

Review into the Needs of Families Bereaved by Homicide

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Foreword

by the Rt Hon Kenneth Clarke QC MP,
Lord Chancellor and Secretary of State for Justice

Of all the consequences suffered as a result of crime, the anguish experienced in those cases where a relative is killed stands alone. The trauma of bereavement is no doubt made even worse by the suddenness of the loss, and the knowledge of the circumstances in which it occurred. I commissioned this review to improve our understanding of the needs of this vulnerable group. It was undertaken over a six-month period and has drawn on the experiences of over 400 bereaved families and I am grateful for the hard work of all those involved. The report's findings will play a critical role in informing my approach to supporting victims: to ensure that our time, money and best efforts are targeted at those in greatest need.

The findings on the typical backgrounds of those bereaved through crime are particularly striking. It is a cruel irony that those in our society who are already amongst the least well off are most likely to suffer the financial and practical hardships – as well as emotional loss – through losing a loved one in this way. 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.

For many bereaved families, the immediate aftermath of a death is only the beginning. The experience of attending court and giving evidence is a necessary step in ensuring that justice is done. However, it is the role of government to ensure that bereaved families receive very high quality support throughout the process. This report has made it clear that there are areas for improvement. I will consider its findings and recommendations in full but I propose to make an immediate commitment of half a million pounds to deliver some tangible, practical changes.

The report has commended the work of Victim Support's Homicide Service but stressed the need for additional caseworkers. We will use some of the additional funds to ensure they are recruited soon. Better training on the criminal justice process for voluntary sector caseworkers – already adept at providing high quality emotional and practical support – will enable them to better equip families to cope with the trial process.

The Victims' Commissioner has identified a number of actions to strengthen the role of befriending and peer support services and I am determined that funds are made available for us to take these forward together. We will also increase investment in trauma counselling services for bereaved children and improve access to high-quality advice on housing, debt, employment and child custody for those victims who need it.

Government can never make things right for families bereaved through crime and it would be foolish to pretend that any level of support could ever achieve this. But we can do more to ensure that families get the help they need and that the practical impacts of bereavement are minimised. The work of the Victims' Commissioner in producing this report, and the contributions of the many families which made it possible, constitute an important step towards these goals.

The Rt Hon Kenneth Clarke QC MP

Lord Chancellor and Secretary of State for Justice

Introduction

It is often said that a hallmark of a civilised society is how it treats its most vulnerable. This is frequently used in regard to those we incarcerate. I would like to suggest that this could also be applied to those who have a loved one taken from them by a criminal act, through no fault of their own. And if we judge our society on the basis of their treatment – I wonder if we are as civilised as we think.

These families are a relatively small number of people who have suffered from the absolute worst breakdown of societal rules and norms – the unlawful taking of a life. As a society we surely owe it to them that we care, support, acknowledge and give them, at the very least some dignity as they try to cope with their bereavement and at the same time contend with a journey through the criminal justice system.

In my first report as Victims' Commissioner I argued that victims were the 'poor relation' in the criminal justice system when it comes to where the money is spent, where services are focused and how fairness and justice is being pursued.

I did think though, that for families who have suffered a bereavement by homicide, the system would be at its best, both in its prosecution of the offender and in its care of those who through no fault of their own, relied on it for justice. However, upon meeting with families who had lost loved ones to homicide, I found a deeply troubling mismatch between what I expected and what I found.

As I heard their stories, often told with quiet dignity, I saw the breadth and depth of the problems they faced following their bereavement. Problems getting counselling (even for children), lack of information about their case, significant debt and housing problems, and of course problems with the justice system itself. And these problems came at a time of despair and emotional trauma due to losing a child, partner or parent.

The long-term effects for families

Even though homicide is the most serious crime, I was surprised to discover that there has been very little work done to look in depth at the wider impact it has on those it leaves in its wake.

That murder is devastating for those left behind there is little doubt. For this review we conducted the largest survey of bereaved families ever undertaken and in it over 400 families revealed the toll of bereavement:

- 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 six-in-ten (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; and
- 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.

This review shows these effects persist for many years. The physical and emotional impact, alongside practical problems, must surely force society to think in terms of rehabilitation for these families and children to avoid some of the long-term negative impacts of bereavement – ill health, unemployment, debt, relationship breakdown and housing problems.

Added trauma of the justice process

A unique feature of being bereaved by homicide is that at a time of terrible tragedy, of trauma and of deep emotion, as families take in the loss of someone close to them, the criminal justice system starts to move into action.

And although bereaved families in no way want to stand in the way of bringing a perpetrator to justice, and will most often have an overwhelmingly strong desire for this to occur – the way that the system operates can leave families trembling in its wake. Bereaved families lose all control over their loved one as the Crown appropriates the body and determines when it can be returned for burial. Their home may become a crime scene, and in the next weeks, months and years, their loved one's death and who was responsible for it, may become the focus of their life. Yet the bereaved family doesn't determine or control any of this – the investigation, trial, verdict and sentence, appeal, parole process all happen around them, with the family entitled to some information and some explanation but little voice, little influence and little power.

Coping with the CJS was given by half of our respondents as the most difficult issue to deal with following the bereavement, with problems such as delays with release of the body for burial, lack of information about what was happening with the case, confusion and despair over the verdict and

sentencing and lack of contact with prosecutors.

There are aspects of this that cannot be changed, such as a second post-mortem by the defence team, the fact that the barrister is prosecuting the case on behalf of the Crown not the family, that hard questions may be put to witnesses in a witness box and that a jury may acquit the defendant.

The issue though is how little may be afforded to families in the way of dignity, respect and support during these life-changing and traumatic processes. This is not about removing rights from defendants but balancing up the system so that it is humane and fair to the victims and their families, that it gives them due consideration and better information, some rights and decent support services. A sense that they are not alone and isolated – that there is someone on their side too.

And we now know that the CJS in many cases actually adds to the pain of traumatic bereavement. It is shocking that research outlined in this report suggests that families who have no involvement in the criminal justice process actually cope better. **But is that the message we really want to give out as a society? That it is better not to bring someone to justice than to have to go through the system as an innocent and bereaved family? It can't be and it mustn't be – or we would have no help in putting dangerous people behind bars.**

What should happen now

With this challenge in mind I am therefore calling in this report for a law for victims that solely recognises their needs and sets out what the criminal justice system and others will provide for them. I believe the time has come that we can no longer rely upon charters and promises, with no real route of redress, when it comes to the treatment of victims and their families.

While they may have no formal status in the court room, I want the justice system to recognise that they have a very legitimate interest in proceedings because they are the ones most deeply affected, they have a deep need to know what has happened to their loved one and why. They should no longer be treated as bystanders, or at worst an inconvenience as the wheels of justice turn. I believe this can only be done by law.

I am calling for bereaved families to be provided with an integrated service – a caseworker helping with practical problems; someone who can challenge justice professionals on their behalf when things go wrong. I want better access to trauma counselling and bereavement care for families and children and for them not to be put at the bottom of a waiting list. Importantly they also need to be able to access to peer support organisations if they want it – so that they have someone who they can talk to who really knows how they feel.

This support should be available to meet their changing needs from the immediate aftermath, through the criminal justice process and in the years after for as long as is needed. This is not a large number of families, and their

proper care would not be a drain on resources. It is worth remembering that the money spent on victims is a tiny fraction of the criminal justice budget.

As the Victims' Commissioner I understand that we cannot make up for the damage wrought upon these families by those that have killed their loved ones. However, as a society it should not be beyond our reach to ensure that bringing that perpetrator to justice involves a fair process that does not have to wreak further havoc upon people when they are at their most vulnerable – and that we do all that we can to give them the ongoing care that they deserve.

Louise Casey CB

Commissioner for Victims and Witnesses

July 2011

CHAPTER 1: Who are the bereaved families?

The impact of an individual homicide goes broad and deep, affecting particularly the surviving family but many other individuals as well. Profound changes are wrought upon these families and others as a result. It is something that many of us, thankfully, will only ever have to imagine.

For such a profound and life-changing event, with consequences that reach into society as a whole, it is surprising perhaps that there is such a limited body of research into families bereaved by homicide. The existing literature, largely originating in the early 1990s, has tended to focus on the psychological impact – in particular the experience of psychological trauma. These are almost exclusively based on small samples of people bereaved by homicide and largely from the USA. Data on the characteristics and social circumstances of bereaved families or ‘co-victims’ as they are called are almost non-existent.

This matters because the range and types of needs, the challenges and circumstances these families face in the weeks, months and years following the death of their loved one need to be understood if the right kind of help, support and services are to be offered. The absence of information is perhaps indicative of the low profile and low visibility of these families, despite the shocking nature of what has occurred to them, and may start to explain why so many feel that they are ignored or mistreated by the Criminal Justice System (CJS) and public services, when it is so vital to get their treatment right.

As a result of the paucity of information we have, for this review, gathered our own evidence. One part of this involved asking caseworkers from the Homicide Service (a service providing help for families bereaved by homicide since April 2010, provided by Victim Support in England and Wales) to provide demographic information on the families they were supporting¹.

Information was provided on 732 individuals within 520 households whom the scheme was supporting directly as a result of 292 homicide cases (although the total number in those families was in fact 1,182 people). On average, each homicide involved a case worker supporting three people, on average two households. The highest number of people supported per case was ten, and the most number of households seven.

The data show that 35% of families had dependent children, and that the majority of individuals being supported were women (64%).

Parents of the deceased represented the highest proportion (29%) – and given the gender bias, this was usually the victim’s mother – followed by children of the deceased (22%), siblings (19%) and partners/ex-partners (14%).

323 children under 16 were recorded as being part of families that were being supported. 98% of those children were related to the victim and in two-fifths of cases (40%) they were the children of the victim. Given the profile of homicide, many children will have lost a mother at the hands of the father, an especially traumatic event for a child.

Interestingly, the suspect was not well known to the bereaved person with 71% of those being supported not identified as knowing the suspect. For the remaining 29% who did have some kind of relationship with the suspect, this was most likely to be because the suspect was a relative².

Postcode district level information was provided for the bereaved households and shows that while those supported by the homicide service lived across a range of different types of area, comparisons with England and Wales suggest that people living in deprived areas are over-represented.

The analysis shows bereaved families were disproportionately in receipt of means tested benefits (35% compared to the national average of 14%)³ and twice as likely to be living in social housing (37% were living in social housing, compared to 18% nationally⁴).

This information supports the argument that bereavement by homicide (similarly to homicide itself) falls disproportionately on poorer sections of society. As will be shown in this report, the aftermath of homicide places significant financial burdens on families. Such families will be less able to cope with increased cost and the loss of earnings that inevitably flows from a traumatic bereavement and are therefore more reliant on public services such as housing, welfare benefits and criminal injuries compensation to help them deal with costs arising from homicide.

There are two additional 'categories' to highlight. Firstly, there were 58 British citizens murdered abroad in 2009/10⁵. 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.

Secondly, in 2009/10, around 500 were killed on the roads through culpable road-deaths⁶. This includes death by dangerous driving, death by careless or inconsiderate driving, death by careless driving on drugs or alcohol, death by driving whilst unlicensed, uninsured, or disqualified, and death by aggravated vehicle-taking. Again, for those bereaved as a result of such deaths, the impact and effects are similar, with specific issues related to the criminal justice system and the paucity of services available to families.

During this review, the specific issues relating to culpable road deaths and 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 – whether housing related matters such as the need to move away

from what was a crime scene, civil matters over guardianship of a child, 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.

CHAPTER 2: Problems faced by bereaved families.

In order to learn more about the problems, needs and views of families bereaved by homicide, the Victims' Commissioner's office worked with the charity SAMM national (Support after Murder and Manslaughter), an organisation set up to offer support to families, to undertake a survey of their membership. In total 417 responses were received (a response rate of 27%). **This amounts to the largest cohort of bereaved families to have shared their experiences, and in doing this we have been able to ascertain not only the effects of homicide but the extent of these problems among bereaved families.**

The survey confirms that the physical health, the ability to work, to maintain relationships, care for children, and manage new financial burdens were all significant problems for families. Furthermore, in addition to the devastating event itself, those bereaved are likely to find themselves caught up in a protracted criminal justice process which can prevent mourning, cause upset, and can become a source of further harm.

Of course the particular aspects of the crime, such as the nature of the crime itself, the relationship of the offender to the victim, whether the crime was solved, and whether someone was convicted, are all likely to have implications in terms of how those bereaved are affected emotionally and financially. Nevertheless, as we will see from the following evidence, there is also a high degree of predictability about the impact of homicide on those left behind – many people suffer similar problems, have similar feelings and needs following the violent death of a loved one. This begs the question as to why these predictable needs are not considered and catered for, in what are a relatively small number of families suffering from the worst breakdown of societal rules.

