the victims. Bereaved families think life should mean life. If you take a life then you should be put away for life or for a very long time. The victim’s family serves a life sentence as their loved one is never coming home again.

Chapter Five:

Support After Murder and Manslaughter Abroad

By Eve Henderson

Support After Murder and Manslaughter Abroad (SAMM Abroad)

Introduction:

SAMM Abroad is a national registered charity that provides peer support to families, partners and friends bereaved by murder, manslaughter and suspicious death abroad.

We engage with UK statutory agencies (Foreign and Commonwealth Office (FCO), Ministry of Justice (MoJ), Coroners, UK police) and other charities; Victim Support, Victim Support Europe, ASSIST Trauma Care, Missing Abroad, SAMM National, MAMAA (Mothers Against Murder & Aggression, NVA (National Victims Association), International Lawyers, International Undertakers and many others to obtain information, provide guidance, and practical and emotional support for the families who approach us for assistance and information.

The subject of murder and manslaughter abroad is vast and covers many topics. Bereaved families need the same help after a murder abroad as after a murder in the UK. Only the crime was committed abroad, the family lives here in the UK. The Review into the Needs of Families Bereaved by Homicide (Louise Casey CB, July 2011) knowledgeably covered; who the bereaved families are, the problems they faced, the criminal justice process, the practicalities and the existing support services for families bereaved by homicide, the majority of which apply to families bereaved abroad. There are, however, other problems that bereaved families face which are specific to the fact that their loved one has been a homicide victim in a foreign jurisdiction.

...there were 58 British citizens murdered abroad in 2009/10. The effect on their families of such a homicide will be similar to those bereaved by homicide in England and Wales with the added complexities, frustrations and difficulties of dealing usually with a foreign police and justice system and the logistical problems alongside this.....During this review, the specific issues relating to...homicide abroad were not examined in as much detail but it is important to underline that the effects of these deaths have more similarities than differences in terms of the devastation wrought upon these families' lives.

When practical problems emerge following the homicide, which they do for the majority , repatriating a body following a homicide abroad, difficulties over the criminal justice process, disputes over post mortem or release of the body for burial – families frequently need specialist advice and help, and will be unlikely to have the resources to buy legal help and advice...

...Some cases bring with them particular financial burdens. For example where a death occurred abroad, extra costs faced could include high travel and accommodation costs, repatriation, translation of documents, and fees for foreign legal representation. For the six families who had experienced a homicide abroad and who submitted case study information, the average cost per family was £59,000. It is clear that financial burdens can, in some cases, create very serious problems. (Louise Casey CB, Review into the Needs of Families Bereaved by Homicide, July 2011, pages 10, 11 & 29).

“SAMM Abroad provides a real lifeline for bereaved families who have suffered a murder or manslaughter of a loved one abroad. This report reveals important insights into the issues and problems faced by these families. I have argued that victims of crime are the poor relations in the criminal justice system; and families of victims are often left feeling powerless. For those families where the crime is committed abroad, this report shows how that sense of powerlessness is even greater. This report also highlights that, quite apart from the obvious grief and personal loss, being bereaved in this way can have devastating and long term impacts on many areas of life for those left behind.”

Louise Casey CB, the former Commissioner for Victims and Witnesses wrote in her Foreword to SAMM Abroad’s survey of bereaved families, “Who Cares For The Families” published 2011).

“The numbers of homicides and suspicious deaths abroad is thankfully small* and this makes it all the more frustrating that the public authorities who should care about this seem unable to get it right. I passionately believe that British citizens should be able to rely on their representatives in a foreign country to support them at times of such trauma. Back home, victims’ families should be able to access standard agreed service levels from coroners, police and FCO officials.”

Commander David Johnston QPM, Head of Homicide and Serious Crime, Metropolitan Police Service (retired)

There is approximately one homicide death of a British national abroad each week, between 50 to 65 per year. These figures do not include mass disasters, acts of terrorism or road deaths. Shockingly, however, William Hague, Foreign Secretary, stated in April 2012: "At least 10% of all the murders of Britons in the last two years took place overseas".

* based on a figure of 500/600 homicides each year here in the UK.

As a direct consequence of our engagement with public authorities, a multi agency *Murder, Manslaughter and Infanticide of British Nationals Abroad* Memorandum of Understanding (MOU) has been established. This is designed to help address the deficiencies in the services provided to bereaved families. The main difficulties our members have reported are:

- Almost total lack of advice
- Very poor communication from, and between, UK agencies
- No agency pro-active or accountable
- Arbitrary response from UK agencies, mainly influenced by media profile
- Families forced to personally pursue progress during a period of extreme trauma
- Very little financial assistance for travel, translation, interpretation and legal advice
- No help in obtaining legal advice
- Families not always informed of rights regarding repatriation, a UK inquest and post mortem
- Postcode Lottery of assistance from British police regarding witness statements or analysing forensic evidence held here in the UK.
- Poor or no support for travelling companions and surviving children
- Dealing with all of the above during a time of extreme trauma and bereavement.

Following Louise Casey's July *Review*, she subsequently published a follow up paper on *Meeting the Service Needs of Families Bereaved by Homicide*. This report highlighted the aspects of the justice system which were failing to provide support for the families of British nationals murdered abroad. Assistance was required in the following areas:

Trauma - in our view, the area of trauma counselling via commissioned services has improved dramatically since the recommendations from Louise Casey and is working well. However, there is still scope for improvement to ensure that these services are of a high standard and are made available promptly to bereaved families.

Practicalities - partly being provided by Caseworkers from Victim Support's Homicide Service. There are still far too many gaps between the multiple government agencies involved following a murder abroad. On finding SAMM Abroad it is clear that some families have not been referred to VS Homicide Service or other commissioned services.

Legal Advice and Advocacy - This is an area that is absolutely crucial and our families need professional advice. Article 2 of the European Court of Human Rights (ECHR) provides many rights, but bereaved families need legal representation to ensure compliance. International child custody disputes are granted overseas legal aid and SAMM Abroad would argue that there is also a strong case for a similar service to be made available for homicide cases. In some countries with judicial secrecy, families require lawyers to gain access to the investigation and if they are unable to afford to employ a lawyer they are effectively excluded from proceedings about the death of a family member. Whereas in England, bereaved families should be kept informed throughout the criminal justice process by the Police and Crown Prosecution Service, without adequate legal representation in the relevant foreign jurisdiction, there is no guarantee that these families will receive reliable information.

Financial Strain - The financial burdens for families bereaved abroad remain unaddressed. Limited assistance is being provided for travel and translations but it is not open and transparent about what and how much is provided and it is very much a 'maybe' service. Families need to know exactly what they are entitled to, comments such as 'if we can' or 'we may be able to help' are at best off putting and at worst damaging as the family feels one person is getting help and another is not. There are also perceived inconsistencies in the criminal justice system whereby in some cases, particularly those with a high media profile, it appears as though the authorities may be going an 'extra mile' to support some families and offering services that are not made available to others.

CICA - Criminal Injuries Compensation Schemes across Europe vary dramatically. There is no level playing field. Some European countries apply means testing thus precluding British families from obtaining compensation from what was intended to be a reciprocal arrangement across Europe.

Someone who understands - Families need the support of their peers.

We receive feedback from families to evidence the value of peer support from SAMM Abroad meetings, comments include:

- i. Meeting others who have been faced with similar problems, feelings and difficulties that we are coming up against.
- ii. Knowing how another family obtained assistance and the measures they took to get this. Knowing the process from beginning to outcome.
- iii. Very good to meet others in a similar situation. Also positive to know that SAMM Abroad are making positive inroads into changing the existing UK non systems (MoU)
- iv. Listening to other families and how they deal with Courts, Inquests, meetings.
- v. Meetings always good, it really helps to meet other people. Meetings fly by, need more time.

We are delighted as a charity that we are able to assist bereaved families and build up a support network. However, peer-to-peer support alone is not always enough and reforms to the justice system and improvements in services are needed.

