‘I THOUGHT “HE’S A MONSTER”… [BUT] HE WAS JUST… NORMAL’

Examining the Therapeutic Benefits of Restorative Justice for Homicide

MARK AUSTIN WALTERS*

This article examines the therapeutic benefits that restorative justice can engender for stakeholders of homicide. Qualitative interviews with participants from a single case study are used to reveal the various long-term emotional traumas caused by such crimes, as well as the many unanswered questions that remain post-conviction. In exploring one family’s journey of restorative justice, this article highlights the various aspects of restorative dialogue that can give rise to positive emotional connections and, in turn, relational transformations between participants. Though such transformations are potentially life altering, this article also recommends caution, based on findings that certain adverse emotional reactions can be generated via the personal connections that emerge during dialogue. The article concludes that in order to properly address the wider harms caused by homicide, justice agencies should seek to utilize trauma-informed restorative practices via a parallel system of justice.

Keywords: restorative justice, homicide, murder, trauma-informed, therapeutic justice

Introduction

The Powers of Criminal Courts (Sentencing) Act 2000 was recently amended† to allow for the deferment of sentence for restorative justice (henceforth RJ) activities (sections 1 and 1ZA).‡ These legislative provisions follow recent amendments to the Code of Practice for Victims, which now states that victims ‘are entitled to receive information on Restorative Justice from the police, including how [to] take part’ (2013: 28). When combined with the Government’s commitment of £29 million to help ‘roll-out’ RJ, it seems that restorative practices are very close to becoming ‘available’ throughout the criminal justice system in all locations for all types of crime. Such a significant development in the history of criminal justice is the result of almost 30 years of critical scholarship, community-based practice and political advocacy that has been focused on finding alternative ways of responding to crime more effectively (Christie 1977; Braithwaite 1989; Zehr 1990).

The rapid proliferation of RJ practices throughout much of the Western world has in many respects preceded the development of a contemporary RJ philosophy (Zellerer 2013). The cat and mouse story of RJ practice and its attendant theoretical foundations means that an epistemology of RJ has developed in piecemeal fashion. As a result, there remains little consensus, both among practitioners and scholars, as to its exact meaning. Different opinions have emerged as to (amongst other things): whether RJ

---

*School of Law, Politics and Sociology, University of Sussex, Falmer, East Sussex BN1 9RH, UK; mark.walters@sussex.ac.uk.

† Added by Crime and Courts Act 2013 c. 22 Sch.16(2) para. 5 (11 December 2013).

‡ The introduction of pre-sentence RJ is occurring via two separate pathfinder projects—the first one in the magistrates’ courts and the second based in 10–12 specific Crown Courts.
should focus on victim restoration or offender reformation (Robinson and Shapland 2008), whether it is envisaged as an entirely new system of justice or one that operates within the existing framework (Walgrave 2007) and whether the state should play any significant role in its administration or whether practices should be facilitated outside of the justice system (Jantzi 2004). Notwithstanding these tensions, there have been significant developments in our understanding of RJ (see Hoyle 2010: vols I–IV) as well as an expanding evidence base on its capacity to repair harms and reduce crime (see e.g. Sherman and Strang 2007; see also, Daly 2002 for discussion on the limitations of this research). Indeed, one may be forgiven for thinking that RJ has been the dominant focus of criminology and victimology for the past 20 years.

Yet despite such progress, very little is still known about whether the theory and practice of RJ is an effectual means of addressing crimes resulting in death. Indeed, few have even discussed how RJ might be administered in such cases (Radelet and Borg 2000; Umbreit and Vos 2000). In an attempt to partly fill this lacuna, this article presents data from the first qualitative case study on RJ for homicide in England and Wales. In-depth semi-structured interviews with all participating stakeholders of a single case are used to reveal a story of familial suffering that was caused by unexplained loss. The tentative findings suggest that restorative dialogue may help family members of homicide to better understand the meaning of loss; most significantly by allowing participants to ask previously unanswered questions. Key to this endeavour is a thorough exploration of the acute emotional pains experienced by those closely connected to the victim. The article, therefore, examines in detail how the experiencing of others’ pain via restorative dialogue can assist emotional and relational transformations. It is concluded that the state must do more to support family members of homicide victims by creating a ‘trauma-informed’ system of justice that operates in parallel to the conventional justice processes. Such a system must take as its starting point the careful consideration of the protracted traumas caused, not only by homicide, but by a criminal process, which focuses almost exclusively on punishing those who kill.

**The trauma of homicide**

Those who are indirectly, though significantly, affected by homicide are often referred to as ‘homicide survivors’ or ‘co-victims’. Both terms reflect the fact that homicide causes substantial impacts beyond the immediate victim.³ Research has shown that the aftermath of homicide leads to experiences that differ vastly from those of non-violent deaths⁴ (Rynearson and McCrery 1993; Armour 2002a). Family members of the victim are likely to be most impacted by the victim’s death. They invariably experience emotional traumas that consequently impair physiological well-being (Rock 1998; Rynearson et al. 2006; Casey 2011: 16–17). These experiences are often referred to as ‘trauma-grief’ and are typically characterized by the shock of loss, as well as a person’s need to block out external stimuli related to the victim’s death. Common symptoms of trauma-grief include insomnia, irritability, anger and a lack of concentration. Collectively, these psychological reactions are likely to result in individuals’ basic

---

³ It is outside the scope of this article to critique the use of either term, I note simply that ‘co-victim’ will be used interchangeably with ‘family members’ as a way of recognizing the connected harms caused by homicide.