Emotional impact and impact on health

Few would consider that there would be anything other than a severe emotional impact following the homicide of a loved one. A number of studies have looked at the psychological impact of bereavement by homicide⁷, recording the initial response of numbness and disbelief, which may last for several months and reoccur at significant times, followed by months of rage, feelings of terror, devastation and preoccupation with the death and victim.⁸

Studies describe the sense of the murder creating a barrier between the bereaved person and those around them, leading to a sense of isolation and loss of connection and trust with those around them.

“After 17 years I am still suffering physically – I am a changed person. I don't go out except for work. I don't trust anyone apart from mum and dad and best friends from before the tragedy.”⁹

Feelings of guilt and self-reproach are commonly expressed, particularly when the killing has been carried out by a relative. Where there had been threats or intimations of danger, surviving relatives blamed themselves for ignoring or underestimating these.¹⁰ Families may be plagued by 'survivors guilt' in which they wonder not only why they have lived and the victim has died but also whether they could not have done more to prevent what has happened.¹¹ This was also borne out in our research in many of the comments made.

"Losing 2 beautiful grandchildren is very hard and impossible to let go. I have also to deal with the pain, grief and self blame of my daughter and husband."

"Losing my daughter completely changed my life, I couldn't socialise, I felt guilty, even to laugh. My confidence completely gone, but now after 16 years I managed a small break away".

Alongside the grief and devastation of bereavement, there is now substantial evidence that individuals bereaved by homicide are likely to experience trauma. A traumatic incident is defined as a specific event 'which is beyond normal experience'. Traumatic stress is a normal human reaction in these circumstances. However where the symptoms of traumatic stress become very severe, cluster together or persist over longer periods, an anxiety disorder, known as post-traumatic stress disorder (PTSD) can develop.

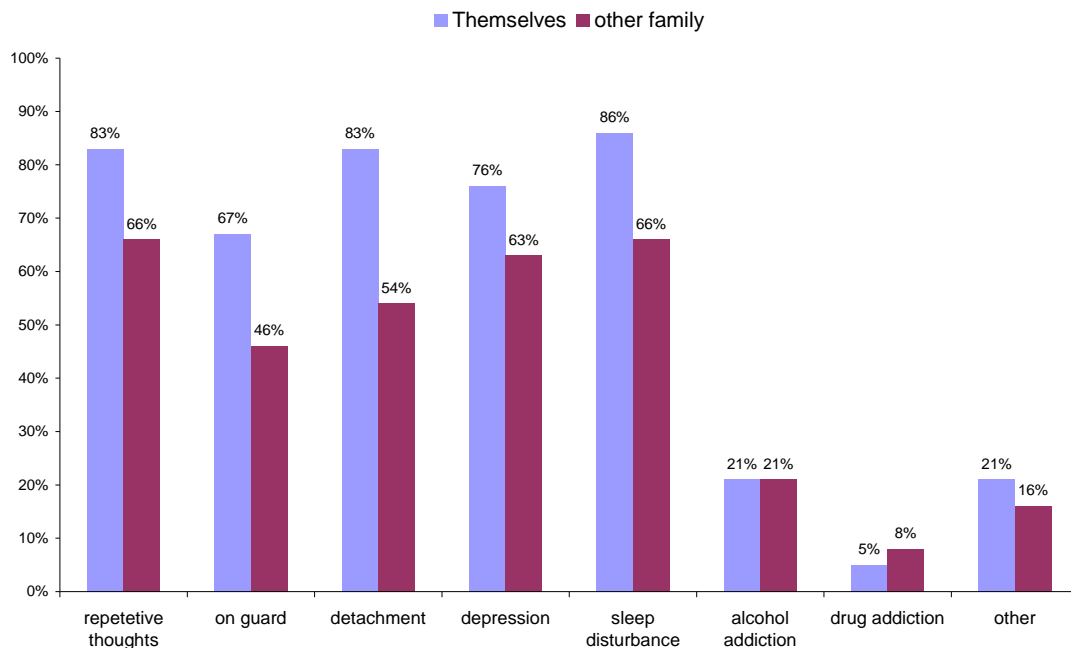
PTSD is characterised by re-experiencing the trauma in painful recollections or recurrent dreams or nightmares, diminished responsiveness with disinterest in significant activities and with feelings of detachment and estrangement from others and symptoms such as disturbed sleep, difficulty in concentrating or remembering, guilt about surviving when others did not, and avoidance of activities that call the traumatic event to mind¹².

The effect of PTSD can be far-reaching, and is associated with increased risk of suicide attempts, self-harm and physical problems such as pain, eating disorders and heart problems¹³.

It is estimated that between a quarter and one third of individuals develop PTSD at some point after the killing¹⁴. PTSD symptoms have been found to be unrelated to gender, length of time since the homicide, or the relationship of the victim to the offender¹⁵. Children are also affected. One study found 23% of children who had one parent killed by the other were affected by PTSD¹⁶.

Our survey asked respondents about the psychological impact of the bereavement, including those associated with PTSD, as well as depression and drug and alcohol misuse. Unsurprisingly, there were high levels of emotional distress and trauma among respondents and other family members.

Chart 1: Did you suffer from any of the following after the bereavement?



In addition to trauma symptoms, three quarters of respondents reported depression, and a staggering one-in-five (21%) reported suffering from alcohol addiction and one-in-twenty (5%) from other drug addiction. This compares with alcohol addiction among general population of around 6% and drug dependency around 3.4%¹⁷.

As time passes, these deep psychological symptoms would be expected to improve. However, feelings often seem to remain unchanged or to get worse. Studies confirm that symptoms continue for long periods with little difference in those who had been bereaved recently or long ago. A further study involving psychological wellbeing found that symptoms actually got worse over time, rather than better¹⁸.

“Still get flashbacks – panic attacks. Don’t go out. Friends have all disappeared. Am a different person, like I’ve changed a lot. I feel ‘stained’. Part of my soul just can’t be repaired. Have to put on a false face when talking to others.”

It is perhaps not surprising that these feelings continue – their intensity may increase once the initial numbness and denial passes; grief can be stirred up again prompted by a birthday, an anniversary, or other significant event. The protracted legal process provides many triggers – from the identification of the body to the trial and beyond through appeals, parole hearings and release from prison. All these events can renew feelings and memories, setting people back emotionally.

“Things get a lot worse as time goes on. Especially close to release. My mental state is in bits due to the anxiety and fear brought on by murder, so much so that

I had to find help off a psychologist. Yet I am still suffering. Nothing is normal anymore, everything is overcome by fear. This stage is awful, by far the worst.”

Bereaved families say that it is just not something you ever get over.

“Even after fourteen years still can’t come to terms with the loss of our son who was eight at the time. We still expect him to come through the door.”

Some family members were frightened by the intensity of anger and rage they experienced.

“The emotional impact from the trauma of a loved one’s murder is not really something you are properly informed about. It affects and ruins your life in ways that I feel if you had support or information at least you would be in a better position to deal with your loss. Counselling is scarce, I haven’t had any despite going on waiting lists. A SAMM retreat was the first time I was made aware of the effects of trauma. I wish more people could be educated”.

Our survey is not a clinical assessment and its findings do not assess the severity, persistence or duration of symptoms. However, given the very high proportion of families experiencing symptoms, and the high risk of traumatic grief developing into PTSD, it would seem vital that families are able to have an assessment to identify if they require trauma-related therapy, or bereavement counselling or other intervention. This is probably the very least that the public would imagine is offered to bereaved children and families as a matter of course, but sadly we have found that this is far from the case.

“My mother’s doctor still to this day doesn’t believe in PTSD.”

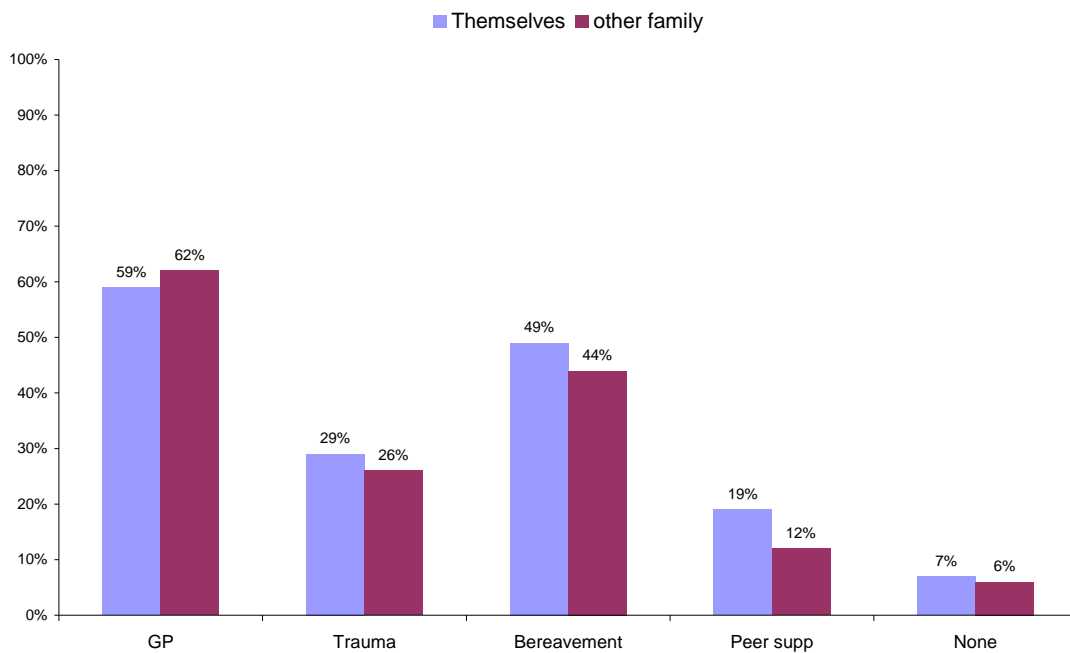
We also know that PTSD and its range of symptoms blocks and interferes with the grieving process; it isolates the families from world, makes it difficult to have other relationships and hold down a job.

Eight-out-of-ten (78%) individuals had sought help as had 60% of other family members. The majority had sought help from their GP, although comments show that the response sometimes consisted of anti-depressants, known not to alleviate PTSD symptoms. This is consistent with other studies; for example, in one sixteen people were assessed as needing further mental health help beyond emotional support, but only five had been referred to specialist services¹⁹.

“I asked for help at the time from my GP, someone to talk to, he said he didn’t have time, prescribed me anti-depressants, which I did not take. It was not until over two decades that I managed to seek the support I needed...it is only now seeking help that I have been diagnosed with PTSD.”

“My loss happened in 1976. We had no services offered – just tranquilisers and sleeping tablets from our GP. I have had long-term depression and only now am I waiting for treatment due to my contact with SAMM. I joined SAMM in Feb 2010.”

Chart 2: What, if any, kind of help did you receive?



In addition to this, bereaved families frequently express concerns about seeking counselling due to the shame or stigma of having a ‘mental health problem’, and in particular concerns that it could affect their future prospects in terms of mortgage applications, looking for work or insurance claims.

Many also may not know how to get help other than through their doctor, and if the doctor does not recognise symptoms of traumatic bereavement, they are unlikely to get the help they need or find themselves on long waiting lists once being referred. Others may not know what is wrong.

“To find help is not easy or readily available if you don’t know what’s wrong how do you know what you need?”