The Criminal Justice process:

The primacy for the investigation into the crime lies with the police in the foreign country but there are numerous avenues where UK statutory agencies can assist families to understand what has happened to their loved one, and the process that continues to happen long after the crime has been committed. Good and effective contact between UK agencies and bereaved families is vital and should be delivered in a way that provides real help to families in need. Although the UK authorities cannot intervene in foreign legal systems and can at best usually only make enquiries, they can still provide practical advice and support for bereaved families. For example, Police forces in the UK can offer advice on gathering evidence and investigations into a homicide. In some instances they may also be able to advise investigating officers in the relevant country.

It is also very common for families bereaved by murder overseas to have incredible trouble keeping in touch with the status of an investigation, a court case and the dates of hearings in the foreign country. As with other aspects of murders abroad the Foreign & Commonwealth Office communications are punctuated with delays, omissions and inaccuracies, frequently causing problems for families. Families need to feel confident that everything possible is being done to catch the perpetrator and they need to be kept informed regarding the investigation and trial. They need to be given information to understand what happened and how their loved one died.

In 2010 we welcomed the introduction of Victim Support's Homicide Caseworkers and commissioned services for emotional support. However, wholesale change across Government departments is required if there is any hope of delivering an effective joined-up and multi-agency service to already traumatised families.

If the judicial process in the foreign country does not succeed for whatever reason, we need to ensure that victims have social justice with the support they deserve here in the UK rather than their current feeling of abandonment by their own country.

The government and policymakers must recognise this need and offer a coordinated service to assist them without causing further suffering to the traumatised family. This requires changes in the handling of homicide cases in the Foreign Office and the implementation of a national police policy to avoid a postcode lottery of who gets assistance and who does not.

Much could be written about our families' experiences of foreign judicial processes but for this Report we have concentrated on the families' experiences of, and involvement with, services provided here in the UK.

Needs of the families:

Families bereaved by a murder abroad have the same needs as families bereaved in the UK, including professional, practical and emotional support.

- i. Trauma. Families need access to specialist trauma support.
- ii. Help to cope with the practicalities, including the logistics, costs, translation and travel arrangements.
- iii. Access to specialised legal advice and advocacy, with experience of foreign legal systems.
- iv. Support to cope with financial strain.
- v. Someone who understands

Some needs are harder to meet for homicides abroad due to universal issues such as:

- problems of language, distance, culture
- problems of dealing with a foreign judicial system (families are advised by the FCO to employ a lawyer in the foreign country). However, legal services are rarely covered by insurance and many families just cannot afford it

- problems attending the crime scene or the trial – passports, visas, travel costs/flights, accommodation, translators, interpreters
- the need for greater effective co-operation between UK and foreign agencies
- lack of support by statutory agencies back in Britain

Experiences of the Crime and the Impact on the Family

We sought information from some of our families on a number of issues for this Report. Where we are quoting from families' accounts of their own experiences the information is shown in italics. One family was bereaved pre the introduction of Victim Support's Homicide Service, all others were bereaved post November 2010 when this service applied to abroad cases.

Case Study: Trauma suffered following a homicide abroad

A family's account:

"The trauma suffered following a homicide is indescribable. You are instantly transported to a new life, "post-murder", and your old life, "pre-murder", will quickly become one you don't recognise and one to which you can never return. The impact will constantly hit you as you have to tell people not only that your loved one is suddenly and tragically dead, but that they have been murdered. Without exception, saying "Lxxxx has been murdered" has a far greater impact than "Lxxxx is dead", and once you have said it there is no going back. Often, the listener will recoil and desperately try to apply logic to the few facts you can tell them. Logic that will mean that they and their family could never possibly be in a situation like this. They search for a reason, a justification for what has happened; so then they can feel safe.

I have seen photographs of my sister's murdered body; the crime scene; the autopsy. Horrific visions that I will never be able to erase from my mind. The overwhelming sense of futility that someone chose to take someone else's life; the resultant destruction of faith in human beings; these are not small traumas."

Trauma

In the past accessing trauma counselling was extremely difficult. GPs appeared to be unaware of specialist trauma help and families were put on long waiting lists to await 'ordinary' grief counselling. Many families related that counsellors were shocked and unprepared for what they were hearing and the victims had to console and comfort the counsellor. Following Louise Casey's Review into the Needs of Families bereaved by Homicide, the Ministry of Justice commissioned specialist organisations to provide this service and this is one area that has improved immensely and is working really well. This improvement is welcome and should be sustained and built on.

Help to cope with the practicalities

Repatriation – a serious lack of information persists for those making the decision to repatriate which has potentially devastating consequences for families who later discover the implications. Some families are not informed that repatriating the body will provoke a mandatory Coroner's Inquest here in the UK. If the body is cremated and the ashes returned to the UK there is no obligation on Coroners to hold an Inquest.

Case Study: One family's account of their experience of the Coroner/Inquest system here in the UK

" Rxxxx wants to emphasise how important it was to have an Inquest in the UK. For the first time in 14 months they were being told the detail of what had happened to his daughter Jxxx and what the Home Office post-mortem revealed. Rxxxx says, "As painful as it was to hear that there were marks on Jxxx's wrists where she had been tied up and strangulation marks on her neck, I needed to be sure of the facts. I was hearing it in English, in a British Court and I believed that what I was hearing was the truth about what had happened to Jxxx".

Rxxxx says, "You can handle the facts, it's the unknown which is most painful."

The Coroner returned a verdict of Unlawful Killing. He was critical of the French failure to co-operate and was quoted in the Press as saying, "My hope is that steps can be taken to improve communication and the passage of information between the French and British authorities".

Subsequently, via his French lawyer, Rxxxx has had sight of the French file. No one offered to translate this or any other information for him and he could only afford to have parts of it translated professionally. The rest he pored over with an English/French dictionary. He felt that with no experience he was having to conduct a murder investigation on his own."

Case study conducted by SAMM Abroad for Government Consultation

Much clearer and accurate information should, therefore, be provided to help bereaved families make informed choices about the repatriation of bodies and the involvement of the Coroner.

Employment:

Bereaved families will inevitably need to take time away from work to recover from the trauma of losing a loved one. When the loved one is murdered abroad, this can place additional strains on someone's employment. For example, the necessity of regular foreign travel can lead to prolonged periods away from employment and loss of earnings. In some instances, unsympathetic employers and work colleagues can compound the grief felt.

One family has commented: "I found that when I returned to work I was treated as if I were contagious – people avoided me and feared speaking to me when all I wanted to do was talk about what had happened. I was full of so much grief, anger, confusion and disbelief – an immense, unfathomable weight in my head and heart that was buckling me under. My employer, initially sympathetic, soon lost patience. ...I was constructively dismissed but in no fit state to properly fight for my rights. My sister gone, my family as I knew them gone, my career and income gone, my entire old life gone."

Access to specialised legal advice and advocacy

Currently, access to specialised legal advice and advocacy for abroad cases is non-existent without incurring huge financial costs abroad. We have evidence of families re-mortgaging or selling their homes.

Support to cope with financial strain

As with access to legal advice and advocacy, financial assistance for families is also virtually non-existent. In their pursuit of trust and justice, bereaved families can therefore end up incurring huge costs and considerable hardship.

Case study: A family's account of the inadequate assistance provided to them

"The only assistance we were given (by the FCO) was a list of potential Gxxxxx lawyers who we then had to suss out ourselves. We had to track down and interview several Gxxxxx lawyers, most of whom didn't want to know or were only interested in the money. We were given no translation assistance and no support in understanding the Gxxxxx legal system. With regards to financing this process we have received absolutely no financial support from any government department. Once we had selected a solicitor we had to set up our own Appeal to raise money in order to pay for legal representation and attend the trial in Gxxxxx. We have completely depended on the kindness of friends, family and the wider community in fundraising for this."

Someone who understands

The value of Peer Support has been well documented. Being able to talk to someone who truly understands what you are going through and realising that you are not alone in your hardship and grief are vital in coming to terms with what has happened.