⁴ Such as natural deaths or deaths caused by faultless accidents.
assumptions about their own reality becoming destabilized. Armour notes that ‘[s]ystems of meaning that previously helped them to survive an unpredictable world are suddenly obsolete and invalid’ (Armour 2002a: 112). Family members are frequently left with repetitive thoughts about how their loved one died (a form of ‘trauma distress’, see Rando 1993). This commonly leads to what psychiatrists refer to as ‘separation distress’, which involves a constant desire to search for the deceased through contact with close friends and other family members (see Rynearson et al. 2006). Others, however, will retreat from the world they once knew by engaging in certain avoidant behaviours often accompanied by a feeling of numbness. They are likely to experience a loss of recall and an inability to revisit certain places or particular people that are associated with the crime (Rynearson et al. 2006). Many recoil into a life of protection, planning how they will ensure that such an event will never happen again to any of their loved ones (Armour 2002a). Such reactions are used as a mechanism to resist the painful feelings that are evoked by stimuli that remind individuals of the victim.

These intersecting emotional reactions limit co-victims’ ability to mourn and/or understand the meaning of personal loss. Individuals’ psychological distress can additionally affect their inter-personal relationships with other family members, including child-rearing responsibilities, and their ability to cope with full or even part-time employment (Rando 1993; Casey 2011). Although for some such experiences can be relatively short-lived, many others go on to develop longer term psychological conditions such as post-traumatic distress disorder, which is accompanied by a re-experiencing of trauma in painful visual recollections, resulting in longer term feelings of anxiety, helplessness and even personality disturbances (Rando 1993; Armour 2002a).

It is not just the experience of loss that co-victims must contend with. The criminal process, which ensues after the vast majority of homicide cases, means that family members are frequently pulled through a tumultuous and prolonged criminal investigation, sometimes a lengthy trial and finally a sentencing hearing (Casey 2011: ch. 4; Gekoski et al. 2013). Family members will come into contact with medical examiners, the police, as well as criminal lawyers (Gekoski et al. 2013). For many, their interaction with these professionals results in experiences of secondary victimization (Rock 1998; Gekoski et al. 2013). This is where victims ‘feel they have been subjected to inadequate, insensitive or inappropriate treatment, attitudes, behaviour, responses and/or practices by criminal justice and social agencies that compound their original trauma’ (Gekoski et al. 2013: 308). Such experiences leave many family members feeling frustrated and ostracized by a system that seeks to determine responsibility and blame rather than to heal and resolve trauma. Rock goes as far as to assert that the criminal process ‘constitutes one of the most potent symbolic assaults suffered by families in the wake of murder’ (Rock 1998: 76).

During each stage of the criminal process, a public re-telling of the victim’s story will be demanded. This requires a repetition of the event to those who are interested but unconnected to the victim. Rynearson et al. (2006: 196) refer to this as ‘dying re-enactment’, which only serves to heighten the traumas experienced by the victim’s family. The re-telling of the incident personally to others, officially to the authorities and publically via media outlets frequently leads to emotional dysfunctionality and unsurprisingly to the need for emotional assistance (Gross and Matheson 2003). The constant re-telling of loss maintains a feeling of emotional emptiness as well as a sense of injustice for having a loved one ‘taken away’ (Rynearson et al. 2006). Co-victims tend
to re-enact the victim’s death in their mind repeatedly in the hope that they can make some sense of the dying, or alternatively that they can ‘will’ the dying to ‘un-happen’ (Rynearson et al. 2006: 198). Such thought processes can leave individuals with a subsequent feeling of blame (sometimes referred to as ‘survivor’s guilt’) for having ‘let’ the victim die (Rock 1998). A number of regrets typically present themselves such as ‘if only I had been there’ or ‘if only I hadn’t asked them to go there’. It is this constant re-telling of dying, as exacerbated by the criminal process, which frequently traps co-victims in a protracted cycle of trauma and separation distress.

Hearing lost voices: the promise of RJ for homicide

In 2005, the UK Government opened its consultation Hearing the Relatives of Murder and Manslaughter Victims (Home Office 2005), section 5 of which undertook to provide co-victims with an opportunity to speak out in court about their pain and suffering. The consultation paper conceded the potentially victimizing effects of the criminal process and offered to help mitigate such experiences by allowing co-victims to present family impact statements in court. These recommendations were subsequently implemented in 2007 and close family members should now be offered an opportunity to write a personal statement that can be read out in court during sentence hearings (see Code of Practice for Victims of Crime 2013).

There is an extensive literature on the use and purpose of victim impact statements in courts (see Roberts and Manikis 2011). It is outside the scope of this article to examine the general pros and cons of these (in relation to homicide cases, see Edwards 2009). It is simply noted here that, although impact statements can provide a voice for co-victims, they fail to provide the type or quality of participation that victims most desire, i.e. to be included in a two-way dialogue that enables them to ask questions (Kilty 2010). In fact, outside of reading an impact statement in court, co-victims are actively deterred by judges or counsel from making any statements or showing any emotion during the trial for fear that this might encroach upon the defendant’s right to a fair trial (Gekoski et al. 2013). Due to the adversarial nature of the trial process, many unanswered questions relating to the death of the victim can remain. For example, many co-victims will want to comprehend why their loved one was killed (Umbreit and Vos 2000; Kilty 2010). Some family members will want to hear answers to their questions directly from the offender him or herself (Umbreit and Vos 2000). This involves a two-way dialogue that cannot be free from emotion. Indeed, as we will see below, it is the emotionality within inter-personal communication that can be truly transformative for the stakeholders of homicide.