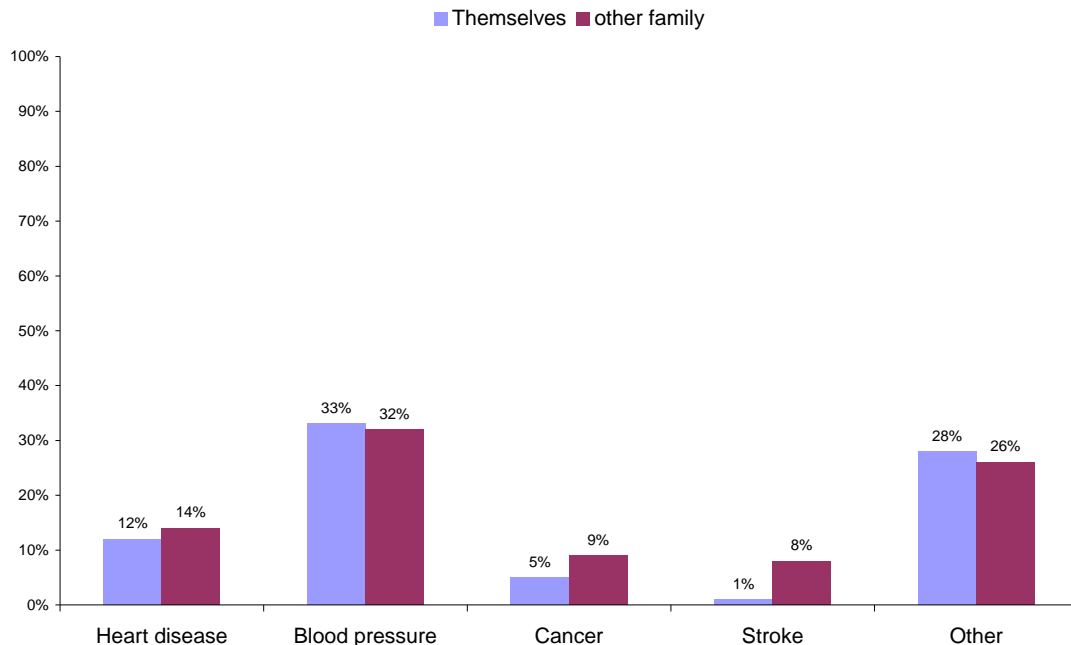
It is important that families are able to access the right kind of help, at the right time and should not have to go looking for it. To be emotionally distraught and experience traumatic stress are not mental health ‘problems’ but a normal human reaction to an event beyond the experience of most people.

Impact on physical health

Many of the families we have spoken to refer to a major deterioration in their physical health following the homicide. And in our survey, 53% said ill-health was the hardest aspect of the bereavement they dealt with (apart from the emotional impact).

Eight-in-ten (83%) indicated that their physical health was affected and three quarters (75%) that of their family (although this included some mental health-related issues such as stress and anxiety).

Chart 3: Did you/your family suffer from any of the following?



These medical conditions cannot be said to be caused directly by the murder itself in many cases, but they suggest that ill-health will become a significant problem for bereaved families, and points to the need for GPs to explore physical as well as psychological health issues in these circumstances. Also while not directly comparable the prevalence of heart disease, cancer, stroke, and high blood pressure in the general population would appear lower²⁰.

“My nephew, who was the closest child to my brother [the victim], has consequently died of a drugs overdose. He was unable to recover following his uncle’s death – as a result we have lost 2 family members.”

“The trauma killed my parents within two years. It has completely changed all our lives as a family and extended family in so many profound ways. It has deeply effected us as individuals and collectively. Life for us all will never move on or be happy as time has shown us that. Our future has been taken away our happiness, hopes and dreams. We live our sentence on the outside, every single day.”

“My husband has had three heart attacks.”

“....partial blindness after stroke.”

“My father now has cancer.”

Many of the bereaved families we have spoken to allude to unexplained but persistent conditions, as well as other family members dying soon after. This is supported by the research evidence ²¹

“My elderly mother in law died of a broken heart. I almost took my own life but I spoke to a lady from SAMM who helped me. I have had a lot of contact with SAMM and I go on the forum. I get so much support. I am on a programme to stop drinking and doing well.”

“The murder of my brother – who was kicked and stamped to death – a vicious unprovoked attack has ruined my family in every way. This murder happened the very same day the culprit was let out of prison for doing a 9 month sentence for slitting his own mother’s throat. He should never have been let out – he laughed at the family as he was sentenced to 12 years for murder. My father wasn’t well enough to go to the trial – he had high blood pressure – a hard working man, he died of a broken heart 6 months after the trial of a massive heart attack. The ripple effects of our dear brother’s murder never end.”

Impact on relationships

Contributing to the huge impact on their physical health is the impact on relationships. Unsurprisingly, traumatic bereavement puts a strain on surviving relationships at a time when the need for support from surviving family is most important.

The research again points to relationships being a casualty of the bereavement. Siblings are deeply affected but spousal relationships become particularly strained as they react differently to traumatic grief, with, typically, the man feeling the need to ‘hold himself together’ and doing this by distancing himself from his partner. Those who showed less upset were seen as uncaring, and those who were more upset as weak. As one commentator notes: “The husband and wife were unable to support each other at a time when both of them were in desperate need of help²².”

“My husband and myself seem to drift apart. It was hard to grieve together. It took ten years to be close again.”

“It’s broke my family up. No one likes to talk about talk about it, and his twin brother and myself still don’t cope. It’s destroyed his relationship of 26 years for him. Life is just hell on earth. Sorry but true.”

“My life has changed in that my partner left, as we couldn’t grieve in the same way. Family can forget what you go through every day, they think you are alright, but you’re not, they often don’t want to talk. As a mother my heart aches for him everyday.”

Some found it difficult to retain any physical or sexual contact after the murder²³.

Families have told us throughout this review of the untold strain and burden their grief has on them and their relationships:

- 37% said that it was the most difficult aspect of the bereavement.
- Nearly three quarters (73%) said they experienced difficulties in their relationships following the bereavement.
- Most commonly this was with their spouse or partner (60%), followed by children (45%), siblings (38%), parents (28%), and other family (28%).
- Nearly half (44%) of those who experienced difficulties in their relationship with their spouse/partner became estranged, separated or divorced following the bereavement.

Given the importance of strong relationships following such a tragedy it is positive that 88% of our survey said that family and friends were supportive in the time following the bereavement, but ongoing and long-term relationship pressures and subsequent separation, be it from partner, grandchildren, siblings or friends can only add to feelings of isolation and loss. As a bereaved person in a previous study put it; “people assume that because you’ve come through something very traumatic and tragic, that you’re all going to come together. But, because everyone grieves in his or her own way, and goes about it differently, it loses its cohesiveness in a very short time”²⁴. This is supported by comments from those participating in our survey:

“Regarding the questions on health of myself and grown up children, we are all still suffering almost 4 years after my son was unlawfully killed. My son and daughter cannot mention their late brother’s name...the elder daughter – already rather distant – is completely estranged from all the family due to her late brother’s untimely death.”

Wider relationships can suffer because of the nature of the death and families can feel isolated from friends and others. People who may have been close friends, upon the bereavement may find it difficult to maintain close contact – perhaps as they didn’t know how to deal with the death, how to provide an appropriate response or just felt out of their depth.

“You can never explain to anyone who has not gone through it the effect on your whole life afterwards. It’s in front of you every single day and you cannot live life the same way again.”

“So-called friends distanced themselves for whatever reasons. People saying ‘if it was me’ etc who have really no idea do more damage than they realise. You tend to not discuss your feelings with ‘outsiders’ as we have been told we were ‘wallowing’ in the attention etc that unfortunately comes with this horrendous situation.”

This is where the vital role played by the peer support groups come to the fore – practical and emotional support offered by those who have experienced bereavement by homicide themselves.

“We are in a different world to everyone else. We need to talk to someone in our world” [child from Olly group]²⁵.

While relationships, families and friendships may hold together through the initial crisis, strains may show later on when the trial is over. At this stage, relationships can crack. The ongoing impact of homicide cannot be over-emphasised; its dynamic may change, responses to it will vary and families will have different needs. This has implications for services, how they are delivered and when and where people need to access them.

Supporting individuals bereaved by homicide in their surviving relationships, for example through relationship counselling when it is needed should be the minimum service response given these findings.

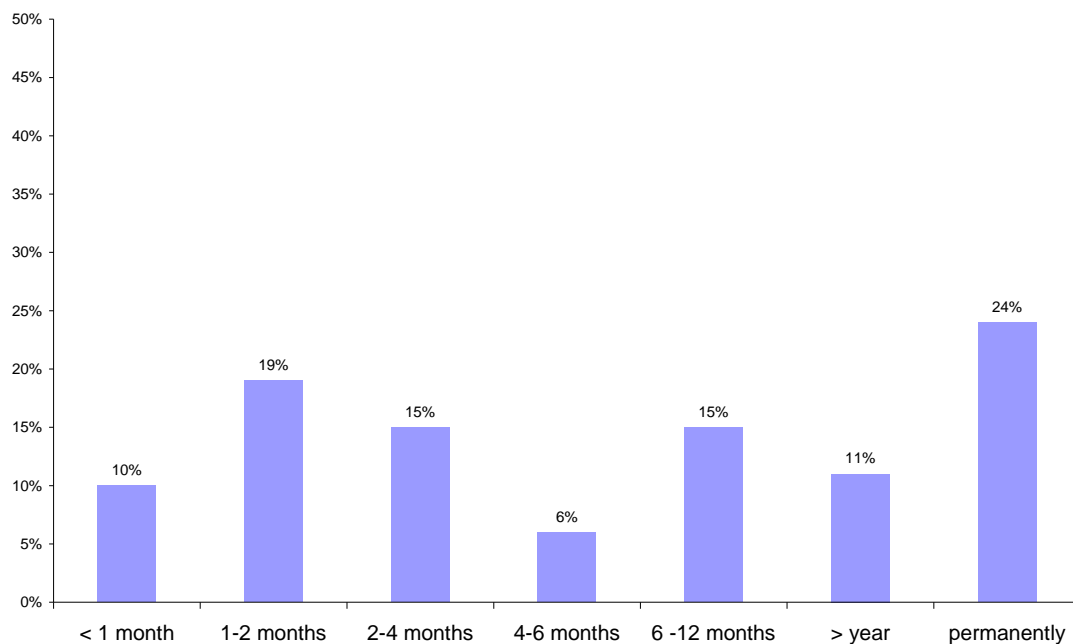
Impact on employment

On top of the emotional trauma of bereavement by homicide, and the strains placed upon relationships, is the challenge to return to the workplace.

Possibly reflecting the socio-economic profile of this group, around a third (31%) said they were not employed at the time of the bereavement, although in some cases this was because they were already retired.

Of those that were in work, 70% stopped working for a period of time as a result of the bereavement. The amount of time taken off varied from under a month to over a year. Most said that their employer had been very understanding and of those that returned to work, 80% returned to the same job. However, a quarter of respondents (24%) stopped working permanently.

Chart 4: *How long were you off work for?*



Of the one-in-five that took a different job, for 31% it was a different type of work, in 29% of cases it was part-time, 27% it was full-time. For 25% it was for lower-wages, and for 20% it was for fewer hours.

“After returning to the same job, feeling pressurised to do so by my employers within three months. I resigned and actually had a complete career change, resulting in a much reduced salary.”

This information suggests that the nature of traumatic grief of this kind poses a risk to continued employment. Half of those bereaved in one study had lost or left their jobs since the murder²⁶, and a recent survey by SAMM Abroad of their membership found that half of those responding said they had to leave work²⁷.

Comments from respondents to a study looking at the financial costs of bereavement undertaken as part of this review (and discussed later in this report) confirm the challenge of work following homicide.

“Had to give up work as self-employed builder...would still be working but I lost my enthusiasm, desire, and confidence.”

“I was made redundant two weeks before the trial started.”

“I had to give up job to look after three children bereaved via the murder.”

“He [respondent’s husband] was unable to return to his job and had to accept a lower paid job.”

“Sacked because of chronic depression.”

“[Respondents partner] was made redundant; reason given was that he had lost his dedication to the company since his return and extended period of absence showed a lack of commitment.”

“PTSD has meant that he could no longer run his business.”

Impact on children and childcare

Two thirds (66%) of respondents to our survey said that there were surviving children as a result of the bereavement, and nearly three-in-ten (28%) respondents said they were left with responsibility for caring for children as a result of the bereavement. Only 29% received any financial support to do this.

“In my case having to take over my grandkids and bring them up and trying to support them through the loss with no help while trying to deal with my own grief.”

In half of these cases (51%), parents of the victim acquired responsibility for their grandchildren, often where one parent has been killed by the other. Families talked of blocking out their own grief and trauma in order to deal with the needs of the children. In the longer term there may be an impact on these

children due to having been ‘taken in’ by relatives as a result of circumstances rather than by choice²⁸.

“Myself and my husband had support following the death of our daughter but we found it hard to deal with her children emotionally. We were trying to deal with their grief as well as our own and we feel that there should be someone on hand at the time who could help in these cases when children are left through this trauma.”

Aside from the emotional strain, numerous practical and financial concerns can accompany this new responsibility; finding a new school, arranging legal custody, claiming benefits, making space for children in the home, applying to be re-housed or buying a bigger house. Homicide Service caseworkers have reported having to buy nappies, clothes and food for children who have arrived at their grandparents home with nothing and there being no money to buy these necessities.