It is common for people to struggle for information and to get an understanding of how the 'system' works in the country where the crime occurred. Families who contact SAMM Abroad frequently tell us that they suffer from isolation and are anxious to speak to someone who has been bereaved in a country that has either the same or a similar judicial process.

Policy Successes and Failures

SAMM Abroad's aim is to gain government acceptance of the needs of families bereaved abroad and for a coordinated service to be set up to meet these needs without causing further suffering to a traumatised family. This requires change within the following agencies:

Foreign & Commonwealth Office: changing a service that damages families further.

The general perception, both public and within government, is that families bereaved by murder abroad should receive support and assistance from the Foreign and Commonwealth Office. In reality, families feel let down by the FCO with the FCO providing very little help. The huge turnover of Desk Officers, as they progress their careers through the FCO, means that families find themselves having to explain 'yet again' what has happened to their loved one.

Family 1: "The FCO were effectively impotent and we were told ridiculous things like 'manage your expectations'".

Family 2: "We feel that the FCO took absolutely no proactive role in helping in our pursuit of information, support, and ultimately justice".

Family 3: In our case, although we were grateful for the help received in the initial few days, thereafter we were left to flounder on alone to find our own lawyer, our own finance, our own translator and our own way around an almost incomprehensible and uncommunicative investigative procedure. Any help in these areas was sadly lacking."

Family 4: "To this day I do not receive any information from the FCO, nor the consulate in Gxxxxxxx as to what is happening following the completion of the trial. I have found out for myself that my son's murderers are on their second appeal. I would like to be updated from an official source rather than find out through media or Internet sites."

British Police – seeking a consistent service through national policy

Family 2: *“Our involvement with the UK police was the one rare thing that was positive. We found their support invaluable and their daily visits and updates a lifeline. They kept us informed and supported from Day One. We had a FLO assigned to us and we had 24 hour access to him. He acted as a link between the prosecution service and the police in the country where the crime occurred. However, speaking to other families at SAMM Abroad meetings I am very aware that not all families have this”.*

British police offer an excellent service to families bereaved by murder abroad but it is a postcode lottery. SAMM Abroad would like these examples of great service delivered to all families.

Coroners, post mortems and Inquests:

Currently there is always an Inquest after the repatriation of a body after a sudden or unnatural death. When asked, families reported a worryingly mixed experience of the Coroner’s Office. Almost half of those asked gave a negative response to the helpfulness of the Coroner’s Office. Clear service standards and an uncomplicated complaints procedure needs to be in place and monitored for this small group of vulnerable families.

Recommendations:

1. FCO, UK police, Coroners and other public authorities should provide robust implementation and monitoring of the Memorandum of Understanding.

This document, entitled: *Murder, Manslaughter and Infanticide of British Nationals Abroad* is a Memorandum of Understanding between the Foreign and Commonwealth Office, Association of Chief Police Officers (ACPO) and Coroners’ Society of England and Wales.

The three statutory agencies listed above signed off this document in August 2012. When undertaken in the spirit intended at the time of inception, it will ensure that a minimum standard of assistance is provided by UK authorities and help to clarify the role of these agencies in respect of both the deceased and their family when a British national dies overseas as a result of murder, manslaughter or infanticide. This will also include alleged murder, manslaughter or infanticide where a finding of fact has not yet been established and may include some road deaths.

In order to provide a professional service the FCO will hopefully, as detailed in the MoU, carry out the collection of data in respect of the operation of the MoU to enable an annual review of its effectiveness.

2. Recommendations for UK Police assistance:
 - Family Liaison Officer to assist with communication and information gathering
 - Senior Investigative Officer to explain the murder and interpret the investigation
 - Analysis of post-mortems and foreign police reports for the family
 - Forensic analysis of any UK evidence, accessing email and mobile phone records
 - Collecting witness statements and photo-fits from UK survivors
 - Where possible communicating police to police with the foreign investigators to understand the investigation and offer forensic assistance
 - Seeking prosecutions in the UK where possible (British perpetrator or conspiracy)

Some families receive none of the above, but where this is offered it makes an incredible impact on the lives and recoveries of families and sometimes directly leads to prosecutions.

We aim for this level of service to become policy. Although we have support from ACPO for this, the full package requires funding from the Home Office.

3. Criminal Injuries Compensation Scheme:

Fairness - Seeking Equality with Victims of Terrorism: Currently families bereaved by murder overseas do not receive compensation from CICA (Criminal Injuries Compensation Authority).

The MoJ's recently published Scheme (November 2012) to bring the families of British nationals bereaved by terrorism overseas within the CICA is a welcome development. However, it is highly disappointing that families bereaved by a homicide abroad have not been included, particularly those where the homicide occurred outside the European Union, in a country that does not have such a scheme. Some schemes within the European Union differ in their eligibility criteria and many families experience difficulty in making a claim for compensation (despite the EUCAT (European Compensation Assistance Team) team within CICA helping families with their application). We believe that some countries within the EU, including Spain and Greece, have yet to pay out any compensation to the family of a British national bereaved in their country. Additionally, some EU countries compensate their own nationals even when the crime occurs in another EU state.

Differentiating between murder by a terrorist and murder by a common criminal is beyond the comprehension of the families SAMM Abroad represents and is seen as highly discriminatory.

Currently, the CICA Scheme pays compensation to foreign nationals murdered here in the UK. Our families are deeply upset that they are not given such help. Preferably, SAMM Abroad would like foreign nationals to be helped by their own countries and the UK provide a lot more assistance, including financial assistance, to our own citizens.

4. Ministry of Justice:

It is clear that families need a lead department in Government to provide leadership and to take responsibility for the overall services received by the secondary victims of homicide overseas. SAMM Abroad believes this fits within the Ministry of Justice and that the MoJ would be the most effective place to perform this role. Following a mapping of current services provided to families identifying gaps against their needs, we recommend it includes reviews of the effectiveness of existing support in practice. There are many unmet needs around translation, and travel expenses for visiting the crime site or to attend trials, and criminal injuries compensation. More than anything, these families need a voice within Government with the aim of improving the outcomes for these families – good communication and a degree of investigative support can turn lives around for those who are left.

Short Term Aims:

- Achieve an understanding of families' needs and desire for change within the Foreign and Commonwealth Office
- An additional Victims Code that covers homicides abroad. Currently families bereaved by a homicide abroad are excluded from the Victims Code.
- Centralised monitoring of the overall experience of this vulnerable group of families with complex, multiple needs and of the outcomes for this specific group, to inform best practice

Medium and Long Term Aims:

- Continual monitoring of the Memorandum of Understanding signed up to by the FCO, ACPO, and Coroners
- MoJ - Support packages for families bereaved by terrorism extended to all murders abroad
- Home Office - funding for a comprehensive package of police support

Further suggestions from SAMM Abroad's bereaved families:

Repatriation: *"A fund to cover the costs of repatriation to the UK of a British national without insurance following their homicide abroad. Only a very small number of families would need to be supported annually in this way. The average figure of £3,800 would equate to a relatively small fund for the State to support given that only a small percentage will not be insured." It has been noted that the UK pays for the repatriation of a murder victim back to their country of origin following the murder of a foreign national in the UK.*

Translations: *"Newspapers report that over the last 3 years, £82 million pounds has been spent by our UK police providing interpreters and translations for foreign nationals accused of crimes here in the UK. If translators are employed by our police to provide this service, is there a way for the families of homicide victims to access this much needed service?"*

Media: *"Help with local media management." All families experiencing a homicide abroad should be offered assistance with dealing with the media at the outset. A statement to the Press from the FCO along the lines of "consular assistance is being offered to the family" is not sufficient to address the likely interest in the case. Ongoing assistance with the Press should be provided until after the Inquest process is concluded.*

Transparency: *"There must be transparent and unambiguous guidelines around what families can expect from the Victim Support's Homicide Service and any commissioned services i.e. ASSIST and Missing Abroad. Families must not be made to feel guilty about the cost or complexity of a particular service."*

Consistency: *"There must be a consistent experience for all families - open, honest and transparent."*

Compassion: *"Any exit strategies must take into account the long term and far reaching nature of homicide. "Grief after a homicide is usually intense and long lasting" (Paterson et al) and abruptly cutting off a support service risks devastating effects."*

Information: *"Families need to be made aware of any literature that may help straight away. Trauma Assist and SAMM Abroad produce great leaflets. Each police force should have them to give out. Remember, after a trauma like this you are not in the right mind to think straight. Those who have a strong network of people and family around them tend to achieve more help and this is fundamentally wrong as everyone should have equal access to every available support."*

Conclusion:

Our members welcome the progress that the Government is making to improve services for homicide victims and to rebalance of the criminal justice system. However, the overall standard of provision for families bereaved by homicide abroad is inconsistent and all too often inadequate. Although the numbers of British nationals who are the victims of murder and manslaughter abroad are relatively small, each fatality still has devastating, profound and life-changing consequences for their families in the UK. Positive changes which have been made must be maintained and there must also be a clear strategy developed to enhance services so that each bereaved family can get a strong, multi-agency package of support. Gaps in the provision of services need to be closed and the Government should commit itself to easing the stresses, anxieties, hardships and burdens that this group of bereaved families face.