One way in which co-victims can be offered a more authentic voice during the legal process is by participating in ‘trauma-informed’ dialogue. Randall and Haskell (2013) state that trauma-informed approaches to crime start from an acknowledgment of the traumatic experiences and an understanding of how such experiences impact upon people’s lives as an on-going process of harm. Trauma-informed interventions should not only aim to support those who experience trauma but must also operate in a way that avoids re-traumatization. In this regard, RJ processes may be well suited to facilitating trauma-informed dialogue. The central aim of most restorative practices is to repair harm by providing opportunities for the stakeholders of an offence to participate in a
dialogue that is focused on healing (Zehr and Mika 1998; Braithwaite 2003). Particular attention is paid to repairing damaged relationships between stakeholders via an inclusive process that aims to avoid re-victimization (Zehr and Mika 1998). It does this by providing participants with a voice and by empowering each participant to develop their own narrative in relation to any experienced harm (Pranis 2001). The principles of equality and non-domination are central to such a dialogue, ensuring that all stakeholders are treated the same and that no single individual is stigmatized, labelled or ostracized from the community (Braithwaite 2003). Framed in this way, RJ appears particularly suited to providing a trauma-informed approach to addressing the most egregious forms of suffering.

That is, of course, the theory. We currently know very little about whether RJ, in practice, can help to repair the traumas experienced by co-victims of homicide. Umbreit and Vos (2000) conducted the only empirical study into the use of RJ in cases involving murder and manslaughter in the United States. Two separate cases were examined involving victim-offender mediation between family members of two victims and the offenders (both of whom were on death row). The study describes how the family members had experienced feelings of shock, numbness and later devastation on hearing what had happened to their loved ones. They were later offered the opportunity to participate in a restorative encounter with the offender. In preparation for their restorative encounters, family members were involved in a series of meetings that lasted up to one year. During these meetings, participants were helped to ‘open up’ and express their feelings. The study found that family members wanted to participate in victim-offender mediation in order to explain to the offenders the far-reaching and long-lasting impacts of losing their loved ones. Co-victims also wanted detailed information about the actual crime, how the victim had been selected and whether the victim had been scared. Family members spoke of the impact of the crime, relaying both the sadness and devastation caused by the death. Above all else, Umbreit and Vos (2000) note that the co-victims’ had the simple desire to have a human encounter with the offender.

Though this single study provides helpful qualitative data on the use of RJ for homicide, much remains to be learnt about the therapeutic benefits and/or limitations of such a process in such cases. For example, further information is required to help identify the specific aspects of the restorative process that are most impactful to different stakeholders in homicide cases. We also know very little about whether restorative dialogue can give rise to any adverse emotional reactions to either co-victims or offenders. Further questions arise such as, what are the longer term impacts on co-victims and offender’s emotionality as well as their behaviours? The following discussion seeks to develop further these understandings through a detailed analysis of a case involving the murder of a young man and a restorative conference that was arranged some 15 years later. In so doing, I emphasize the key aspects of restorative dialogue that may aid future emotional transformations in both co-victims and offenders, while also highlighting some of the unanticipated psychological reactions that can emerge.

---

5 Several case examples can be found in the press (The Times 2012; see also, Rossner 2013: 1–2).
6 Academic discussion within the United States has focused on the use of RJ in capital cases (see instead, Umbreit and Vos 2000; Radelet and Borg 2000; Beck et al. 2007).
Methodology

The following case study is taken from a broader research project into the use of RJ for hate crime in London in 2011 (see Walters 2014). The data include four in-depth qualitative interviews with the stakeholders of the murder of a young gay man; though many other telephone calls and meetings were also conducted in preparation for these. Interviewees included the victim’s sister (supported by a victim liaison officer), the offender (who at the time of interview was still serving his term of imprisonment), the RJ facilitator (who had facilitated the parties’ preparation and direct dialogue) and the offender’s probation manager (who had worked with the offender for several years and had attended the restorative meeting as the offender’s supporter). All interviews took place six months after the restorative meeting. The facts of the case are taken directly from the information obtained from all interviewees. The names of all participants have been changed to ensure anonymity. Although all data were used in the preparation of this article, most quoted data are taken from the interviews conducted with the victim’s sister and the offender.

Before I move on to describing the facts of this case, some further justification of case study research is required. The examination of a single case example can be particularly useful when exploring hard to reach crimes that are yet to be evaluated empirically by researchers (see generally, Bryman 2012: 66–72). In relation to homicide, the approach has the benefit of producing a rich and detailed account of a particularly complex type of offence; one that currently remains under-researched within RJ literature. Preparatory discussions with a number of RJ practitioners from across the country suggested that very few restorative processes are used in homicide cases. As such, the collation of data from a medium to large sample of restorative processes in homicide cases is simply not yet possible. This means that other research methods must be employed if we are to gain any meaningful insight into the logistical, procedural and personal variables that are present in such cases.

A number of case studies have been used to explore the use of RJ for other complex cases to great effect, such as that conducted by McGlynn et al. (2012) into the use of RJ for sexual violence, and Miller and Iovanni’s (2013) case study on RJ for domestic violence. These studies have helped to illuminate some of the potential benefits as well as the limitations that RJ may have for victims of serious crime. Similarly, the case study design utilized in this article has enabled me to develop an almost biographical approach to understanding personal trauma and emotional/relational healing. Indeed, the life stories of the co-victims and the offender were central, not only to the restorative process, but to my understanding and interpretation of their experiences of pain and healing post-homicide. The detailed accounts provided by the participants help to increase our knowledge of both the devastating impacts of homicide, as well as the potential therapeutic benefits and limitations of RJ.

Nonetheless, it must be emphasized that it is not possible to draw generalizable conclusions from the study. The narrative revealed here relates to a single set of multifaceted variables that will not necessarily reflect all homicides. The study therefore reveals just one way in which homicide can impact co-victims and how dialogical processes may help and/or hinder processes of recovery. In this regard, the study’s findings should not be received as a reflection of current RJ practice for homicide, but rather as a

7 Some of the best known sociological studies have used such a design, Bryman (2012: 66–72).
contribution to the collective process of knowledge accretion in this field of study (see similarly, Miller and Iovanni 2013: 253).