In addition, families in this situation also have to deal with the enormously stressful issue of contact between children and the perpetrator. If a bereaved child is the offspring of both victim and the perpetrator where the child should go to live and what the guardianship and access arrangements are can be fraught. It may seem on the face of it to be obvious that the child would go to live with the victim’s family, yet this may not always be the case. One study found that children who went to live with the victim’s family tended to do better than if they were cared for by the perpetrator’s family²⁹.

Several families we have met have described the horror of civil proceedings concerning guardianship and the custody of children, when one parent has murdered the other and the suspect or convicted killer contests guardianship in court. While these proceedings are designed to ensure that the child’s best interests are met, there seems to be a further humiliation for families having to face a convicted killer in the court room arguing for access to their child, particularly on the public purse, when families had put themselves in debt to seek guardianship.

“We don’t understand how he is able to come to court to oppose the adoption, at public expense, when he has been convicted of killing her mother.”³⁰

The impact of a murder on children

Our survey found that there were surviving children in two thirds (66%) of cases. It is highly likely that these children will have experienced trauma and grief. In nine-out-of-ten (88%) of cases where children were involved, respondents reported that children’s psychological health had been affected. Of those, over three quarters (77%) said they thought the child required professional help.

“...the problem is children don’t want to talk about it – you do everything you can for your children to make it better but there is nothing you can do to take the pain away (when they lose a sister).”

Three quarters (73%) of children had difficulties at school following the bereavement. Previous research has indicated school-related problems, such as children having to move schools due to going to live with other family members, absence from school through truancy and bullying³¹. It has also found that families were not given any advice regarding dealing with the school and return to school³².

“...it’s easy for a child to be lost when they are going through school – some teachers don’t even know it’s happened [that they have lost someone].” [Olly group]

“...she has lost (an uncle)... And now she is afraid of losing me- she can’t talk to friends at school- they wont understand” [Olly group]

Of those thought to need professional help, three quarters (73%) did receive it. However, comments on the responses indicate that this advice/counselling was often not sufficient or effective, and many years later the children were still living with the effects, showing PTSD symptoms and disturbing behaviour.

[5 year old child who found his mother murdered by his father]

“(Three years later, he) will not go to the toilet by himself, or go upstairs by himself. He won’t even go into the garden unless someone is out there. He sees a therapist at school every Thursday. He still wakes up to make sure we are there of a night. I (the grandfather) had to find (the therapist) myself”.

Comments completed by people who were children at the time of the homicide and are now grown up reveal the consequences for them.

“I went to live in the care system and lost contact with home, family, and friends at a time when I really needed them.”

“I was 12 years of age when my single mother was murdered in our family home in the early hours of the morning. Me and my siblings were not offered any support whatever and I have struggled on for 22 years....The wilful neglect on every level regarding all of the departments and authorities should have offered more support and help has left my surviving family – 2 brothers and 1 sister in ruins. We were children! Everybody let us down. Nothing was ever offered, no counselling, no support, no understanding. Absolutely nothing.”

PTSD symptoms in children can differ from those experienced by adults. These may include self-blame, foreshortened future (feeling they will never grow up or will lose the other parent) and other specific symptoms. The age of the child and how much they are able to understand also has a bearing³³.

“My sister’s son is now nearly 21 and since his mother’s death has lived with me. He has found life very difficult and has not come to terms with the fact his dad killed his mum.”

“Myself, my husband and daughter and my granddaughter (4 at the time) took it very badly. My granddaughter had many issues. It’s hard to explain but you die inside and you eventually lose a whole family unit.”

Children themselves are also thought to be more at risk than adults of developing PTSD, and research indicates a lack of child-specific support, with less provision for diagnosis and referral for trauma than there is for adults³⁴.

A survey of trauma services conducted as part of this research³⁵ showed very little provision for children traumatised by homicide, and most services were unable to refer children on or signpost them elsewhere. Given that we know that trauma counselling is very specialised, it is of significant concern that in a tiny field of specialism, services for children in this situation are in such short supply.

Research has highlighted the paucity of support for children bereaved by homicide, the neglect of children’s emotional needs, a shortage of specialized services and long waiting lists for therapeutic support³⁶. This cannot be right.

The findings from our survey do suggest that children are gaining access to some help. However, there is certainly cause for concern about access to trauma and bereavement services, with many families having to pay for counselling for children themselves, when as highlighted they are often already under significant financial strain.

As one commentator concludes, ‘children, it seems, are the forgotten victims of murder. Although there is a common perception that children are resilient, I believe that we should be aware of the way in which they grieve, and should ensure that they can talk to someone whom they trust³⁷.’

“...children can’t go to adults and say ‘I am sad’ ... because they are sad too... we can talk to other children (at Oily) about the same pain.” [Oily]

CHAPTER 3: Practicalities

“I need help from a solicitor – I cannot cope with travelling. I cannot cope with all the paper work that needs to be completed. I cannot cope with all my financial problems.”

In the emotional aftermath of bereavement, practicalities may seem of little real consequence. However, in addition to the demands related to any bereavement – such as informing others, dealing with property issues, probate, notification of death to various agencies, legal forms, insurance claims, arranging the funeral – death by homicide generates a whole series of additional practical, but very pressing, demands.

For some their home may be a crime scene and they may have to leave the property for weeks, or even months. They may not be able to retrieve possessions, or possessions may become police evidence. Those families could therefore need not only somewhere to stay, but replacement items. Children may not be able to have their toys and other familiar things which could provide comfort.

On return they may need to clean up the property, remove bloodstained carpets, replace furniture and vital possessions. Where the perpetrator was the spouse of the victim, there are likely to be complications for the victim's family about gaining access to the property, and being able to sort out the victim's personal effects because the family may not be a named next-of-kin.

Where the victim has been the wage earner and the person dealing with the finances, surviving family members will find themselves suddenly responsible for ensuring that money is coming in and everyday bills and other items are being paid for. In the aftermath of a death with a myriad of other things to think about, these things can slip; bills go unpaid and debt starts to mount up. And because of the low income of many families, this then becomes another problem for them further down the line.

“Since my friend's death I neglected my flat and became extremely disorganised at home. I also avoided opening bills and official letters. I have only just started recovering back to my almost usual levels of functioning, and the murder was nine years ago. I also still make forgetful mistakes such as leaving my front door unlocked and open and leaving the hot water boiler on all day. I have been living without a working fridge and washing machine due to low finances/finding the will power to replace them and improve the quality of life.”

Under 'normal' circumstances this would be difficult enough, but following the trauma of a homicide, along with a post-mortem and criminal investigation (see later) and the emotional and physical effects, it may become hard to do even the basics. Many are completely overwhelmed.

“Finances were hard, because there was cost to go to court, and also because of the shock we didn't cook like usual and had to eat a lot of fast food, which was

expensive especially as I wasn't working and was divorced. Also as life goes on all around you, everything just stops with you and it's hard to sort things out like usual and you become a little forgetful. Also being a mother there are the kids that you're trying to help too. It's very hard, although my youngest was 17 they needed help too"

Caseworkers from the Homicide Service reported that they had been giving out food vouchers, and in some cases writing 'begging letters' to large supermarket chains in order to try and keep families going.

Housing problems

It is not only keeping food on the table and paying the bills that may become difficult. One problem raised again and again by groups working with bereaved families is the nature of housing problems faced following a homicide.

In our survey over a quarter (27%) said they had to move home as a result of the bereavement, but of those that did, only 29% received any help in doing so. Those living in social housing were more likely to need to move (37%).

For some it will be because the murder took place there or nearby. For others the perpetrator's family are living nearby, for others the changed family circumstances may necessitate moving, or the costs of bereavement mean that they sell their property. Families may feel the need just to move away and start again.

"The person who killed my daughter regularly stayed with my second daughter and her two children. She was petrified that he would return to the address at any time..." [he had been acquitted of murder the first time round although was later convicted at a further trial] "...She was renting from a housing association, and she literally begged them to move her to a place of safety. She was devastated when she was pushed from pillar to post, the bureaucracy was unbelievable: if you are a housing association tenant, the authority is not obliged to offer accommodation because of the shortage of housing. I therefore had to borrow £30,000 as deposit for a mortgage so they could feel safe. [The victim's sister] was on the verge of a mental breakdown with two small children."

Some may be able to fund a move or to live elsewhere temporarily, but for others reliant on social housing, trying to move puts them in competition with other people wanting a transfer on other grounds. For those unable to return to their home, temporary housing may be needed in the interim, but ensuring that a family do not put themselves in rent arrears or at risk of repossession by the local authority in such cases, will often require detailed and specialist housing advice.

"Our daughter was murdered in her grandma's house. Grandma still lives there but doesn't want to. She owns the home and cannot afford to move. My husband found our daughter, he cannot visit the house any more".

**“My daughter and I are still living in the same flat where my husband was murdered. Every day is a living hell for us. My daughter is 19 now and I am
“My other daughter cannot come in to the flat since her dad was murdered in the hall. There is no help whatsoever.”**

We heard from families who had been unable to move. One mother who wrote to us had witnessed her son’s death right outside her front door but the council would not give her priority for a move.

One family with four young children where the father had been murdered in the property could not face returning there and gave up the flat. The council are now saying she must apply for housing along with everyone else. She is currently staying in a hostel with her children, paying £80 a week in fares to get the children to and from school. Unable to work and traumatised by events, she could not keep up the payment for the storage of the family’s possessions and they have been destroyed. The family have lost everything.

In these situations, some specialist legal advice on the implications of these actions and, given the traumatic circumstances, someone to advocate for this family could have avoided this appalling situation. Housing advice and advocacy is a recognised field of expertise and specialism. Taking up cases with landlords and local authorities, understanding complex housing law and being able to make homelessness applications are all areas where families have needs that should to be met to avoid long-term problems.

Bereaved families said to us time and time again, that the period following the death is a time when there are significant decisions to make with long-term consequences, yet this is the time that families are probably least able cope with them. Unsurprisingly, their thoughts will be consumed by the homicide, and action that could help prevent problems later on will be understandably neglected.

Financial implications

“All our retirement money has gone as the funeral cost a fortune and we had to take a loan. ...with all the damage [the murderer] has done we are the one’s still paying - which to me is wrong. I should have the right to sue him for damages, and an attorney should be paid by the Government...no one is in our corner fighting for us.”

It has been striking to witness families who have been bereaved by homicide mentioning the significant and often untenable financial costs they face, almost as in passing. Although the financial loss paled against the human loss, it was clear that this was a huge problem that many were grappling with and therefore it has been explored in more depth as part of this review. In addition to questions on finances as part of the survey of bereaved families with SAMM, a group of bereaved families were asked to complete case study information about the types and range of costs they suffered.

Our survey showed that 59% had difficulty managing their finances following the bereavement and 44% had borrowed money to deal with the costs arising from the death.

One bereaved mother was given a bill of over £4,000 for unpaid rent on her son's council property. The police had kept his belongings including the keys for a significant period after the murder and because the keys had not been returned, the rent arrears built up. While such a decision could most likely have been challenged, she borrowed the money in order to pay off the debt.

Perhaps unsurprisingly, those living in social housing were more likely than owner occupiers to say they had difficulty managing the financial costs associated with the death. 63% said they had to borrow money (as opposed to 32% of owner occupiers), they were also more likely to say that the financial consequences were the hardest thing about the bereavement, aside from their grief.

The case study information revealed that in addition to costs such as funeral expenses and legal costs following death, there were a range of additional costs faced by families, often ongoing for years. These costs coincided with a period of loss of earnings due to not being able to work – the average loss in earnings among the case study families was £21,000 per year.

Out of the 36 families providing information, the most commonly incurred costs other than funeral costs were loss of earnings (35 families), legal costs (22 families), costs related to the criminal investigation and trial (22 families), domestic/household costs (21 families) and counselling (14 families).

The total estimated costs incurred by 36 families as a result of the homicide in their family was £1.3 million or £4 million if loss of earnings are included. This equates to £37,000 per family, or £113,000 if loss of earnings is included.

As well as probate and dealing with the victim's estate, legal costs were also incurred for residency orders, inquests, and in some road-death cases, paying for a civil prosecution.

"We had to sell everything [to meet legal costs], the house, and its contents and cars, also paid for from savings, loans and borrowing money."

[Financial cost study]

Some incurred accommodation costs where they had to move home (due to an inability to live where the murder took place) or had extended periods of board and lodging (during the investigation or trial) or because they had to find extra room for new childcare responsibilities:

"I was traumatised each time I set foot onto the road where I lived because the murderer and his family lived [nearby]. I was impelled to

move away, as the only conceivable solution to my dilemma, thus incurring costs to my family which were not planned.”
[Financial costs study]

Costs were incurred for counselling, and transport to and from treatment and medical costs such as prescriptions.