Chapter Six:

Ending the discrimination against road crash victims

By Amy Aeron-Thomas, Road Peace

Introduction

Five people are killed in crashes every day, and another 2000 estimated injured (Department for Transport (DfT), 2013). Road crashes are a major problem for the justice system as well as transport and public health.

Our Criminal Justice System (CJS) fails road crash victims. Too often it treats them as victims of “accidents” and does not accord them equal rights with other victims of crime. This includes those bereaved or injured by dangerous driving, drink/drug driving and other law breaking behaviour on the road. The importance of respect and fair treatment to victims is well documented (McKewan 1997, Callahan et al 2012). The CJS needs to address the deficiencies that aggravate the suffering of crash victims.

Examples of how this neglect affects the rights of the bereaved to information and support are summarised in this chapter. Also covered is the knock on effect this has on police investigations, prosecution and sentencing, and the ability of the bereaved to see that justice is done to their loved ones’ death. This would all change if road crime was treated as real crime and victims of crashes treated as victims of crime until the contrary was proven. This is RoadPeace’s key recommendation for the CJS, with how this would be achieved in practice highlighted at the end.

And whilst this chapter focuses on bereaved, it should be remembered that the injured face even greater difficulties in accessing justice.

Road deaths

Road deaths can be as violent as murder but they happen with much more frequency. In 2012, there were 1,754 people killed on our roads, compared to 540 homicides (2011/12). Five families a day are bereaved by crashes. They have no warning nor are able to prepare for the devastation. Victims are killed as they commute to work or school.

Those killed in crashes tend to be young or middle aged adults, people in the prime of life. They often have both children and elderly dependents. In terms of its impact on society, there is no worse age cohort. With education behind them, victims are at the age when they are able to give back to society.

Unlike shootings or knife killings, road crashes are too common and often not sensational enough to merit front page news coverage. This adds to the family’s sense of injustice and experience of complacency with road deaths. This is compounded by their sense of powerlessness within the CJS and aggravated by the perceived priority allocated to the defendant’s rights by the CJS.

Examples of how the bereaved suffer include:

Because of the driver’s right to have a second post mortem, the coroner allowed the parents to see their son only once in the two weeks after his death. By the time they were allowed to see him again, his physical appearance had changed, thus adding much more distress to their grief. How often do second post mortems prove that deaths were natural coincidences and not the result of being hit by a tonne of metal at speed?

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*After hitting H (13) on a crossing, the lorry driver climbed back into his cab and deleted text messages, whilst H lay dying, trapped under the lorry's wheels. The CPS did not think there was enough evidence to prosecute him with causing the fatal crash but did prosecute him for Dangerous Driving for texting and speeding whilst driving a lorry during rush hour in a city. Twenty two months after the death, he pleaded guilty and received a six month custodial sentence with two months for Dangerous Driving and four months for perverting the course of justice. He was granted a discount for pleading guilty despite trying for months to change his plea. He was sentenced at a hearing which H's mother had been told was just about his plea vacation. She was often only informed of court hearings the night before which made it hard for her to organise support from her friends. Whilst the CJS has focused on the driver's rights, she is still waiting to hear the full details of her daughter's death. The case was so dragged out and she was so poorly treated that she has said that dealing with the CJS system was harder for her to cope with than the collision itself.*

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They thought the worst had happened when their son was fatally injured after being hit on a crossing. They were wrong. The police only began to properly investigate the crash after the death, which was five months after the crash. Then the CPS separated the charges so the jury in the first trial never heard that the driver was blind in one eye (a fact which he did not declare on his driving license application) and on the side to which their son was approaching. Four years on from the crash, court proceedings have yet to be completed, much to the horror and dismay of the bereaved family who have seen adjournment after adjournment be given.

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*Their mother should have been safe on the pavement. But a speeding driver lost control and mounted the pavement, running her over from behind and killing her. Initially charged as Causing Death by Dangerous Driving, the case proceeded to the Crown Court. With expert witnesses in court for the trial, the CPS accepted the driver's plea to Causing Death by Careless Driving, much to the shock of the family and the surprise of the police. The family later found out that the driver also had defective tyres, facts the police did not reveal sooner as they did not think it was necessary with the Causing Death by Dangerous Driving charge.*

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The coach driver admitted driving at over 50mph despite the limited visibility from his dirty windscreen and not wearing his prescription sunglasses. But he pleaded not guilty to causing the deaths of the two cyclists (brothers) whom he had run over from behind, after failing to see them. Adding insult to death, the jury did not even hold him accountable for causing their deaths by careless driving although the judge stressed the CPS were right to prosecute for Causing Death by Dangerous Driving. The family never benefited from a meeting with the CPS where the reasons for the prosecution failure. No post acquittal review of the case was undertaken, as is standard practice with rape acquittals.

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*Families want accountability but too often they get denial. When his wife was run over and killed, all he wanted was for the woman driver to admit responsibility and stop driving. Instead, he had to wait for over a year while the CPS requested medical fitness reports to ensure the driver did not have a medical condition that had caused the crash. Either way, she should have taken responsibility but didn't. This was in stark contrast to the police who treated the family with respect and sympathy and treated the death with the priority a wrongful death deserves.*

## **Criminal justice system experience of the bereaved**

Those bereaved by road crashes need to:

- know what happened to their loved one
- be informed of progress in the investigation and prosecution and understand why key decisions are made
- be treated as the bereaved and not as a bystander
- see that justice has been served, with offenders identified, prosecuted and sentenced appropriately
- be treated with respect and consideration throughout this process
- know that their loved one's death is seen as unacceptable and preventable- not the inevitable price to pay for mass motorisation.

Those bereaved by road crashes have seen improvements in recent years. Just five years ago, a driver could kill someone and only be charged with the summary offence of Careless Driving. They did not even have to attend court to plead guilty but could do so in the post. There was no mention of the death in the charge or on their driving license or criminal record. The punishment was a few penalty points. This has changed with the Causing Death by Careless Driving which carries a mandatory driving ban.

Support for victims has improved. In 2011, the Ministry of Justice introduced funding for some support services for crash victims. But their treatment still falls far short of either that received by those bereaved by other types of crime or what should be expected in a fair, decent and compassionate society.

### **Lack of support and information**

*"You are not a victim. You won't be getting Victim Support as you don't qualify for it".*

This was said by the police to a woman whose husband had just been killed in a crash where the driver was arrested on suspicion of Causing Death by Careless Driving. Insensitive as it was, it was also accurate in terms of victim support. Families bereaved by road crashes, even culpable crashes, do not qualify for a Homicide Caseworker or an Independent Advisor as do victims of rape and sexual violence. Those bereaved in culpable crashes do not even receive the basic services of Victim Support. This was a key reason for the establishment of RoadPeace in 1992.