*The Murder of John*

*The facts*

John was 30 years of age and worked as a bar manager in London. On the evening of his murder, he had been at a bar drinking and on his way home passed through a ‘cruising ground’ (an area where gay men often meet for sex). It was here that John came across the two offenders, Michael and Billy, both in their early 20s. John asked both Michael and Billy if they wanted to go back to his flat. The young men went to one side to discuss John’s invitation before returning to accept his offer. Their intention was to return to John’s flat where they would rob him. Whilst at John’s home, the victim was said to have touched Billy’s leg. This led to an altercation and a violent struggle ensued. Michael was not present during this altercation, as he had already gone to the bathroom to cut a cord from a blind with the intention of tying John up during the robbery. Upon hearing the altercation, Michael returned to the room with the cord where he found Michael and Billy on the floor fighting. Michael placed the cord around John’s neck and strangled his victim to death. Two days later, Michael handed himself into the Salvation Army, who then escorted him to the nearest police station where he was arrested for the murder of John.

*Family Trauma*

The various manifestations of trauma caused by homicide were briefly summarized above. These devastating impacts were evident throughout my interview with the victim’s sister Janet. At interview, Janet stated that from the moment she was told of John’s death, her life was ‘turned upside down’. In the immediate aftermath, Janet experienced ‘shock’ and constant ‘crying’. Once the crying stopped, she entered a stage of disbelief that John had gone. Then, because of the circumstances of the death, a post-mortem was carried out. This exacerbated the co-victims’ distress as the family were asked to identify John’s body. The post-mortem also prolonged the time it took before John could be buried, compounding matters further (see similarly, Gekoski et al. 2013: 315).

A lengthy police investigation was then conducted in order to collate evidence for trial. It would take almost two years before the case could go to court in 1996. It should be mentioned that throughout this process Janet spoke very highly of the police, who she said had kept the family up-to-date on the case’s progress while also offering a great deal of support and aftercare (something that others have criticized the police for failing to do, see Gekoski et al. 2013). However, it was outside of the police’s power to ensure that justice was expedited. It was during this protracted period of time that small matters—often seen as minor for the administration of the criminal justice system—had considerable impacts on John’s family. This included moving the case from the Old Bailey in central London to Chelmsford in Essex. This meant that the family had to travel many miles each day at a significant financial cost, whereas the offenders were transported back and forth at the expense of the state. These administrative decisions led to additional frustration and inevitably to further feelings of resentment.
Eventually in 1996, the two offenders were found guilty of the murder of John. Michael was sentenced to life in prison. This was not, however, the end of the matter. Billy appealed his case and his conviction which was later reduced to manslaughter—based on medical evidence that he had Asperger’s syndrome.\textsuperscript{8} For many actors in the criminal justice system, this is where the case ended. Yet, it was by no means the end of the journey for the offenders’ co-victims. There were various longer term impacts of John’s death. For example, Janet took 18 months away from work to cope with the aftermath of John’s murder and the lengthy criminal process. It was during this time that she was diagnosed with clinical depression. Her younger sister Barbara became dependent on alcohol and eventually attempted to take her own life (see similarly, \textbf{Casey 2011}). Barbara’s narrative was epitomized by her hospitalization under the Mental Health Act 1983. Her suffering could be linked directly to the role of the media, which, in turn, was intrinsically connected to Barbara’s re-telling of John’s death. As mentioned above, media attention during such cases results in the recounting of events which, when combined with the co-victims’ own re-telling, serves only to compound experiences of emotional trauma (\textbf{Gross and Matheson 2003}). In this case, a television documentary was made about the murder of John. Barbara had taken to watching the programme most weekends for a period of several years. This ultimately led to her re-living the events of John’s death but without any resolution, leading to an escalation in her psychological injury.

So why did Barbara and Janet’s distress continue for such a long period of time without dissipating like most other forms of trauma? \textbf{Kay (2008)} asserts that it is our life stories that shape our identities and the bonds we form with others. She notes ‘[a]ll humans draw on competing narratives with which they forge their own life stories, creating order out of chaos’ (\textit{Kay 2008}: 232). The violent killing of a loved one ‘shatters the self and its stories’ (\textit{Kay 2008}: 233). What ensues is a chaotic narrative without shape or meaning. The stories of co-victims’ lives are retold but without any coherence, sense or progression. The inability to tell a coherent story is a major hindrance to recovery because it prevents events from entering the ‘world of meaning’. In this case study, it is likely that Barbara’s narrative became stuck in a cycle of re-living incoherent pain and suffering, which had restricted her from re-integrating her life. There was no piecing together of the plot or signposting where each chapter was leading. The fact that each time the question was asked: ‘why was my brother murdered?’ and no adequate response given, meant that both Barbara and Janet’s life narratives became enmeshed with a deep sense of injustice, anger and frustration. Their unanswered questions meant that the sister’s lives had been disrupted by repeated thoughts that circulated without resolution.

\textbf{The Restorative Process}

Fifteen years after the murder of John, the Witness Care Team in London contacted Barbara and asked her whether the family would like to meet directly with the offender via a RJ meeting. Two of the victim’s sisters, Barbara and Janet, decided they wanted to meet with Michael. Several months of preparatory meetings then ensued, during which

\textsuperscript{8} Details of why his conviction was reduced were unattainable; it is likely that his defence was successful in pleading diminished responsibility based on his abnormality of mind.
the sisters were provided with information on the aims and objectives of RJ. The preparation stage of RJ is fundamental to its success (Walters 2014: 198–200). Expectations must be managed and facilitators must prepare participants for the types of questions they want to ask and might also be expected to answer. It was at this stage of the process that Janet and Barbara began to fully explore with the facilitator the impacts that John’s death had on the family. In mid-2010, the sisters travelled to the north of England to meet with John’s killer. The meeting took place in a secure location, with two separate rooms attached in case either of the parties became distressed. There was also a secondary RJ practitioner on hand in case of a breakdown in communication. Ground rules were set at the start of the meeting, prescribing the type of appropriate language that should be used.