The criminal justice process generated financial costs, largely associated with travel, accommodation, and subsistence. On average, each family incurred costs of £2,500. For those where there had been a death abroad, the average cost was £4,000.

“(£5,000) travel cost ate up a lot of money as we were travelling between Scotland and England, we had also to have accommodation and food.”
[Financial costs study]

The majority got no help with these costs, although in some cases, support groups and statutory services were able to help out with this:

“The CPS arranged transport for me and my family during the trial for which I am very grateful.”
[Financial costs study]

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.

“Financially we are crippled...all of this to endure on top of our daily struggle to function and still a trial to come.”
[Financial cost study]

Criminal Injuries Compensation scheme

The Criminal Injuries Compensation scheme, run by the Criminal Injuries Compensation Authority (CICA) currently provides some compensation for victims of crime, and that includes families bereaved through homicide. Our survey found that 45% of families had difficulties dealing with CICA.

It drew many comments in our survey with families, and was described as ‘faceless’ and ‘judgemental’. Families found the level of evidence they had to provide to be intrusive, along with delays in payments, and reductions in payments where the victim had a criminal record. This was bitterly resented by families who had no criminal record themselves, especially when this

related to compensation payments for surviving children. As recorded in the section above, the costs that arise for families following a homicide or road death mean that financial awards are very much needed. However, CICA does not seem to deliver what families need.

“The CICA treated my family appallingly and added to the stress and strain we were all going through. The trial at the Old Bailey lasted eight weeks and so my husband and I have to take unpaid leave from work to be at court. The CICA would not help us financially until after the trial had ended, saying that we may take their money and not attend the trial if they paid before. This made us feel like criminals and was very hurtful – this was justice for my mother and there was no way I would not have given evidence to see justice done. We found the CICA to be very cold and not supportive or show any compassion.”

Homicide Service caseworkers report that it is administratively burdensome, and they have to use a great deal of paid and unpaid staff time assisting with the application, processing and appeals of claims.

With any impending cuts to the CICA budget, the evidence we present here of the very real and immediate needs of bereaved families, is timely.

The media

Another practical problem for families following a homicide is the often inevitable media interest. For the majority of families this will probably be their first direct involvement with the media and many can find it overwhelming and in some cases distressing, at a time of such grief. In our survey 32% of respondents found media intrusion to be one of the hardest things to deal with. And at such a time, practical help with managing public and media interest would benefit families.

However, very few detailed comments were made in the survey about the media. And many families we have met have found the media to be incredibly helpful to them at times, for example, in making appeals for information, raising awareness of problems, and to get their voice heard when no-one, particularly in the Criminal Justice System, would listen.

Conclusion

It is clear then that the practical challenges are very significant, they are ongoing, and they differ from those suffering other forms of bereavement. On top of the practical and day-to-day help needed, there is also a need for a more ‘hands on’ casework approach, including specialist advice being available in certain situations. It is a significant issue probably for a minority of families but if addressed, could help in the longer term to keep them from serious practical problems with long-term consequences and protracted disputes during a very stressful period.

CHAPTER 4: The criminal justice process

An almost unique feature of being bereaved by homicide is that at a time of terrible tragedy, of trauma and of deep emotion, as a family take in their loss, the criminal justice system starts to move into action.

It should be stated up front that despite the huge problems about to be recounted in regard to the criminal justice system, families unfailingly do want a perpetrator to face justice and will be unstinting in helping authorities achieve that outcome. However, that does not mean that their treatment by that system does not bear close scrutiny, and lead to some uncomfortable and at times shocking conclusions. The first being that the passage through the system is often cited as being as traumatic as the bereavement itself.

The detection rate for homicide and for death by dangerous or careless driving is over 90% – higher than for many other crimes³⁸. This means that most families in this situation will be involved in police and court proceedings. Around four-in-five homicides proceed to court³⁹, and since the guilty plea rate for murder is relatively low, the majority of cases end up in a contested trial⁴⁰.

So although murder remains a relatively rare event in this country (in 2009/10, there were 619 homicides in England)⁴¹ it can be expected that the criminal justice system will be a dominant part of the aftermath of such a bereavement.

Analysis shows that in about 6% of cases⁴², no-one is convicted of murder or manslaughter – a relatively low rate – although for every family for whom that happens, they are left with no-one being brought to justice for the killing of their loved one, and no legal closure.

In most bereavements under natural circumstances, the family is able to draw into themselves and their support networks, prepare for the funeral and are left with their grief. This is different to what happens when a family is bereaved through homicide, because the criminal justice process steps in.

While of course the family will want to know what happened, who is responsible for the death and ensure that they are brought to justice, the consequence of that involvement is the loss of control over your loved one. The Crown takes over – his or her body belongs now to the coroner and becomes ‘evidence’, which then determines what happens to it; the question of ‘what happened and why’ is appropriated by the State. It is not doing so in order to inform the family who will desperately want to know what happened, they are doing so in order to bring the offender to justice. That means that the family themselves will not usually be the first to know, and often seem to be the last to know what has occurred, who killed their loved one, and why:

“I sat there and I was so upset. (I thought) it’s my daughter not yours. How is it that you decide that I can’t see her?” That was most upsetting to me that they took

possession of my daughter...It was very, very upsetting to me that their criminal investigation took precedence over just letting me see her”
[Bereaved victim cited in Goodrum 2007]⁴³

Some families do not learn what happened at all, because the perpetrator pleads guilty before the trial goes ahead.

But particularly if a case progresses to trial, while the criminal justice system will begin to dominate a family's life, the system itself will barely recognise the family because they are not 'players' in the process; they do not have a formal role in how the investigation is conducted and no role in the theatre of the trial. The trial is the Crown versus the defendant.

In this way, the trauma of the bereavement can therefore be compounded or exacerbated by criminal justice involvement, preventing the natural grieving process and, at certain points, re-traumatising families⁴⁴. The research evidence suggests that people's experience of the system correlates with the severity of their anxiety and depression, so that in one study two thirds of the variation in bereaved families' depression was explained by their satisfaction with the criminal justice system⁴⁵.

This indicates very strongly that the criminal justice system adds to the pain of traumatic bereavement. Seen like this it is not surprising to learn that some research suggests that families who have no involvement in the criminal justice process actually cope better.⁴⁶

Families are involved in a search for truth about what happened to their loved one. But the system that takes over when a murder takes place is a system that by its nature is closed, which maintains secrets in the name of due process and justice – and therefore may often be reluctant to share their information with the bereaved family.

“I felt that I was not effectively kept informed by either the CPS or police. Ultimately I endeavoured to keep one step ahead at all times. I believe it wrong that I am not allowed to know which prisons the perpetrators were allocated to.”

Meanwhile, for bereaved victims, there is an almost compulsive need for information, to understand the specifics of the death. A study in 2002 identified that bereaved victims take in all the information they can from criminal justice agencies, friends, families and others which they analyse and evaluate in minute detail, assimilating or rejecting the information until they have a clear picture. At this point there is a certain resolution. If families are unable to recreate the facts for themselves, there remains a lack of resolution⁴⁷.

This need for information is part of the healing process, but if that information is not forthcoming, where the police do not detect or say there is not enough evidence, or where there is no trial, or where the trial does not answer questions, families have nowhere to turn.

In our survey of bereaved families, the criminal justice system was mentioned as the most difficult thing to cope with by 51% of respondents, second only to the effect on their health.

What does the 'system' offer these families?

There have been specific improvements for bereaved families. The police now allocate a Family Liaison Officer (FLO) to each family following a homicide or a culpable road death. The FLO has a liaison role between the family and other parts of the criminal justice system, as well as being part of the criminal investigation. The CPS has a 'victim focus' scheme committing it to a post-charge and post-conviction meeting for murder, manslaughter and road death cases in the Crown Court. There is a new protocol by the Court Service for bereaved families, and a draft coroner's charter setting out what families can expect (for all users of coroner's services, not just families bereaved by homicide).

Other 'offers' for victims of crime are applied to bereaved families. For example, there is a statutory victims' Code of Practice committing the police, CPS, courts, CICA, probation service and others to provide information within certain timescales; the CPS have a Prosecutors Pledge setting out how Crown Prosecutors should conduct the case. The Probation service provides a 'victim liaison' scheme for certain victims of crime or their next-of-kin, regarding some elements of the offender's movements within the prison estate, and release information.

In April 2010 the Government launched a £2m Homicide Service providing a homicide caseworker for all bereaved families where a homicide was reported to the police; families using the scheme can make use of 15 hours of free legal advice on civil matters from the co-op legal advice line.

So there have been developments in recognising the need for the system to provide information to families, and also for the Government to ensure there are services specifically for bereaved families.

Yet the research evidence, the survey of SAMM members and our direct contact with many families bereaved by homicide raise a catalogue of concerns and problems about how the criminal justice process operated in their case.

"I am currently involved in making a complaint to the CPS because a) I and my family believe that the prosecution was not adequately prepared or conducted: justice was not served by the manslaughter verdict which resulted from a complacent and understated prosecution, and b) we were not invited, as CPS is obliged to do, to a meeting with counsel before the trial."

As a family's tragedy becomes the property of the criminal justice process, their need to grieve, to say goodbye, to preserve the victim's memory and to find out what happened and why, comes up against that process. The

'process' is largely about the processing of the defendant and the case information, and less about the victim or the questions and needs of those who have been left behind. And this may rightly be so. But when families have understandable and often fairly simple requests which are not part of this 'process' refused (for example not to wait any longer to bury their child, to have a transcript of proceedings, a meeting with a barrister, to know before reading in the paper that the guilty party will launch an appeal or be released, or just to have some basic information about the case), it creates frustration and what many refer to as 'secondary victimisation' – the system is making the effect of the crime worse. This is compounded by the realisation that a system you may have thought would naturally 'be on your side' is nothing of the sort.

Identifying the body

With a natural bereavement, it is possible to touch your loved one, say goodbye, follow any cultural and religious rituals and arrange a funeral when the time is right. However, once a death is defined as a murder, the death becomes public property, and for the most part is in the control of others. Families feel helpless, out of control of events and bewildered at the same time as being traumatised by the death.

Family members are likely to be asked to identify the body. Many may not have seen a dead body before they see the corpse of their loved one:

"I had never seen a dead body before, so the first dead body I saw was my daughter. All I saw was a bit of her face because she'd had extensive head injuries and he'd strangled her and broken her jaw. I could not touch her. I regret that now but I was in so much shock".

[Bereaved mother cited by Victim Support⁴⁸]

They may be traumatised by the experience of seeing the body. Some families are advised not to view body at all due to its condition, which families have said they later regretted because they lost the chance to say goodbye.

Seeing and touching a loved one's body meets a basic psychological function in the bereavement process; it allows the individual to begin to make sense of an unreal situation. It also presents a physical way for bereaved victims to assert control over a chaotic situation (which can facilitate their recovery). It also of course ensures that there had not been a mistake in identification⁴⁹.

For some, this basic need is frustrated because they are unable to touch the body, because it is now evidence in a homicide investigation. Furthermore, the body may stay in the morgue for extended periods while investigations proceed and while post-mortems are carried out (see below). In this unnatural state between death and burial, many families wish to visit their loved one. We have been told of distressing situations where the morgue refused to allow grieving family members to view the body more than once or the access for all family members who want to view the body has been denied.

“When we were allowed to go to see him at the hospital, because it was a murder inquiry, we were only allowed to see him for a few minutes and told not to touch him in any way. We didn’t have a chance to say a proper goodbye. A few days later we were allowed to see him at the mortuary. This time he was behind glass. His body was frozen. We could not touch him and be with him, only see him behind glass. How could we say a proper goodbye?”