*Three months to find out their daughter was not alive when the fire broke out in her car. Three months of wondering how horrific her death was when the post mortem results could have alleviated their concern within days.*

Bereaved families are assigned Police Family Liaison Officers (FLO) who are responsible for keeping them informed. But FLOs are also responsible for reporting back on anything they learn from the grieving family. FLOs can provide a lifeline or add to the distress.

Bereaved families are given a MOJ funded booklet that contains summary information. Maximum sentences for criminal charges are given but not how often they are laid or the average sentences, which are much more useful given that maximum sentences are never used. Families can be left believing that Causing Death by Careless Driving incurs a five year custodial sentence without realising that offenders are rarely jailed for this charge. Mismanaged expectations can accentuate their sense of injustice.

### **Lack of investigation and prosecution**

*"My 13 year old daughter was tested for drugs but not the lorry driver who ran over and killed her"*

Families have reason to think that road re-openings are more important than evidence collection. cursory statements are taken from witnesses, sometimes no more than contact details, and full statements can be taken weeks later.

*For three years I have battled the whole way through an inadequate system which assumes the guilt of the cyclist, and which is rife with incompetence and complacency and which has failed us all on so many levels. There was no interest in carrying out a proper investigation nor in finding witnesses. The police report was riddled with assumptions, omissions and conclusions contrary to evidence, obvious even to a layperson but there was no interest from the CPS in questioning it. Only after the death of someone else, three years later, have the police acknowledged the report was inadequate and reviewed the case of E's death.'*

Their understanding of the circumstances of the collision and the extent of the investigation is often limited. This can be caused by both a lack of information and an inability to remember due to shock over the death.

*When the police decided that there was to be no further action with the van driver who had hit and killed their daughter, her parents were shocked that the CPS were not to be consulted and thought that it must be due to racism.*

The police have the authority to decide no further action (NFA) in cases they have investigated. This includes road deaths. Even worse, there is no monitoring of how often the police decide NFA without even consulting the CPS and this has been seen to vary widely between police forces.

Families are often unhappy with the CPS charging decision. Causing death by Careless Driving is the most common charge used after a fatal crash. It is used much more than the CPS expected whilst Causing Death by Dangerous Driving prosecutions have plummeted.

*Breaking the 30 mph speed limit by 6mph would have justified a prosecution if it had been detected by a camera. Given that it occurred outside a secondary school during rush hour with a 16 year old being hit and killed by the driver, the bereaved family thought a prosecution was certain. But the CPS decided otherwise. This was not deemed serious enough to warrant prosecuting the young driver with Causing Death by Careless Driving, although in reality his conviction would have only been a short driving ban and 100 hours community service.*

*Crashing into a car at 56 mph in a 30 mph speed limit and killing two passengers could have been expected to qualify as dangerous driving, if not manslaughter, given the excessive speed involved. Instead, the CPS prosecuted the driver for only Causing Death by Careless Driving, to which he pleaded guilty.*

Families are outraged that the death is being tried at the Magistrates Court which is seen as:

*...second-rate court where normally petty thieves, small-time criminals and drunks are dealt with. Is killing a man through carelessness on a par with such minor offences? Under similar circumstances where no vehicle was involved, would that qualify for a magistrates court?*

After an acquittal, families are supposed to be offered a meeting but this can amount to nothing more than a chat in a courtroom hallway with the family still in shock.

### **Lenient sentencing**

For deaths caused by dangerous driving and careless driving whilst under the influence, prison sentences for convicted offenders are standard practice. But sentences are short as well as partially served, and have led to much campaigning in recent years by bereaved families.

But for the most common charge of Causing Death by Careless Driving, prison sentences are rare (less than 30%). The five year maximum custodial sentence is misleading. Offenders are much more likely to be given a community sentence than a prison sentence. No evaluation has ever been done on the effectiveness or even the sensitivity and appropriateness of sending someone who is responsible for causing a death on community service.

And a key area where the CJS fails is with driving bans. Families are insulted at how quickly killer drivers are allowed back on the road. According to the Sentencing Guidelines, driving bans are supposed to be mandatory for causing death by driving convictions, but in reality, many drivers are only banned until they pass their driving tests again. And interim driving bans are rarely used. Drivers can fail a breath test and be arrested on suspicion of Causing Death by Careless Driving Whilst Under the Influence and still be allowed to continue driving until they are convicted. It is not enough that they are suspected of killing someone, they have to be at risk of killing again before they get an interim driving ban.

### **Financial losses**

In addition to the emotional devastation, many families also suffer financial devastation. They are unable to go back to work, in the short term, or ever at all. Families report being held in limbo or “held hostage” by the CJS and unable to think about returning to work as long as the charging decision is undecided or the prosecution is ongoing.

### **Policy failure**

The state fails those bereaved by road crime in the following areas:

#### ***Support and information failure***

Those bereaved by culpable crashes are not allotted the same rights to support and information as other homicide families. As long as proceedings on a charge of causing a death by driving<sup>26</sup> are being considered or under way, the bereaved will qualify for support under the MOJ’s Code of Practice for Victims of Crime (MOJ, 2013a). But in all other circumstances, they do not, even when law breaking is involved. This includes crashes where the culpable driver died or where a road defect caused the crash. In addition, summary charges, including careless driving, hit and run, drink driving, defective tyres or defective vision can be brought in fatal crashes where there is insufficient evidence to prove these caused the crash. Those bereaved in such cases do not qualify for the Code.

And whilst the Code provides basic rights, those bereaved in culpable crashes are also denied specialist support provided to homicide families. The MOJ funds caseworkers for families bereaved by mistakes prosecuted as manslaughter but not by mistakes or violations committed by drivers. Families bereaved by road crashes are almost always assigned a Police Family Liaison Officer (FLO), but this is not the same as a caseworker or independent advisor, as assigned to rape victims. They act as advocates for the victim and do not report back to the police.

In 2011, the MOJ invested £2.75m in the Homicide Service whilst over a three year period 2011-2014, a total of less than £900k was allocated to support for road crash victims (bereaved and injured). With no official counts of the number of road deaths involving law breaking, the available data indicates that it is similar to that of homicides (RoadPeace, 2013a). Assuming an equivalent number of culpable road deaths to homicides, £2.75m should have been allocated to support services for bereaved families. Instead, it was less than one-tenth of that, with the amount also expected to fund support services for the seriously injured, who average 10 to every road death (DfT, 2013).

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<sup>26</sup> Or *dangerous driving* when the death is not mentioned.

Those bereaved by culpable crashes were also initially overlooked by the first Victims and Witnesses Commissioner (Casey, 2010). But when challenged, she extended her remit to include those bereaved by road crashes and invited RoadPeace on her policy steering group. Her last report on the needs of the bereaved still referred to homicide victims but she clarified that the recommendations applied to those bereaved by road crime as well. She also called for caseworkers to be provided to those bereaved culpable crashes, when more funding was obtained (Casey, 2011).

And more funding is now available. With the recent increase in motoring fines, £30m is to be allocated to the MOJ for support services from the additional revenue raised by motoring fines (MOJ,2012a) . This funding is not ringfenced for victims of crashes, not even culpable crashes. And whilst the majority of monies raised from the Victim Surcharge already comes from motoring offences, this is allocated primarily to victims of sexual and domestic violence (RoadPeace, 2008a and 2012e).

The government's approach to road crash victims has had a knock on effect on charities. As no funding was available for support for road crash victims, national crime victim charities' remit did not extend to road crash victims.

It took a year of lobbying by RoadPeace to get the Victim Services Alliance, an umbrella association of charities supporting the bereaved in the criminal justice system, to revise their terms of reference. Initially only referring to homicide families, it now includes those bereaved by road crashes. It was agreed that this could not be limited to culpable crashes as culpability can take too long to identify and families need help from the start.

### ***Investigation failure***

*The police openly admit things could have been a lot better and have apologised. All that would have been required was for the Police to skid test and compare the steering of the vehicle to the manufacture standard.*

To a family, a road death can have the same devastating effects and implications as a murder, and its investigation should be no less thorough. It is not. The police investigate three times as many road deaths as they do murder or manslaughter charges. For every person who dies from a shooting, there are 45 killed in a crash.