Asking questions and the importance of finally completing a ‘re-told’ story

Both sisters were troubled about the circumstances in which John was killed. Several questions remained at the forefront of their minds, most important of which was whether John had been murdered because he was gay. This question was never answered during the trial. Furthermore, neither Janet nor Barbara believed the account portrayed by the defendant’s defence counsel in court. In fact, they both felt that Michael was homophobic and that the second offender had somehow ‘gotten off’ by saying he had Asperger’s syndrome, leaving the family members feeling very angry. Janet explained:

...we knew the answers we wanted in our head... all I wanted was the truth, however hurtful... I wanted to look him the eye and see it in his face... I just wanted the truth!

The desire to ask questions is a common finding in RJ research more generally (e.g. Van Camp and Wemmers 2013). In most cases, offenders go on to explain that the victim was not targeted for any particular reason. Sherman et al. (2005: 369) note that victims almost always feel reassured when they find out that the crime occurred randomly. Of course, it is not always the case that victims are selected incidentally (for e.g. hate crime cases, see Walters 2014). However, feelings of fear relating to the offence can still be extinguished via the process of asking questions, during which the memories associated with the incident can be ‘de-conditioned’. This is achieved by exposing participants to trauma-inducing stimuli in the safe and secure environment of a restorative meeting, whereby the incident can be retold and ultimately re-understood. Sherman et al. explain that ‘[b]y bringing the single most fearsome association with a crime – the offender – into direct contact with the victim, an RJ conference provides a safe setting for de-conditioning even fear of the offender himself’ (Sherman et al. 2005: 369–70).

As noted above, family members, like direct victims, frequently experience prolonged periods of psychological trauma. Their psychological suffering is often associated directly with repeated thinking about the death. The ability to ask questions, and more importantly to obtain answers directly from the offender, may therefore help to prevent these recurring thoughts by altering participants’ perception about what actually occurred and why it happened. In this case, Janet and Barbara were able to prepare a list of questions for Michael about the circumstances of John’s death. In response to these questions, Michael spoke at length about the events leading up to John’s murder. He emphatically denied that he was homophobic and explained that the victim was
seen by them as an ‘easy target’—based on his inebriated state and their happening upon each other incidentally. Michael went on to explain that he never intended to kill John, but when the robbery had ‘gone wrong’, he had acted on instinct in a way that he had regretted ever since.9

I asked Janet whether she believed Michael to be telling the truth, she responded that she ‘felt that he was being… as honest as he could be…’ This did not, however, mean that Michael’s honesty had removed Janet’s pain regarding her loss. Rather, Janet explained that the encounter had provided a new comprehension of her loss; one that put a stop to 15 years of recurring questions. Of equal importance was that the meeting became a space where the sisters could explain directly to the offender the impact that his actions had on the family. A number of other studies have shown that most direct victims want their offenders to acknowledge the pain they have caused (e.g. Van Camp and Wemmers 2013: 126). The acknowledgment of harm and the emotional responses this gives rise to is a key component of successful restorative dialogue (Rossner 2013: 80). In this case, Janet and Barbara were able to observe first-hand Michael’s recognition of the consequences of his actions by conveying their story of trauma directly to him. Janet reflected:

It was just as important years later, look we’re still upset you know? … He even said ‘I can, I can see’, like he could recognise I think the impact it had had on us, even then, all those years later.

However, it was not just the acknowledgment of pain that the sisters sought. They also wanted the offender to appreciate what kind of man John was. Janet spoke in these terms:

My brother was such a nice guy… If he wasn’t my brother he could quite easily have been our friend, you know, I certainly would have liked him because he was a nice guy… He was the guy that went… with the Soup Kitchen helping the homeless… he was that guy…

Janet’s and Barbara’s story created the foreground from which transformative emotions could emerge. Essential to both party’s appreciation of one another’s stories was the formation of an empathic connection. Restorativists often refer simplistically to empathy as our ability to understand and appreciate other people’s feelings and experiences. Many explain that it is our ability to empathize that becomes intrinsic to the emotional connections that are commonly formed during restorative meetings (Harris et al. 2004). However, in order to appreciate the value that empathy plays in restorative encounters, it is important to elaborate further on how it works. Jackson (2009: 189), referring to Davis’ (1983) work, outlines how empathy can be broken down into four basic dimensions:

1. ‘Fantasy’, where individuals transpose themselves into the feelings of another character;
2. ‘Perspective taking’, whereby the individual puts him or herself into another’s situation and comprehends the other’s circumstances;
3. ‘Empathic concern’, following on from 1 and 2, individuals become concerned about the welfare of the other as they share in his or her pain;
4. ‘Personal distress’, the individual develops emotional anxiety upon hearing or learning of the suffering of the other.

This gave rise to a separate question about whether Michael’s actions could still theoretically be conceptualized as a ‘hate crime’. For a discussion on the different models of hate crime, see Walters (2014: ch. 1).
It is by sharing other’s pain in these various ways that both offenders and (co)victims can begin to appreciate each other as human beings (Harris et al. 2004). Important to this case was that not only did Michael appreciate more fully the consequences of his actions (see further below) but both Janet and Barbara’s perception of him was altered. During the encounter, Michael was given an opportunity to articulate his own story. This included the fact that he had been abused from an early age, was homeless from the age of 11 and later became dependent on alcohol. At first, the sisters were sceptical about Michael’s account. However, their feelings toward Michael soon changed. This is likely to have marked what Rossner (2013) refers to as a ‘turning point’ in the participants’ communication. Turning points ‘act as emotional epiphanies that bring people together’ (Rossner 2013: 94). Janet illustrated the powerful change that occurred at this point of their dialogue by stating:

I thought, you know, ‘he’s a thug’, ‘he’s a monster’... and it was quite shocking to see him, he was just... normal you know?... I could understand where he was coming from, what he was saying, and why it happened...