[Letter received by the Victims’ Commissioner’s office]

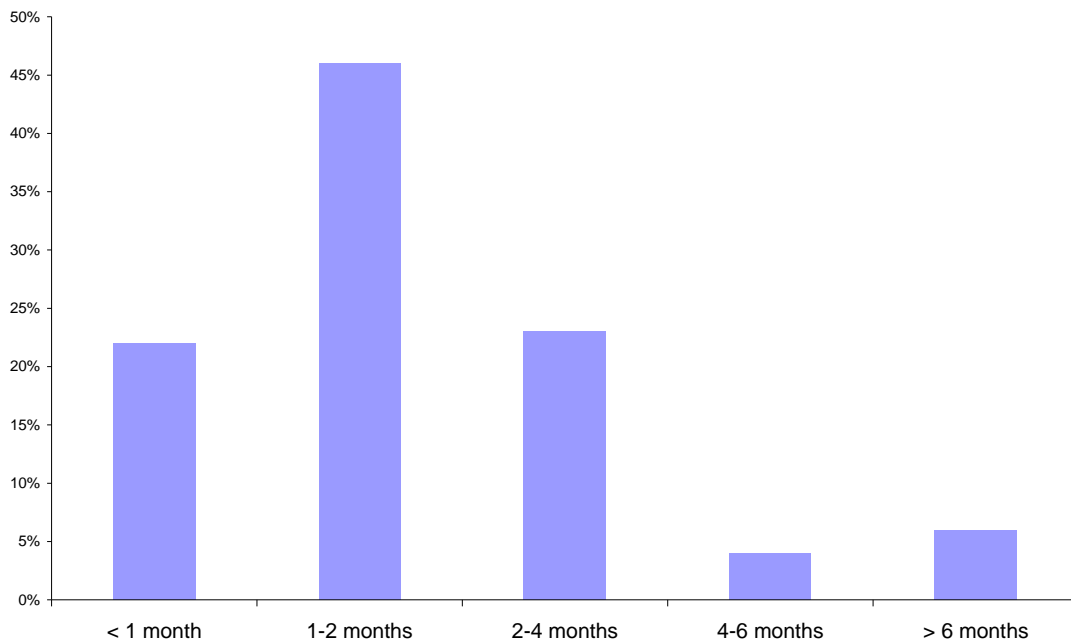
Post-mortem(s)

It is the role of the coroner to investigate unnatural or suspicious deaths and, following a homicide, the coroner takes control of the body, ordering a post-mortem to establish the cause of death.

Because the body is evidence, a suspect can request their own post-mortem and where there is more than one suspect, each can seek an additional post-mortem. If granted, this means that the victim is subject to further examinations. In our study, the average number of post-mortems was two, but the numbers ranged from one to five. 15% said there were three or more.

Additional post-mortems cause delay in burial, with a third of respondents waiting longer than two months – and 6% waiting over six months for the coroner to release the body for burial.

Chart 5: How long did you have to wait until you could hold the funeral?



In one case described, the mother of a murdered 35-day-old baby suffered removed organs, separate and multiple post-mortems and a significant delay with release of the body. She buried her baby on what

should have been its first birthday. A recent case reported to us again involved the death of a baby in 2009 and at the time of writing (May 2011) was still waiting for her baby's body to be released.

"Losing our daughter in such tragic consequences was hard enough. My heartache was not being able to have her back with us for over 5 weeks. This will haunt me for the rest of my life. We had no control over her death or aftercare. The young woman of 29 years with a young son, whom I gave birth to was not my responsibility...I feel that I was left in purgatory till we had the funeral."

"[respondent where there had been five post mortems] What exacerbates the process after [the murder] is the length of time you have to wait for a funeral and the distress caused to victims when post mortems are carried out for each defendant. There should be a restricted timescale and only one post mortem should be undertaken."

The 'Draft charter for the current coroner service (issued in May 2011)⁵⁰ states:

"Where there is a criminal investigation into the death, the coroner's office must release the body for funeral within 30 days of the death, but normally it will be much sooner than this."

This timescale has been the subject of guidance for coroners and of a memorandum of good practice⁵¹ agreed between the Coroner's Society, the Association of Chief Police Officers and the Law Society in 1999. One might expect this to have had an impact over 13 years. **However, our survey shows that 79% of families waited longer than a month to bury their loved one.** We found no significant difference between more recent and older bereavements in terms of the length of time families waited for a funeral, nor in the average number of post-mortems. It is hard to be confident that the new draft charter for the coroner will improve this.

The memorandum of good practice also states that "where no-one is charged in connection with a death within a month, provision will be made for a second, independent post-mortem for use by a defendant in the future, if required."

However, delays experienced by families in our survey suggest that this is not happening. We heard that coroners remain reluctant to release the body out of concern for a future suspect's right to a post-mortem. But there are also financial concerns, since a second post-mortem ordered by the coroner would be paid for by the coroner, whereas a post-mortem sought by a suspect would usually be paid by legal aid. While these tensions play out, the victim's family have to wait, unable to say their goodbyes.

These practices seem to dehumanise victims and subjugate a family's sensitivities to the whims of the justice system process – and reveal their powerlessness. For many families, the idea that the perpetrator can

still control the victim in death through delaying their burial is deeply distressing.

Again, it is in no way to be taken that a bereaved family wish to stand in the way of getting a perpetrator convicted for the crime – only for some consideration to be afforded to their needs, which would not compromise justice. It should be noted that in Northern Ireland, a body is released for burial, usually within days and successive post-mortems are not permitted. It seems possible to balance the defendant's rights, those of the victim and their family, and the interests of justice. This makes it all the more difficult to understand why the system cannot change.

The police

In our survey, 76% regarded the police as fairly or very supportive. Families are appointed a Family Liaison Officer (FLO) following a report of a homicide or a culpable road death. The FLO is a police officer and part of the investigation but their role with the families is often very positive and in many cases, families have developed very close relationships with their FLO, keeping in contact many years later.

“The police were wonderful.”

“There was help...from police liaison and they were brilliant.”

Where there is no suspect, or the suspect is acquitted, families tended to have more concerns about the police – for example about the closure of cases and the lack of mechanisms for reviewing cases with the involvement of the family. In cases that go on for years, so-called ‘cold cases’, this is a significant issue for families and there do not seem to be any nationally agreed guidelines or protocols for reviewing cases in these situations. In these cases the lack of information and lack of transparency for families – often when the dominant and over-riding thought in their life is what happened to their loved one and ensuring justice is done – is enormously frustrating.

“My partner was murdered 13 years ago. There were no arrests and I last had contact with the police about one year after it happened. I thought murder cases got reviewed every so many years, and if so, do the police update families of their findings? It feels like nothing has been done for years.”

Clearly families should not be privy to all information about the investigation or a suspect. But the opposite sometimes seems to be the case; that families are left in the dark without being informed and updated about what is being done, if anything, and why. If families were to be treated humanely, they would be supplied with appropriate and timely information in order to start to gain some control over the circumstances they find themselves in.

“Feel very angry and let down by the investigation CID team. Because we are poor we have no money to open up X's case. We have to wait forever. My poor dad died not knowing who took X's life. We all died anyway that day”.

Homicide reviews have been introduced this year by the Home Office, after successful campaigning by Advocacy After Fatal Domestic Abuse (AADFA), which means that agencies are obliged to look at and learn lessons from a death involving domestic violence. In other fields, the review of a death where services have a history of involvement is recognised, for example through a serious case review following the death of a child where social services have been involved, or an independent investigation being undertaken after an 'adverse event' in mental health services, which includes when a homicide has been committed by someone who has been in the care of specialist mental health services.

It would be interesting to consider the case for whether reviews should be conducted more widely following a homicide, so that the family and agencies can learn what happened and services can look to see what, if anything, can be learnt in the future.

The investigation – the search for truth

For families and friends of people who die in any circumstances, particularly where that death is unexpected, there is a natural urge to find out what happened and why.

We have already set out above the importance of information to families – and research confirms that there is a significant pre-occupation with the circumstances of the death and, with this, a need for precise and accurate information⁵². In part it is about trying to wrest back control and about 'making sense of the senseless'. As one commentator notes: "In their search for meaning they will have an avid hunger for information about the offence, offender and criminal justice system."⁵³

"In my opinion all families in this situation need the following: 1) The Truth 2) Information, 3) Support. Things have changed but police and court system have still not got it right."

It is also about bearing witness for the victim who cannot speak for themselves or explain what happened, and so there is a need for families to understand it on their behalf.

There is major expectation that the investigation and the trial will offer up information and provide answers to them. The families discover, however, that this is not 'their' case. The information they get is dependent on what the police officer is prepared to reveal to families, and while many families praised the police for sharing information with them, the overall tendency of the criminal justice system is to be closed, not to reveal information for fear it may prejudice the case. The Code of Practice for victims of crime (which applies to bereaved families) requires police and others to keep victims updated every 28 days and at significant points. However, for bereaved families, who of course don't want to jeopardise justice but have an intense need for

information, their need to understand what is happening in the investigation, is nowhere near satisfied.

Families wanted to be informed at every stage of the process, and there are a number of early hearings in any murder trial (for example at charge stage, bail applications and at the plea and case management hearings). Families have described feeling that these were 'secret' hearings before the main trial. They are not secret, but illustrate that where information is not freely given to those with an interest in knowing, it feels like information withheld.

Given that a defendant could plead guilty at one of these hearings, the hearings could actually be very important for the family. Currently, there is no obligation under the Prosecutors Pledge, the Victim's Code or the Victim Focus scheme for families to be informed of these hearings.

Families have described the experience of arriving for a trial, and being informed by 'people in wigs and gowns' that the case has changed and that the Crown intend to accept a guilty plea to a lesser charge. In considering whether to accept a plea, the prosecution should consider the views of the family. But families report that they feel as if they are being informed, not consulted. This change in the case may come as a huge shock to the families, and while they may accept that this cannot be the family's decision, greater respect and care should be afforded to families at this time.

Having waited for perhaps twelve months for a case to come to trial, the chance to hear what has happened and for the perpetrator to be brought to account, the trial is a very significant moment. How then does it feel to be told 'at the door of the court' that it may not go ahead, that the perpetrator will plead guilty to a lesser charge, and to be given a few minutes to think it over?

And the long term damage to those families is immense.

"We thought all along there would be a trial. On the trial date we were taken into a room and they put it to us that they had made a deal. We had 10 minutes to make a decision whether to have a court case. They said if we did he could get off. We didn't have a solicitor 'til after the trial. He got four years. I only heard half of what he did I cannot see any of the statements."

Where the suspect pleads guilty at an early stage, families may never get to hear about what happened and why. And whereas many victims of crime will want to avoid giving evidence in court and want to avoid a trial, many bereaved families often want to hear everything there is to know because they have little other access to information. The admission of guilt (in particular where this afforded a sentence discount) is therefore resented in some cases, leaving the family with unanswered questions about what had happened and why.

The trial

Homicide is unusual in that there is a contested trial in the vast majority of cases. In our survey 83% respondents said the case went to trial, which is broadly consistent with the national picture.

The trial is often looked to with anticipation as a means to get justice and information about what happened, but the reality for many families is that it is a stressful and upsetting experience. A third of respondents to our survey did not feel that anyone ran through with them how the trial would work, and what to expect. As a trial in homicide cases is more or less predictable from early on, there is a strong case therefore that families should be as well-prepared and given as much information ahead of time as possible. Many families were ill-prepared for the revelation of details during the trial; information about their loved one, and members of their family, as well as graphic details about the murder.

“Victims should be better prepared for the horrific details that emerge during a trial. We knew little of extent of injuries, number and severity inflicted on our beloved, wholly innocent daughter and were re-traumatised to an even worse state by the trial – and then nothing – no help.”

“The trial was worst for me, although he pleaded guilty, the details of my child’s death were revealed. Mental health problems occurred. Haunts me forever, awful death, 16 times he stabbed her. Not satisfied with sentence of 20 years.”

“...The first time we found out the details of what happened, was at Court five months after it happened. This was very difficult, both for his friends and us. It adds to the grief and frustration. Sitting in Court, hearing for the first time the details of how your son was murdered. It destroys you.”

[Letter received by Victims’ Commissioner’s office]

Over half our survey (55%) found the CPS not to be supportive of the family and there were serious concerns about them in some cases. The ‘aloof’ attitude of the prosecution barristers has been frequently raised. While families viewed contact with the prosecution as of significant importance due to it being about the trial of the person who killed their loved one, they were often disappointed to find the barristers barely acknowledging them. As one person said – ‘I wanted to meet the person who would be representing my daughter’. Prosecutors had refused to speak to a victim’s family following an acquittal of the suspect in her murder after a lengthy and distressing trial at which the family were assured of conviction.

“The barrister dealing with the court case never spoke to me before or after the court which has and still upsets me.”

Victim peer support groups highlighted to us that having personal contact with the prosecution barrister seems to help families cope better with trial, perhaps due to a sense of recognition, or feeling that someone is on your side in proceedings.