The value of prevention of a road death is calculated to be almost £1.8m (DfT, 2012). The estimate of the cost of a homicide is similar (Home Office, 2011). Thus, the loss of life from a crash and a homicide is valued equally to society. But little resources are allocated to collision investigation. In London -- where road death investigation is considered to be of high standard, twelve times as much is spent on the investigation of a homicide as on a road death (Metropolitan Police Service, 2013).

Nor are there any national procedures for investigating road deaths. ACPO's Road Death Investigation Manual, is advisory only and is on the verge of being replaced with generic and summary information on collision investigation. ACPO's Homicide Manual is under no such threat.

For the first time ever, and some 117 years after the first road death in Britain, the HM Constabulary Inspectorate are about to undertake an evaluation of how the police investigate fatal crashes.

### ***Prosecution failure***

Police can decide if the CPS is to be consulted on the charging decision. When the CPS are consulted, the family still learns of the decision via the police FLO. The CPS sends a letter to the family and offers a meeting to explain, not review, their decision. The new CPS Victims Right to Review scheme does not apply where the CPS has decided to prosecute for a lesser charge than the family wanted, which is often the case.

CPS charging standards are overdue for revision. The CPS undertook a superficial consultation last year when existing guidance was merged. But no questions were posed on how to define careless and dangerous driving. As the new Causing Death by Careless Driving charge is being used much more often than ever expected, it is a contentious area, especially as these cases can be heard in the Magistrates Court, which families see as second class treatment.

Whilst the CPS is believed to prosecute more causing death by driving cases than homicide, it has never been a priority for them. There is no standard training programme for CPS prosecutors or any strategic plan for improvement. Bereaved families are not able to know if the CPS is responding properly and with sufficient priority when they prosecute a road death. The HM CPS Inspectorate last reviewed the prosecution of road deaths in 2008 but are about to undertake a joint review with the HM Constabulary Inspectorate.

### ***Sentencing failure***

Last revised in 2008, a review of the Causing Death by Driving sentencing guidelines is overdue. Bereaved families have brought the problem of lenient and ineffective sentences to the government's attention (e.g. [justiceforjamie.co.uk](http://justiceforjamie.co.uk)) and the guidelines will be reviewed next year. The last consultation on the guidelines focused on custodial sentences with no discussion of driving bans, fines or vehicle confiscation.

The courts have failed to keep up with public support for driving bans: surveys show 75% public support for five year driving bans for first time drink drivers (DfT, 2011). Yet in 2012, only 10% of the drivers convicted of causing death by driving were given a driving ban of five years or longer (MOJ, 2013).

Fines were not considered appropriate for wrongful deaths but times have changed with greater awareness of the extent of financial costs and the need for compensation to bereaved families.

Vehicle confiscation is used with uninsured drivers, but not with dangerous or drink drivers who cause fatal crashes. It is possible but very rare for a court to order the confiscation of a vehicle and its sale to help with compensation.

Restorative Justice (RJ) should have started with crashes as so many of these involve culpability rather than premeditated or intentional criminality. Instead RJ initiatives treat the bereaved and offenders equally. Both must consent to the programme.

### ***Compensation failure***

The Criminal Injuries Compensation scheme does not extend to victims of road crime, unless the death or injury was intentional. Those bereaved by culpable crashes are assumed to be able to qualify for civil compensation. But bereavement damages are only £12k and are acknowledged to be a token amount. Even worse, many families do not receive any bereavement damages as these do not apply if the victim was over 18 and did not have any financial dependents. Parents are often unable to return to work quickly, if ever, and can suffer huge financial losses on top of emotional devastation.

Interim claims are often denied by insurance companies, a problem that the previous Victims' Commissioner raised with the Director of Public Prosecution in summer 2011.

The recent reforms do not help innocent victims of road crime. Solicitors have had their fees greatly reduced in portal claims where liability is accepted early and this will often apply in cases involving a criminal prosecution.

## ***Law failure***

RoadPeace has campaigned for manslaughter to be the default charge for culpable road deaths, instead of the current situation with six charges possible that mention the death. Manslaughter does not carry a minimum custodial sentence. The CPS do prosecute for manslaughter after a road crash but very rarely, some 10 times a year, and thus require exceptional circumstances to do so.

The Causing Death by Careless Driving charge, introduced in August 2008, did close a huge gap, but it was a compromise. It is an either-way offence with some 30% of Causing Death by Careless Driving cases prosecuted in the Magistrates Court. Furthermore, the family and the CPS have no right of appeal over unduly lenient sentences.

## ***System failure***

Victims of road crimes, including those bereaved, are seen not to be a priority for the CJS. Instead they often go uncounted and excluded.

No data is collected on the victims of crashes where a driver is prosecuted and convicted of causing a death. There is no total count of the number of people killed by law breaking; this would include those with drivers convicted of causing a death, as well as where culpable drivers died and no prosecution was possible, and hit and runs where the driver was never found. By comparison, thorough data is collected on homicide victims with the detailed Homicide index. It is not possible at present to know how many children were killed by dangerous drivers or pedestrians killed in hit and run collisions.

The Home Office Counting Rules, which defines what offences the individual police services report to the Home Office, does include causing death by driving offences. And whilst it includes some summary offences, it does not include any summary motoring offences, including drink driving. Over a decade ago, the National Crime Recording Standard was introduced to ensure police reported more crime but this was not extended to crashes.

Violent crime statistics do not include the vast majority of those injured by law breaking drivers. Half of violent crime, as defined, involves no personal injury, yet someone left paraplegic by speeding driver is not counted.

Nor is there any monitoring of the level of satisfaction with the CJS by families bereaved by road crime. The Witness and Victims Experience Survey (now discontinued) did not include victims of culpable fatal crashes.

Unlike with the End Violence Against Women strategy, there is no overall CJS strategy for tackling violence on the road. Under their Cycling Strategy, the Department for Transport has recently convened a Justice working group that includes MOJ, CPS, ACPO, Home Office, British Cycling, CtC, and RoadPeace. It is believed to be the only multi-disciplinary group currently focused on road deaths and serious injuries. Whilst there are national homicide and rape working groups, no such equivalent previously existed for road deaths.

Bereaved families want to see that lessons have been learned and that their loved one's death was not (completely) in vain. Yet the CJS accords very little priority to learning from road deaths. Reviews are required with domestic homicides, not with the much more frequent road deaths.

## **Recommendations**

RoadPeace's overarching call for the CJS is for road crime to be treated as real crime and victims of road crime treated as the victims of crime that they are. Those bereaved or injured by road crashes should not encounter lower standards of professionalism or service because the law



breaking occurred on a public road. Our other recommendations build on this key principle with actions required by the Home Office and the MOJ presented first.

## 1. Right to be counted and included

Those killed and injured by law breaking on the road deserve to qualify as victims of crime and be counted as such. This requires the Home Office to revise its definitions of the following:

- a. **Victim of crime.** A victim of crime should be defined to be anyone killed, injured or intimidated by criminal conduct, and not limited to the subset of offences specified by the Home Office Counting Rules.
- b. **Homicide.** The Home Office should include those killed in culpable crashes in its definition of homicide. Data on culpable road deaths should be included in the Homicide Index.
- c. **Violent crime.** All those killed or injured by law breaking on the road should be included in the violent crime statistics.
- d. **Home Office Counting Rules.** The police should be required to report on all motoring offences where someone has been killed or injured, under revised Home Office Counting Rules.
- e. **National Crime Recording Standard.** The NCRS should be extended to crashes with those killed or injured in crashes assumed to be victims of crime, until the contrary is proven.