Janet’s comments indicated that she had experienced both ‘perspective taking’ and ‘empathic concern’. That is to say, she was able to appreciate the hardship that Michael had himself experienced and, in turn, she had felt a level of concern for his situation. Larger scale studies have found that restorative dialogue can reduce victims’ feelings of revenge, including their desire to hurt the offender (e.g. Sherman et al. 2005: 391). The dissipation of vengeful thinking is likely to be the result of participants understanding of the offender’s own story. Hoyle et al. (2002: 36) explain that dialogue helps to ‘break down stereotypes and challenge assumptions amongst participants’ (see also, Shapland et al. 2006: 63). It does this by revealing the humanity of each party; as exposed via their stories of pain. Indeed, in this case, an internalized image of Michael as a ‘monster’ was torn down, leaving behind the reality of man who had himself experienced much suffering. Such a finding concurred with Umbreit and Vos’ earlier study in which interviewees spoke of the offender morphing from ‘murderer’ to that of ‘human being’ (Umbreit and Vos 2000: 79; see further Rossner 2013, who explores the micro level rituals within restorative encounters that are important to the development of positive emotional transformations).

Reparation and emotional healing

During the meeting, Michael apologized to Janet and Barbara for what he had put them through. Many restorativists have emphasized the importance of such symbolic reparation to the successfulness of RJ (Retzinger and Scheff 1996; Strang 2002). The offering of sincere contrition is an acknowledgment that others have been wronged and that the offender is genuinely sorry for this. However, where the primary victim has died, one might question whether it is appropriate for an offender to offer an apology to those left behind. Does the severity of the offender’s actions render any conveyance of contrition meaningless? I asked Janet what she felt when the offender apologized and whether she believed the apology to be genuine. She responded by stating that Michael had been very genuine and that his sincerity had been ‘absolutely of benefit to her’. She explained that Michael could see that all these years on, his actions were still
having consequences, and to see that he was sorry had a positive impact. In addition to his sorrow, the sisters were keen to see that Michael would not return to his old life of alcohol abuse. The meeting was therefore finalized with Michael making a promise not to return to the problems of his previous life with all parties shaking hands to seal this agreement.

I asked Janet whether the restorative process as a whole had been of any emotional benefit to her. She told me that meeting Michael had improved her emotional well-being and that crucial to both her and Barbara’s mental health was that they received answers to their questions. Such a finding suggests that restorative dialogue can aid co-victim’s recovery from homicide, potentially reducing individuals’ experiences of trauma-grief (see also, Strang 2002; Angel et al. 2014). For Janet, it was clear that RJ finally allowed her and her sister to move on with their lives. She reiterated this aspect particularly with regard to her sister. Barbara had periodically gone through phases where she would call her sister every day to talk about John. These incessant calls stopped directly after the restorative meeting. Over six months after the meeting had taken place, and almost 16 years after the murder of John, Janet and Barbara were able to piece together their lives and move beyond some of the traumas caused by loss.

The unanticipated emotions

Although Janet and Barbara were able to form a renewed life narrative based on acceptance of what had happened to their family, it did not mean that the sisters had found complete ‘closure’. Closure is an under-researched concept, but generally it is taken to mean that victims’ experience emotional healing, which enables them to put the incident behind them before moving on with their lives. Researchers involved in ‘grief work’ have highlighted that co-victims of homicide do not ordinarily expect ‘closure’ (see e.g. Casey 2011: 15). Family members understand that their grief is an on-going process that recurs over their lifetime in different ways and at different times (Rosenblatt 1996). Co-victims’ experiences of grief are especially connected with the life journey of the offender. Complete closure, if such a thing actually exists, is made all the more difficult by the very fact that the victim’s killer is still being punished and ‘processed’ by the system; in some cases, for the rest of his life. Family members must continuously adapt their life to cope with the various pathways the offender must take. Co-victims are therefore unlikely to ever ‘get over’ their loss. Instead, they must learn to manage its emotional implications as they negotiate their life-course. Janet reflected on this aspect of her healing noting:

…you don’t get closure, you can never have closure I don’t think, but it’s [the restorative encounter], the opportunity for you to ask those questions that are going round in your head.

The answers Janet and Barbara had so desperately sought had clearly freed them from their crippling cycle of emotional torment. Yet, the meeting had also given rise to a new and unanticipated emotion. As already noted above, the restorative meeting had resulted in the realization that Michael was no longer ‘a monster’, or perhaps more pertinently that he never was. In fact, Janet spoke several times about having ‘liked’ Michael. This, however, created new internal tensions for Janet. In particular, she felt a

10 All interviewees noted that they felt Michael’s apology was genuine.
profound sense of guilt that could be directly linked to her feelings of betrayal for failing to ‘hate’ her brother’s killer. She explained:

I came out feeling very, very guilty... cause I felt I shouldn’t, have even been thinking, anything like that [liking Michael] at all...I shoulda, absolutely hate him and not feel any, not have any positive thoughts about him or have any compassion for him...but I did.