Families also spoke of the victim's reputation being damaged in court by the defence without the prosecution objecting, despite the Prosecutors Pledge committing them to intervene in such circumstances. Intimate family information was often revealed and used by the defence in ways which did not seem relevant, sometimes without intervention by the prosecution. And while they wanted to see justice done in a public trial, the details revealed therein often seemed to cast aspersions on the victim or other relatives which left them ashamed and enraged.

"... throughout the trial it felt as if my husband [the victim] was on trial."

"I found the trial was more stressful than anything else.....the defence tried to rubbish my family, my son and myself to defend the murderer. She had to make an apology at the end of the trial – too little too late."

Where the victim is not able to give witness for themselves, the bereaved family feel they must 'do right' by their loved one. The dissection of details of the victim's life can cause enormous personal distress and with no power to intervene, compounds the sense that no one is standing up for them, whilst the defendant has a whole legal team to stand up for him/her.

"The CPS was awful, we had to sit in court next to the family of the murderer. We weren't told anything from the CPS."

These kinds of events may make them fully aware of their lack of status. It is not 'their' case so they cannot object, challenge the prosecution, or ask the judge to intervene. They are voiceless. And while our survey indicated that those bereaved more recently were more positive about the CPS, there were cases where family members felt they were not treated any differently from members of the public.

This was reinforced for some by finding themselves sitting with the offender's family in the public gallery.

"It's terribly wrong that we had to sit with his four murderers' families in the court for a month and listen to them laughing and joking while our hearts are broken."

Where family members are also prosecution witnesses in the trial, they are kept separate during proceedings for fear that they may 'contaminate' the evidence. This is particularly upsetting for families where the witnesses may be children. Meanwhile, a practice direction on vulnerable *defendants* including young people, highlights the importance of the defendant "being free to sit with members of his family other others."⁵⁴ It is hard to understand why such care can not be taken for child victims or witnesses.

Previous research has highlighted a sense amongst those bereaved that the offender is given more support and consideration than themselves⁵⁵.

“Victims are treated unfairly in the court system. The CPS are doing their best, but with the accused getting legal aid, they are playing catch-up in expenses. In my case the defence had two barristers and two solicitors, we had one trying to do everything.”

“Very difficult to grasp the support the Criminal Justice System gives to the accused. It felt at times as if my son was on trial for the whole experience. Very traumatic. Was not aware of any help until seven months after my son’s murder when I was put in touch with Victim Support by a friend.”

Not all cases will end in a conviction – around 6% of trials, the defendant is acquitted⁵⁶. In these cases families often feel bewildered, angry and let down. One family said to us that the prosecutor left the court without a backward glance, yet the family was left with so many unanswered questions – often they are left not knowing what, if anything, they can do to seek justice in what becomes an unsolved case.

A pilot scheme where the CPS meet a bereaved family following an acquittal has been running since 2007. Justice After Acquittal, an organisation which campaigns on this issue, have been pressing for such a meeting to be available in all murder and manslaughter acquittals in order to answer a family’s questions and identify options.

“I feel that there is very little support if the accused is acquitted. All the literature etc. talk in terms of a conviction and its as though the death and loss we have experienced is minimised. I have felt abandoned following the trial even though the accused admitting punching my husband and causing the injuries that lead to his death.”

The Victim Personal Statement (VPS)

While bereaved families do not have status within proceedings, they can, like other victims of crime, make a statement to the court explaining how the murder has affected them. These Victim Personal Statements (VPS) are designed to inform the sentence and therefore only used if there is a conviction. It gives families the only voice they have in proceedings and it is a chance to put a human face to the victim who is no longer there to speak for themselves.

“I did a VPS and judge said he had read it more than once. It made me feel better. But I can write well – what about those who can’t? There should be an advocate to help.”

[Green Paper consultation]⁵⁷

However, partly because the purpose of Victim Personal Statements has not been clear and they do not ‘fit’ easily into the way that courts operate, the statements have become absorbed into the legal procedures. They therefore form part of the ‘evidence papers’ and are often ‘noted’ by the judge rather than read out in court. This undermines the purpose of them for some families, who may see them as a moment for all present to remember why there is a trial in the first place – the victim.

“At trial the victim is not heard from and lies can be told. The impact statement made us feel part of the process, important and listened to.”

[Green Paper consultation]

Since they are part of the evidence papers that are served on the defence, the defendant will see the statement even though it will only be used in the event of a conviction. Families have highlighted their anger that where there has been an acquittal, the defendant has seen this deeply personal information when it would not be seen or heard by the court.

Some families want a supporter to read it out their statement in court. Others want to read it out themselves, or via live video link.

Most critical for the families is that they be the ones to choose how it is delivered – by a family member, a family supporter, by the prosecutor – or not read out at all in court. However, it is currently down to the individual judge’s discretion to decide when and how it will be read out. So what would seem a small but important role for a family in the legal process is directed by the court and not within their control.

“Should be at the victim’s discretion as to whether it is read out in court and not down to the individual judge”

[Green Paper consultation]

The sentence

For most families there will not be a sentence that can reflect the impact of the loss of their loved one, and this report is not the place to delve into great detail about victims’ wide-ranging views on sentencing. This was covered more thoroughly in our response to the recent Green Paper.

Two- thirds of all convictions for homicide are for murder, and a third are for manslaughter. While murder convictions always result in a mandatory life sentence (with an average tariff of 15 and a half years for an adult murderer), only 9% of all manslaughter convictions result in a sentence of more than 10 years.

In road death cases, sentences are much lower. Over half of deaths caused by ‘careless’ driving do not receive a custodial sentence. For the more serious charge of death by dangerous driving, 90% receive custody, and 31% receive five years or more.

In our survey, nearly all (93%) cases that went to trial resulted in a conviction. There was undeniably anger and resentment at the sentences received in many cases and it is not hard to understand that families feel it is they who receive a life sentence following the death of their loved one. These views are to be expected and should not be assumed to be borne of vindictiveness.

“The man who killed my son got off with murder, he got 9 months for assault and did 9 weeks. My life has been totally destroyed, I received the life sentence, his life goes on. I miss my son so much it hurts every second of the day.”

“My life will never be the same. The person that killed my son got 7 years. He went to appeal and got 5 years then was released after 2 and a half years and since he killed my son he has been in and out of prison. I think the police do all they can but the justice system is all wrong. I have a life sentence.”

However, we have found that the passing of sentence is perhaps one of the most important moments for the bereaved family in homicide cases. However, it can be particularly difficult to absorb the judge’s sentencing remarks, which can be fairly complicated, and understand how s/he has come to the decision on the sentence. Yet in the weeks, months and years following, it may come to preoccupy families, particularly if there are issues that they do not understand, or lack of clarity. Given what is at stake both for the family of the victim and the offender, the decision-making process should be as transparent as possible; sentencing remarks in these cases should be put in writing and made available to the victims’ family automatically. This does not occur now and would be a simple way to give consideration to a family’s needs.

“Victims should have the same right as offenders to have sentences explained to them properly.”

[Green Paper consultation]

While an offender can appeal against sentence and conviction, a bereaved family has less recourse in the event they are unhappy with the sentence imposed. There is a provision for the Attorney General to ask for sentences for certain crimes (including murder and manslaughter) to be looked at again under the Unduly Lenient Sentences provisions. This must be done within 28 days of the sentence and can only be considered if it is a sentence that no reasonable judge could have come to. Families were concerned that this possibility was not communicated to them, and only if they approached the CPS would they be informed, at which point there was often little time.

Trial transcripts

Some bereaved families wish to obtain part or all of the trial transcripts, which would appear at face value to be, again, a small and straightforward request to grant. Families often refer to the ‘closure’ they feel it would bring; it is part of the search for information. The trial itself is emotionally wrought, and it is almost impossible for the families sitting in the public gallery to take in what is said – but a written transcript provides a basis for them to read closely and at their own pace what occurred, as well as to get a better understanding of the sentence.

Other reasons given by families include wanting to read parts of the proceedings that they were either unable to attend, perhaps because of illness, or prevented from hearing because they were giving evidence

themselves later in the trial. Others speak of the need to pass information on to other family members who were not present. One parent had been unable to attend the trial for a single day due to ill-health induced by the stress of the case and it turned out to be the day the man who murdered her son was cross-examined. She has still been unable to obtain that one day's transcript to this day.

Even though trials are public, the transcript is not deemed a public record and so it is not provided openly. Provision of transcripts is at the discretion of the trial judge and families must write to the judge asking for a transcript. Not all requests from victims' families for transcripts are granted, but even leaving that aside, the real problem is the cost, which families are usually asked to pay for. The average cost of a transcription service is **£135 per trial hour**. An average two week murder trial transcript would therefore cost around £3,500, and of course some complex trials could be months long with the transcript costing upwards of £10,000.

"I have been given an estimate of £4,500 but have not been able to get this money together, so do not have a copy yet"

[Financial cost case study]

"We were told it would cost us many hundreds of pounds to have the transcript. By this time our savings were dwindling and we couldn't afford this amount. I felt incensed that they expected us to pay all these things ourselves."

In our survey over half (51%) wanted a transcription of the trial, but only 15% were able to obtain one. Awareness was also an issue, with a substantial number indicating that they did not know this was even possible.

The primary purpose of transcripts is to ensure that the Court of Appeal has a record of proceedings for cases taken on appeal – the record of the trial is also used during proceedings to check what a witness has said during the trial. Because appellants have a formal role in appeal proceedings, they have a right to transcripts, whereas victims' families do not.

"A plea bargain was accepted. It was very difficult to hear in court and we spent weeks trying to get a transcript that we would have to pay for – but [in the end] the Crown then gave us a copy of the agreed statement that was read out, at no cost – why couldn't we have had this before?"

If an offender appeals against their sentence they can obtain a copy of the sentencing remarks. If they appeal against their conviction they can get a copy of the sentencing remarks and summing up. If they are in receipt of Legal Aid, it pays for the transcript and the offender receives it for free. They receive this at the "leave to appeal" stage. 70% of all appeals (i.e. not just homicide cases) fail at this stage – and so the transcripts just sit on the record⁵⁸.

There is an important balance issue in this. Of course the defence and offenders should have access to the record of proceedings. However, other than in unusual situations, such as in public interest considerations, the

transcript is not restricted information which could prejudice justice. Families' interest in having it is about the need for information which would really assist them. It would be a small gesture to recognise this.

Appeals

Many families describe the end of the trial as a massive anti-climax where any support received fades away as the criminal justice process seems to stop. Currently, the CPS offers a meeting after the conviction to advise about likely sentencing and to check the Victim Personal Statement.

However, there are many questions following a trial, whether there is a conviction or not, including what the sentence means and what may happen next. But many families are not prepared for what may about to unfold because, in actual fact, the criminal justice process is not over.

The offender can appeal both the conviction and the sentence. There are no figures for the amount of homicide appeals there are, but it is known that across the board, 10% of convictions are appealed – around 7500 each year. Of these, around two thirds are an appeal against the sentence and one third against the conviction itself. Of these around 70% of applications are not granted leave to appeal.

If the defendant intends to appeal his/her conviction or sentence, they must first seek leave to appeal. But there is no obligation on the defence to inform the CPS at that stage, nor any obligation on the CPS to let the family of the victim know. That can mean that the media are informed of an application for leave before the family are, so that the first the family of the victim may hear is when they read about it in the papers.

To hear about an appeal is likely to prove a shock to families, yet no-one is responsible for explaining what is likely to happen to them. The family could contact the FLO, but often FLOs are not familiar with the processes and outcomes associated with appeal. Therefore at a time when families need explanation and reassurance, there may be no one to help. It takes around five months for an appeal against sentence to be heard, and around eleven months for an appeal against the conviction to be heard. Since the court prioritises those with shorter sentences for obvious reasons, appeals against murder or manslaughter will take longer.

In this way the victim's family remain tied to the perpetrator as s/he exercises their rights through the system, and feel they are left in a state of limbo once again. Although of course it is right that an offender has leave to appeal, such a difficult time for a family could be mitigated by having support and information about the process in a timely and knowledgeable way.

Victim Contact Scheme

The National Offender Management Service run the Victim Contact Scheme that provides information to victims on an 'opt in' basis, about when certain offenders move prison or are being considered for release. This service is also offered to bereaved families on an opt-in basis – that is to say they are written to and asked if they want to be kept informed. The 'Offender Manager' keeps the Victim Liaison Officer (VLO) up to date with certain issues around the offender being moved to another prison, any information about day release and parole hearings. VLOs are supposed to assist victims to input into release conditions.