## 2. Right to information and support

The MOJ has rightfully acknowledged the importance of timely information and support. This cannot wait until charges have been laid nor should it vary by area. Key actions for the MOJ include:

- a. **National system.** Those bereaved by law breaking on the road deserve priority support, regardless of where they live. Whether a loved one is killed by murder, manslaughter or road crime, the impact on families is the same.
- b. **Victim's Code.** The Code of Practice for Victims of Crime should
  - i) apply to all victims of criminal conduct.
  - ii) treat all those bereaved and injured in crashes as victims of crime, until the contrary is proven.
  - iii) ensure those bereaved in culpable crashes where the driver has evaded prosecution qualify for priority treatment, just as homicide families do when the perpetrator is killed or not caught.
- c. **Independent Advisors.** Those bereaved by culpable crashes need an advocate, similar to Independent Sexual/Domestic Violence Advisors. These advisors are believed to have more experience with tackling complacency and victim blaming within the CJS than caseworkers assisting homicide families.
- d. **Peer support.** Whilst advisors can help the bereaved navigate the CJS, contact with other bereaved is seen as the most effective form of emotional support. Peer support needs to be developed so that befrienders and local support groups are widely available.
- e. **Funding.** The MOJ investment in support services should ensure parity with murder and manslaughter families and those bereaved by culpable crashes. Annual reports should clarify the bereaved support cost per unlawful killing being allocated.

## 3. Right to justice

The bereaved need to see the loss of life to their loved one is taken seriously by the government. In practice, this means:

## National lead

- a. **Strategic approach.** Just as a multi-sectoral approach was required with tackling violence against women, so is it needed for tackling violence on the road. The Home Office, MOJ, CPS, Sentencing Council, DfT, ACPO, individual police forces and their Police and Crime Commissioners, and the Department of Health, all have to be involved to address this issue with effectiveness and impact.
- b. **Road death working group and manual.** ACPO should introduce a road death working group, similar to that for homicide and rape, and also keep the Road Death Investigation Manual.
- c. **Manslaughter.** The CPS charging standards should be revised so that manslaughter is the default charge for all culpable road deaths. In the interim, all causing death by driving cases should be heard at the Crown Court.
- d. **Civil justice.** Bereavement damages need to be increased and apply to the killings of those over 18 who do not have any financial dependents but whose death will have financial repercussions on their family. Interim payments to be expedited with information released to the family's solicitor for this sole purpose. Compensation awards from courts need to be considered in the review of Sentencing Guidelines. There is much that can be done to ensure the financial losses are incurred by offenders, rather than the innocent victims.

## Local area

- a. **PCC priority.** Road deaths outnumber murders or manslaughters in every police area and should be a local priority. Road death investigations need to be properly resourced, which means getting considerably more than the current fraction of the amount a homicide investigation gets. The investigation budgets, investigation procedures as well as the legal outcomes should be monitored and reported to ensure open justice and confidence in the police response.
- b. **Victim services.** Any review of victims' needs should include that of information and support for crash victims. Those bereaved and injured in crashes should be represented on any victim advisory group established.

At present, the CJS still focuses on crime and not the victim. If victims are to be at the centre of the CJS, then all those bereaved by law breaking would receive priority, regardless of the level of culpability involved, as the loss is the same.

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## Chapter Seven:

### Child sexual exploitation and the revictimisation of children in court

By Javed Khan, CEO, Victim Support

Many of you will have been shocked by harrowing reports of street grooming of girls barely into their teens. I have bad news for you: there's more to come. More long, complex trials are in the pipeline, following belated – but welcome - changes in the way police investigate grooming and prosecutors assess the reliability of vulnerable witnesses. More well-founded prosecutions are good news as they bring the hope of bringing perpetrators to justice. But our challenge is to make sure that forthcoming trials, unlike some recent ones, are not allowed to become living nightmares for victims.

*How can it be right that a young girl was so traumatised by giving evidence against her abuser that she attempted suicide after one day in the witness box?*

*How can it be right that suspects can only be questioned by police for 96 hours but we have seen children endure hostile questioning for up to 12 days at a time?*

*Why do our volunteers tell me they are sick of watching witnesses used as pawns in a trial, shunted between prosecution and defence, watched over by a judge too nervous to intervene for fear of being accused of bias?*

*And why do some defence barristers appear to use the cross-examination of a vulnerable victim as a job application, each seeking to outdo each other in the contempt they show for a story that may have cost a child every ounce of their courage to tell?*

These abuses must cease. We must stop what amounts to the re-victimisation of children through the trial process. This is not just in their interests – it is in the interests of justice. A fair trial needs sound, accurate evidence from all involved. That can only be obtained if witnesses are in a stable, calm frame of mind – not unnecessarily distressed, in a state of panic or near-collapse.

Special measures are often promised but too often are not available or don't work. Screens to shield the victim from the defendant are forgotten. Separate rooms are often double booked. Video link picture and sound quality is sometimes too poor to be acceptable. And some victims of sexual abuse feel being watched on video by their attacker is voyeuristic and distressing.

The Ministry of Justice and the Director of Public Prosecutions have taken welcome steps in this direction. But we believe the legal profession itself must take more responsibility for its conduct. Judges and prosecutors must already undergo training in how to handle vulnerable witnesses, especially children. Why not defence counsel too? They are officers of the court, with their first duty to the interests of justice, not to their client. They should recognise they need support to get the best evidence out of a witness. Questioning a vulnerable witness is like surgery on a frail patient – it must be done, but in a way that has regard to the long-term consequences on the individual. Also, the knowledge of what must be endured in court will inevitably deter other young victims from coming forward – again, undermining the interests of justice.

To those who say, a robust cross-examination is the cornerstone of a fair trial, I say: I agree. But victims of crime are entitled to be treated fairly in the criminal justice system, just as much as defendants. All witnesses must be prepared to face relevant questions, reasonably put. But too often difficult questions are asked of victims repeatedly, clumsily and aggressively, in ways designed to confuse and mislead the witness. Judges are often unsure when they should intervene and by the time they do so, the damage has already been done.

But why should any child ever have to give evidence from inside a court room? In future, the examination and cross-examination of a child victim of sexual exploitation should take place in a less intimidating environment than the court room, either by live video link or in advance of the trial, to be pre-recorded for playback to the jury during the trial.

Pre-recorded evidence means barristers have to agree questions in advance, avoiding repetition and bullying. At present, there is no limit on the number of barristers who can question a child – meaning in cases with multiple defendants a victim must endure questioning about the same abuse again and again from several hostile questioners. Nor is there a limit on how many days a child can spend in the witness box. Recently we have seen children forced to spend more than two weeks giving evidence – an experience that can scar them for life. We welcome the pilot schemes recently announced to trial pre-recorded evidence, and we hope they prove to be the way forward.

There are other incremental steps which must be pushed forward more rapidly. Independent Sexual Violence Advocates are trained individuals who can offer specialist support during the investigation and trial process to victims. But these vital staff, provided by Victim Support and other organisations, are locally funded on an ad hoc basis. There needs to be national funding for these extremely valuable staff.

Likewise, the Young Witness Service needs additional national funding to expand from its existing seven centres into a nationwide resource.

In setting out what more needs to be done, we must recognise real progress has been made. We welcome the Crown Prosecution Service's shift in emphasis in assessing the strength of a case from considering the perceived credibility of a witness to the strength of the evidence they will give. Compelling, honest testimony can come from people with troubled backgrounds, including where this is a history of substance misuse and offending behaviour. It is a sad fact though that the trauma of sexual abuse can manifest itself in precisely these ways.

When the CPS decides to drop a case, victims now have the right not only to be told why, but to request a review of the decision by a more senior prosecutor. That, too, is a welcome change.

What of the victimisation of children in the first place? The recent spate of horrific 'street grooming' cases have acted as a wake-up call for police, prosecutors, social services, teachers and medical staff. We must ensure the shock and revulsion triggered by these cases is channelled constructively into lasting change to attitudes and working practices, so the most savage abuse can no longer take place in plain sight of those who should be caring for vulnerable children.

Much has been said about the ethnicity of offenders. Some have tried to paint this phenomenon as a case of Muslim Pakistani men preying on white girls. Such cases may have attracted most media attention, and they mustn't be overlooked, but I am aware of many trials involving offenders from all races and both genders. Blanket categorisations can mean we miss victims and offenders who do not fit the paradigm. Abusers do not represent any race or religion – just themselves and their own appalling attitudes towards women and girls. It is vital that people of all races and faiths must stand together to condemn these offences publicly and loudly. All communities must look to their consciences and ensure they are doing as much as they can to protect the vulnerable and prevent criminal behaviour.