Feelings of guilt are thought to be the reaction of an individual’s internalized conscience that is linked to his or her breach of personal standards (Tangney et al. 1996). Tangney et al. state that ‘people in the midst of a guilt experience often report a nagging focus or preoccupation with the specific transgression—thinking of it over and over, wishing they had behaved differently or could somehow undo the bad deed that was done’ (Tangney et al. 1996: 1257). Research indicates that feelings of guilt will be characterized by substantial feelings of responsibility and regret (see Tangney 1991; Tangney et al. 1996). Many will go on to feel anger and disgust with themselves. McGregor Hepburn goes as far as to assert that ‘guilt feelings both prevent development and promote destructive behaviour, and it is not until this guilt is relinquished that change becomes possible’ (McGregor Hepburn 2012: 189).

If this is true, Janet may have inadvertently replaced one repetitive cycle of negative thinking with another. This would, of course, have implications for the use of RJ for homicide. Of some comfort was that Janet’s sense of guilt receded six months after her initial meeting with Michael:

I still feel a little bit guilty and, [slight pause] I’ve spoken to friends when we’ve talked about it and I suppose, I don’t feel as guilty, as I did at the time.

Nonetheless, Janet’s admission gives rise to a new set of questions about the pros and cons of using restorative dialogue in such serious cases. We must remain cautious about ‘rolling out’ a measure that can give rise to new psychological challenges. Several questions arise including: can such emotions be properly managed and later relinquished? Can new emotions lead to a sense of re-traumatization? Do other more positive outcomes outweigh these potential negative implications? I am unable to answer these questions here. Rather, this tentative finding suggests that future studies may wish to explore further the impacts of guilt, not just on offenders, but on (co)victims of certain types of crime.

The Impacts of Restorative Dialogue on Those Who Kill

As noted above, the role of empathy was clearly pivotal in changing Michael’s understanding and attitudes towards his victim’s family. Restorativists often assert that empathy serves as a catalyst for other reforming emotions such as shame and guilt (shame-guilt) (Van Stokkom 2002; Harris et al. 2004). Harris et al. explain that ‘shame … occurs when one feels disapproval in the eyes of others (imagined or real disapproval)’, whereas ‘guilt occurs when one disapproves of one’s own behaviour (disapproval by one’s own conscience)’ (Harris et al. 2004: 193). These interconnected emotional responses can give rise to a negative evaluation of the self that is painful in nature (Van Stokkom 2002: 340). If managed carefully, however, experiences of shame-guilt can give rise to

11 Though it should be noted that most researchers analyzing the effects of guilt do so from an offender perspective.
genuine feelings of remorse, and in turn to an offender who is more mindful of the consequences of his actions.

For shame-guilt to work restoratively, meetings must be carefully managed in order to prevent what has been termed ‘re-integrative’ shaming turning into ‘stigmatic’ shaming (Braithwaite and Braithwaite 2001). Facilitators must use their skills to ensure that the offender has an opportunity to explain his or her behaviour, while also receiving positive messages that he or she is fundamentally a good person, capable of pursuing a moral and law-abiding existence (Harris and Maruna 2008). Such a process was clearly evident in Michael’s case, he explained:

Being able to understand their pain which I was always aware of to a degree but not to the degree I had heard face-to-face, I think that is the biggest impact, the realisation that kinda hurt people, not in the short-term but in the long-term... I done a lot of offender programmes over the years but I don’t think anything has been so intense and I don’t think anything could be so intense as coming face-to-face with your victim’s family, how it's affected them... it was profound.

As mentioned above, direct encounters between the stakeholders of an offence assist in the humanizing of individuals. It is difficult to escape the pain that has been caused, the changes that need to be made to rectify those harms and/or a recognition that the offender him or herself has also experienced trauma. Michael spoke of the transforming affects that the sisters’ story had on him:

... here was this lady victim herself being reminded of it constantly, how [younger] family members... had never known their uncle, my victim... were themselves victims. One sister had a really bad battle with alcohol [and] was at one stage consider[ing] suicide, that really hit me. But she was able to say that at the end of the meeting she was able to put that video away and not have to watch it again, which was nice after hearing the hurt that I had caused...

It was important to Michael that other offenders had the opportunity to connect with co-victims in the same way that he had. He believed that offenders who participate in such an emotionally charged process, combined with sufficient preparation, would experience similar transformative emotions:

I think everybody’s victim should be given the opportunity regardless... I’ve been in many tough prisons over the years, [and] actions towards victims are non-existent, they are totally forgotten, it’s easy porridge doing it that way, don’t think about it, don’t give them a second thought, but when you hear the impact it has to make you think. It has to have an impact because you are not human if it doesn’t... I think it has the potential to change the whole criminal justice system...

One reason that RJ has yet to be utilized for serious crime is the common concern that its use may be viewed by the public as trivializing the severity of such offences; leaving the offender to offer an apology in return for forgiveness (DUCKFoOT 2012). Michael emphatically refuted the validity of such a perception noting:

I think it’s one of the toughest things I’ve ever done. Prison’s not been easy but it has been easy compared to that, to see your victims sitting there in tears and explain the impact it has had on them, all those days you have been in prison, they have been in their own personal prison, it just continues, they can’t escape it, they can’t shut it off. So being in prison compared to that is easy, but being in prison is not easy no.