Essentially we must focus on the vulnerability of victims, not just the background of the offenders. For instance, children who have been subject to or witnessed domestic violence are known to be more susceptible to sexual exploitation. In 'street grooming' cases, older men prey upon these victims' feelings of loneliness and inadequacy to draw them into a web of abuse. And we must focus on why and how the authorities failed to protect those who needed them most – despite there being a multitude of warning signs. There is little doubt that, in these cases, there has been a systemic failure to protect vulnerable children.

The investigation of historical sexual abuse is another important area where attention is now focused. The police need to recognise that potential victims need support from the very start of their investigation – support not just from detectives but from trained support staff. Disclosing abuse after years, even decades, can be extremely disturbing and upsetting, and my charity is working with several police forces to support victims of historical sexual abuse.

## **Recommendations**

Overall, we are beginning to see real progress made in the protection of child victims of sexual exploitation, in their interests and in the interests of justice. But there are clear further steps which need to be taken if the investigation and trial process is not to become a second trauma to be endured, rather than part of the healing process.

1. Special measures – screens, video links, pre-recording of evidence – must be offered to child witnesses, arranged in advance and actually be available on the day of testimony.
2. Defence barristers in child sexual exploitation cases must undergo specialist training to mirror that already given to judges and prosecutors.
3. The Crown Prosecution Service must stop using “agents” or stand-in barristers to prosecute so-called minor sexual abuse cases, as these advocates may lack the specialist training required.
4. Limits must be imposed on how long a child witness must undergo questioning and from how many barristers. Judges must manage questioning robustly and proactively, rather than allowing damaging cross-examination to go too far before intervening.
5. In the long term, no child should be forced to give evidence in a courtroom. Examination and cross examination should be given by video link in a less intimidating environment or pre-recorded and played to the jury at the appropriate time.
6. Independent Sexual Violence Advocates should be nationally-funded and available to victims across the country.
7. The Young Witness Service must be available nationwide.
8. Police investigations of historic sexual abuse must deploy specialist support to victims from the beginning of their work.





## **PART THREE**

### **SUMMARY OF RECOMMENDATIONS:**

#### **What needs to change in the Criminal Justice System to protect victims and witnesses**

##### **Systemic change**

1. All criminal cases should take no longer than six months to get to court (from the point of charge).
2. Reduce reoffending through investment in proven and effective intensive alternatives to custody for low level offenders.
3. Enable victims to access case information more easily, for example by mandating adoption of 'track my crime' or similar innovations across all police forces.
4. The right for all victims to request 'special measures', regardless of whether they are defined as vulnerable or intimidated – including guaranteed access to an intermediary for all children and young people that need it and specific support for people with disabilities or whose first language is not English.
5. Every child witness or victim should have the option of pre-recording their evidence in a safe place outside the courtroom complex, or giving evidence from such a place by video link.
6. Greater clarity and better communication around progress of any investigation; charging (especially if charges are dropped or reduced); what any sentence imposed means and, in the case of custodial sentences, information regarding the release of offenders.
7. All victims should be offered the chance to make a Victim Personal Statement, to have their voice heard.
8. Strategies to tackle mental health issues in the CJS must focus on victims as well as offenders.
9. Clear and direct right of redress for victim and witness complaints which has real 'teeth' to hold CJS agencies to account, e.g. ability to formally censure agencies/individuals and order compensation to victims in the most serious cases of poor performance. This could be achieved by improving current mechanisms, for example a streamlined process leading to a more powerful Ombudsman, or through new legislative measures.

##### **Victim and witness services**

10. Guaranteed access to suitable and sustainable victim support services for all victims of crime, delivered to national minimum standards of quality
11. Access to restorative justice for all victims who want it, at whatever point suits them best
12. Access to free and accessible health services including specialist therapies and counselling (e.g. PTSD therapy) available within a specified time period for all victims who require it.

## **Compensation**

13. Court ordered compensation to be paid up front and in full to victims, through the creation of a government compensation fund

## **Facilities**

14. Improved facilities at criminal courts, e.g. separate, fully accessible entrances and waiting facilities for prosecution and defence witnesses; video link facilities in every court; increased use of remote video testimony for witnesses, especially those with access issues e.g. elderly witnesses.

## CONCLUSION

This report conveys an urgency that is driving many small organisations forward in their pursuit of ever improved conditions for victims. In chapter one, Harry Fletcher and Laura Richards considered the immense fear experienced by victims of a most persistent and sinister crime. The changing nature of stalking must be considered against the backdrop of continually evolving and increasingly sophisticated communication technology, and this kind of intelligence must feed into the criminal justice response, taking into account the scale and nature of stalking, the methods by which perpetrators intimidate their victims and the far reaching dissatisfaction of stalking victims with the criminal justice system.

In chapter two, Debra Clothier examined the journey of recovery for victims after the close of a criminal trial. She argued against the popular notion that successful criminal cases afford the victims closure, citing the emotional 'life sentence' of those who have lost loved ones to murder. She reminds practitioners to review and extend the role of the Homicide Service after a trial has ended, bearing in mind the major health and lifestyle implications of surviving a criminal trial. She outlined the current failures in the system which, if addressed, might better mitigate against the terrible devastation experienced by victims after the end of a trial.

In chapter three, Frank Mullane and Lesley Welch outlined the complex aspects of murder resulting from domestic abuse. The chapter highlighted examples of good practice, drawing lessons from criminal justice professionals whose empathy and procedural sensitivity has ensured better outcomes in these cases. The chapter explores some of the more nuanced aspects of domestic violence and how it affects people living in the UK, considering the suitability of the Criminal Justice System to deal with some of the more personal and devastating aspects of domestic abuse.

In chapter four, Rose Dixon explored the hardships faced by those who loved ones are murdered here in the UK. Her chapter reflected on the intense trauma of this kind of bereavement, and conveyed the prevalence of Post Traumatic Stress Disorder among family members of murder victims. She listed numerous examples of the myriad of stress, including often upsetting press intrusion and, for many families, the prospect of extensive delays to a loved one's burial. She appealed to practitioners that many of these strains on families are avoidable, and neglecting to address them can make victims feel that the rights of the accused are valued above their own. She made a number of recommendations for a better understanding of these complicated needs.

In chapter five, Eve Henderson discussed the challenges faced by bereaved relatives of those murdered abroad, and laid out compelling evidence for the need for a statutory revision of the way in which their needs are addressed. Bereaved families of those murdered abroad often feel caught between inadequate levels of communication between UK and overseas agencies, with no single agency taking definite and measurable responsibility for their exact needs group. As a result, many families are forced to take their own initiative in administering repatriation, inquests and in obtaining legal advice during periods of extreme trauma and intense financial strain. We would particularly stress the need for SAMM Abroad's Memorandum of Understanding, as detailed in her chapter, to be decisively adopted and regularly reviewed by criminal justice agencies.

In chapter six, Amy-Aeron Thomas contended that road traffic victims – those who are killed or permanently disabled through careless and dangerous driving – are overlooked in the current system, and that major reform is required to properly address the many thousands whose lives are permanently affected by this kind of victimisation, which affects around five families every day in the UK alone. The chapter issued a challenge to inadequate support agencies, and listed the failure in investigative process, prosecution, sentencing and compensation.

These individuals work tirelessly to help protect the rights of victims. So many of the authors of this report are behind the scenes when news of homicide that dominates our television screens and news feeds breaks out. Often, they fail to receive their due recognition and praise for the commitment and sacrifice that they constantly make on behalf of some of the most sadly bereaved people in the country. I would like to dedicate this report to these victims' champions, and to urge all practitioners in the criminal justice system to consider the sincere and informed points they make. Only when we truly afford these victims' advocates the platform to air their views can we begin to make headway towards rebalancing the criminal justice system for victims.