12 Referring to the documentary made about John’s death.
Direct dialogue, as we have seen, can change people’s perceptions of one another. Stereotypes can be flipped on their head, which in turn has the potential to transform the attitudes of all involved—including the way in which we think other people view us. Kilty (2010) notes that feelings of remorse during such dialogue is not just about feeling regret but about redefining the ‘self’ as a more enlightened, responsible and risk-averse individual. It was never possible for Michael to convey his feelings of sorrow via the trial process and so this important gesture was lost for the family of the victim. Instead, the criminal process stigmatized Michael a killer, and in the eyes of his co-victims he had become a ‘monster’. Becker (1963) famously asserted that offenders who are labelled as deviant will go on to play out their life in a way which fits this label. A self-fulfilling prophecy of criminality, it is argued, becomes part of the ‘self’, reflecting the way in which the world sees you and so you become that which you see in the world’s reflection. RJ may be one way through which pernicious labels that serve to reinforce a sense of one’s own immorality can be broken down. Michael reflected on this very process during the restorative meeting:

…one sister asked ‘do you consider yourself to be evil to the core’? … to be asked that by anyone is difficult but to be asked by [the] victims [of] their brother you’ve murdered, it was extremely hard to answer. [Interviewer: What did you say?] I answered honestly, I said what I had done was serious and was evil but I don’t consider myself evil to the core. The sister said that they thought we don’t think you are. [Interviewer: how did that make you feel?] it made me feel very emotional to hear your victims, whose brother you have murdered, at the end of the day you’ve murdered their brother [and] they don’t consider your evil to the core. I was welling up… the sisters had tears rolling down their eyes.

The acceptance of Michael as an individual who had suffered trauma meant that his sense of self was reaffirmed as that of fallible human being. This emotional exchange meant Michael was able to move on with his life with the knowledge that his co-victims no longer hated him. His final remarks sum up the transformational effects that such a process can have:

I feel so happy I was given that opportunity… I must have been emotional maybe for about a week, I did wake up in the middle of the night thinking about it, I still think about it most days… I am pleased that they [Janet and Barbara] did attend, it was emotional for me and it was emotional for them. I got a lot out of it it was profound… The victims and myself we crossed emotion together that’s how I feel and I hope they feel that way too because I believe they did get something out of it… They weren’t just the victims and I wasn’t the perpetrator we were in that room together talking things together resolving issues together. I couldn’t have imagined with all the years in prison sitting down and chatting, but perhaps it’s the best thing that’s ever happened to me I really do mean that.

Limitations

It was clear that the restorative process had mostly positive impacts on Janet, Barbara and Michael. However, this does not mean that we should expect all co-victims of homicide to find a similar peaceful resolution via RJ. The emotionality that restorative practices seek to stimulate, and from which encounters gain much of their potency, will not always arise during the process (Rossner 2013: 4–6). Moreover, it is likely that some stakeholders will simply refuse to engage in the process altogether. Participation cannot be forced. In fact, Janet and Barbara’s two other sisters refused to participate in the restorative process. To this day, they remain too angry to enter into such a dialogue. Similarly, not all offenders
will be willing to face the families of those they have traumatized. Without voluntary participation, RJ cannot succeed in achieving its aims of individual, relational and community restoration—whether that be symbolic, emotional, material or relational.

How then can RJ be used more widely for homicide? Realistically, practices can only be offered as an addition to conventional justice processes. Without voluntary participation, the goals of RJ will become almost meaningless. A parallel system of justice is therefore required that operates in tandem with the conventional criminal process (see also, Amstutz 2004). Practices will require well-trained facilitators who understand the complex dynamics of homicide and the emotional pain it causes co-victims. The restorative process will be aided where practitioners engage in multi-agency partnerships whereby professional support services, including agencies such as Victim Support, counsellors and health workers, participate in the restorative process itself. It has been outside of the scope of this paper to discuss this aspect of RJ further, I note only that the participation of multiple agencies within a restorative framework of justice can help foster effective networks of support for key stakeholders of crime (see detailed exploration of such a framework in Walters 2014: ch. 6).

Nevertheless, even if a parallel system of RJ is created, a number of hurdles will remain. In particular, deciding when stakeholders of homicide are ready to participate or determining whether they ever will be is no easy task. Only co-victims can make such a decision. Each local authority will therefore need to provide accessible information from which stakeholders can choose whether or not to engage with RJ. With sufficient information and professional support, it is likely that a significant number of family members will wish to take up this offer (Kilty 2010). Perhaps only then we can truly move towards a trauma-informed system that seeks to promote ‘justice’ by giving a genuine voice to the co-victims of homicide.

**Conclusion**

The emotional traumas caused by homicide often take a lifetime to heal, and for many family members, they never do. For some, the trauma embeds itself as a recurring nightmare that becomes inescapable (Armour 2002b). Despite the epistemic developments that have been made in relation to understanding these indirect harms, there remains scant academic discourse on how the criminal justice system might help to alleviate co-victims’ suffering. In fact, the typical ‘life should mean life’ debate has rarely considered the life sentence that families of homicide victims frequently endure. This case study has illustrated how such a sentence can play out for these individuals. It reminds of the enduring impacts that homicide can have on families and how their needs are rarely met by a system almost entirely focused on punishing offenders. It has also highlighted how restorative dialogue can help to alleviate some of the most destructive emotional traumas caused by murder. Most significantly, restorative dialogue provided all stakeholders with a voice. This enabled them to ask questions while additionally articulating their own life narratives. The emotionality behind such a dialogue further enabled them to develop a renewed understanding of each other. Collectively, the inter-personal connections that emerged allowed all stakeholders to move beyond their experience of homicide better equipped to deal with its painful aftermath.

RJ is but one way in which justice practitioners can attempt to limit the long-term traumas caused by homicide. This is not to suggest that RJ will be a panacea for such offences. However, as restorative practices begin to proliferate throughout the criminal justice system, RJ may well yield significant therapeutic benefits to those most affected by homicide.
This study was supported by an Economic and Social Research Council 1+3 studentship.

The author would like thank Clare McGlynn, Mary Lee, John Child and Abenaa Owusu-Bempah for their helpful comments on an earlier version of this article. Thanks are also due to the editor and anonymous BJC reviewers.

References


DUCKFoOT. (2012), The General Public’s Response to Restorative Justice, Community Resolution: Research Conducted on Behalf of Her Majesty’s Inspector of Constabulary. DUCKFoOT Ltd.


REFERENCES


1225