Following the trial some understandably may not wish to hear any more about what is happening to the offender. But many do, and for others they may change their mind as time passes, and decide that it is something they want to know about. Several bereaved families have said to us that the letter 'inviting' them to opt in to the service arrives soon after the conviction, saying that the service can offer information about the release date. A release date could be the last thing families want to hear about, coming as it does shortly after sentence without context or explanation.

During this review we received many complaints about the Victim Contact Scheme. Concerns about the scheme from victims or their families form the single largest subject about which the Victims' Commissioner receives correspondence.

The concerns principally concern a lack of contact and lack of information; spurious withholding of information on the grounds of prisoner's 'human rights' or 'data protection', failure to pass on information, and the appropriateness and timeliness of information.

"The person that killed my father was sentenced to 17 years minimum in 1994. This has now passed and we are left in limbo as we have not been told whether or not he is getting out soon."

"It is now six years since my brother's killer was released and we have had no contact with anyone from the probation service. No word on if there has been any changes to his life license, in fact we feel as though we are treated as no longer victims anymore but our suffering goes on as does his life, unlike my brother's."

The lack of any contact from the VLO was raised time and time again. One bereaved father said he had never received a phone call from his VLO – if he wanted to know anything he had to follow it up himself.

"I write to the mental health team once a year to ensure he is still being supervised. As the victim I think we should be given an update without asking."

Another received reports that the offender was doing well at literacy in prison. As the mother of the child who he had murdered, she was more

interested in knowing if he was expressing remorse – but was told that this information was restricted.

We have also received high praise about some individual VLOs, but they are a small part of a very much larger organisation that by its nature has as its focus an offender's management and rehabilitation, rather than the needs of victims.

There is an ongoing sense that the Victim Contact Scheme provides information which suits the service rather than the victim or their family. Families can be told that it would breach the offender's human rights or data protection laws if the location of the prison were revealed, (never mind that a victim just wanted to know he was secure and far away so she could sleep at night). It is difficult to ascertain whether this is misinformation, obstruction or ignorance of the law, but what it does is confirm to victims is that the system does not rank their needs as a priority. To many families it simply fuels a sense of unfairness and can lead to anger.

"I want to know where the two people are who murdered my only son. I found out a few times but because one of them moves prisons I find it hard to contact or get response from liaison officers. Feel just left to get on with my life but that's not possible anymore."

"[The] Probation service sent me a letter with the wrong prisoner's name on saying she would like to write to me. I rang them and questioned wrong prisoner's name and said I do not want her ever to write to me. They sent a letter of apology and on back was a letter from the perpetrator I'm sorry I killed your son. Disgusting."

"The person convicted was released from a secure hospital and we were not informed. Saw her walking down the road with her care-worker."

Parole and mental health tribunals

A victim's family can now attend parole hearings, although numbers choosing to do so is low. The family can make representations about licence conditions – for example, about no contact conditions or an exclusion zone. They may also make a Victim Personal Statement describing how the crime has affected them, its ongoing impact, and the impact the perpetrator's release would have.

However, the parole board is examining the *risk* posed by the offender today, rather than the harm they caused in the past, and therefore the status and purpose of that statement is not always clear. The setting of licence conditions too is related to risk, and not to the impact of the perpetrator's release – and therefore what the victim's family feel, or their needs, is not seen as relevant.

"I would like someone to help now the person is to be let out of prison next year. We are all very frightened."

The Parole Board has also been known to refuse access to victims, and one bereaved mother told us that her husband was not allowed to be in attendance to support her.

There is no-one to argue the family's point of view, whereas most offenders have a solicitor to represent them. This adds to the feeling that the offender has the advantage. It should be much clearer what the status and purpose is of the VPS and of the family's attendance at parole hearings.

Where an offender has a mental disorder, the court can admit them to hospital rather than prison under the Mental Health Act 1983. In these situations, information is even more restricted. Bereaved families are informed if the offender is being considered for discharge and may ask for conditions to be applied. Other information, such as progress in hospital is deemed confidential. Hearings are held in private and attendance is not normally permitted. We have heard from one mother who had been refused to be able to attend a hearing of her son's killer. The judge's words were:

“Whilst I can well understand the anguish and very strong feelings of the mother of the victim of the index offence, her wide-ranging statement does not comply with the limiting provisions of the Domestic Violence, Crime & Victims Act 2004 and accordingly would in its present form be inadmissible as evidence... [The judge had been informed that] ...if the patient were to hear Mrs X evidence it would have a deleterious effect upon his health and recovery.”

She wrote to us:

“Instead of being diminished, my suffering is enhanced by a process which is unclear and misleading. After 5 months of renewed emotional torture [trying to get information about the hearing], I feel left out in the cold, with no means nor power to change this situation and the bleak prospect of having to do it again next year when the perpetrator may seek release or transfer to low security or care in the community placement.”

Overall experience for families of CJS

Our survey showed that those bereaved more recently felt that the police, and the CPS, were more supportive than those who were bereaved some years ago. While encouraging, the difference was not statistically significant. This indicates that despite the presence of codes and charters, problems remain. And when problems do occur, there is little accountability in the way of redress for victims. What is available is offered as an 'extra' rather than a right.

Perhaps even more importantly at a time of extreme vulnerability, there is no part of the statutory system which has as its focus a victim or the family's interests or is on their side with any power to challenge the legal system, the police, the courts or the judiciary.

Because the family have no formal role in proceedings, they have no rights. In this sense they are in an even weaker position than court witnesses.

But it is plain to see that while families have no formal status in proceedings, every step of the criminal justice process matters to them a great deal. The post-mortem, the investigation, the pre-trial hearings, the trial itself, any appeal, and the offender's progress through custody and back into the community (where that happens) all matter to families. It is part of their search for truth, to establish what happened and why, and to bear witness for their loved one to ensure that justice is done. In this sense bereaved families have a very legitimate interest in the process. And information and understanding are also important parts of the healing process.

Yet, they have no-one to argue on their behalf and therefore:

- There is no-one to argue for an early release of the body so that a loved one can be buried.
- If the police cannot find a suspect and want to close the case, or if there has been an acquittal, who can challenge the police to ensure they are reviewing the case?
- Who ensures the CPS has taken into account the views of the family if they are considering accepting a guilty plea to a lesser charge?
- How can a family challenge the prosecution if they fail to object to defence maligning of the victim's reputation?
- Who do they complain to if they cannot get a transcript?
- How can they ensure their Victim Personal Statement is read out in the court room?
- Who do they turn to if evidence is deeply intimate and personal and they believe it should be given privately?
- How can they challenge a decision by the probation service not to share information about which prison the offender is in because it would affect his human rights?

There is much at stake during a homicide trial for the defence and for the prosecution. But there is also much at stake for the victim's family, and denying an acknowledgement of their role only ends up fuelling resentment.

We conclude that it is time to consider how the legitimate expectations of families, their right (and the right of the victim) to be treated with humanity and dignity in the aftermath of a homicide and a time of extreme vulnerability, can be met.

It is interesting that in many other areas of social policy, there will be an advocate for families – citizen's advice bureaux, specialist housing, immigration, employment or welfare advice; indeed few accused of a serious crime would rely on their legal rights by themselves, without the support of an advocate. This is because rights and entitlements tend to be more readily observed where someone is arguing on their behalf. In a system full of

lawyers, it is unsurprising that the one group without any representation is the group that feels it is the bottom of the pile.

CHAPTER 5: Support services for families bereaved by homicide.

The preceding chapters have looked at the type, range and depth of problems which families face following the death of a loved one through homicide and reveal that in many respects, we can predict those needs. This is important in terms of the services that are required to respond to those needs.

This chapter looks then at what services are available to support families, and examines the extent to which those services are capable of meeting families' needs and what more needs to be done.

“The focus is very much on the wrongdoers, rather than the victims. No-one talks about our welfare or rehabilitation and I think we are left to suffer quietly on our own. It took a lot of effort for me to find any support/counselling at all, and this was at a time when it was difficult to make calls, talk to people etc. We need concrete and practical support – long-term!”

What needs should services providers be meeting?

We can predict with a reasonable degree of accuracy how many families will be bereaved by homicide and culpable road death each year. Therefore the number of household members in total who will need a package of support, including the need for specialist support for children, can be estimated.

We know that bereaved families will be suffering trauma, that many will display symptoms of Post Traumatic Stress Disorder (PTSD) and that many are still suffering from PTSD. We know that the assessment for presence of trauma and PTSD symptoms should happen early on after the loss of a loved one, and that appropriate support needs to be available within the early months of the bereavement.

We know that families are faced with a plethora of practical problems for which they need help with in the days, weeks and months following bereavement by homicide. These were cogently described in *“In the Aftermath”* a report published by Victim Support in 2006. A clear message arising out of that report was the need for someone to take charge of such problems for the family; a gatekeeper – someone to help with sorting out appointments, keeping unwelcome intrusions at bay, communicating with schools and workplaces and deal with the masses of paperwork that arises.

We know that families frequently require specialist support; to deal with housing-related matters such as the need to move away from what was a crime scene; to deal with civil court proceedings in regard to guardianship of children; to deal with repatriation of a body following a homicide abroad; to deal with managing accumulating debt; to deal with difficulties and challenges arising during the criminal justice process; and to deal with disputes over post-mortems and the release of the body for burial. For all such issues and more,

families will need specialist professional advice and help. They will be unlikely to have the resources to pay for such specialist (often legal) help and advice. We know that the impact of this type of bereavement is such that many individuals will need support (particularly emotional and therapeutic) for the rest of their lives in varying degrees of intensity and regularity. It is hard to overplay the importance that families attach to finding others who have also been bereaved through homicide or culpable road death through peer support organisations.

“We are in our own world – we need to speak to someone in our world”

[Olly group]

Peer support groups fulfil a valuable function in being available (particularly in the long term) at times of the bereaved family's own choosing, providing an open-ended offer of friendship, understanding, emotional support, advice and signposting to other services. Such groups are unique in being able to provide a depth of understanding of what a family may be going through and that is much prized and valued. Some families find comfort in the feeling of belonging and of not being alone in their grief.

“Peer support...should be a place of friendship with newly bereaved families, if that's what's wanted, to build relationships with each other and a place where we can all find some healing. This is best achieved locally.”

What is available to meet families' needs?

Victim Support Homicide Service

The new 'Homicide Service' delivered by Victim Support offers support for all newly-bereaved families in cases of homicide that have occurred since April 2010. From the beginning of November 2010, the service was expanded to incorporate support to families bereaved through homicide abroad; it does not provide a service to families bereaved through culpable road death.

The service is funded by a government grant of £2m per annum. Of this sum, £1.4m goes into a casework service of paid staff and £0.6m is to enable Victim Support to pay for additional services such as trauma or bereavement counselling (provided by specialist providers chosen from a bidding exercise run by the Ministry of Justice) and to enable caseworkers to pay for goods and services as appropriate to meet the immediate needs of families.

Caseworkers meet families quickly and take action to deliver and co-ordinate help and support for them, based on a needs assessment carried out with the family. Caseworkers are typically focused on dealing with compensation claims, welfare benefit and debt issues, funeral arrangements and practicalities such as food, school or enabling family members to attend court hearings.

The prompt practical support delivered by the caseworkers is extremely beneficial for families at a time of crisis. The expertise within the service continues to develop and improve in the relatively short time since its inception. There are some practical issues faced by families, however, where more specialist help and advocacy is needed – for instance some housing/tenure issues, debt management and advice, child custody proceedings among others. Victim Support cannot currently (nor should they be expected to) fully support and deal with all of the issues that face bereaved families.

Established in haste, the funding provided to run the Homicide Service was not calculated on sufficiently robust planning of supply and demand. The service is already stretched, and it is unclear how it will be able to meet demand from new cases whilst meeting the needs of the current cohort.

Peer support groups

The unique feature of the peer support services is that emotional support is provided by people who have had a similar personal experience of homicide. Families tell us that this is often extremely valuable to them.

There are a small number of self help/peer support groups providing friendship, support and help to families bereaved by homicide. Most of these organisations exist 'hand to mouth' with little in the way of assets, long term plans for sustainability, or support from Government. Some receive charitable donations and spend a lot of their time fundraising, but in almost all cases a few individuals appear to spend a lot of their own time and money to keep afloat. They provide a degree of befriending and emotional support, usually from volunteers, who have a personal experience of being bereaved. Meetings are held with bereaved families on a one-to-one basis usually in that family's home, or in a group setting with others who have suffered traumatic bereavement. Some organisations also offer telephone and email advice and/or web-based 'chat' forums, and have a membership scheme for those who wish to remain in contact with them.

A number of the organisations regard themselves as national providers but their size, lack of resources and infrastructure means that they would struggle to deliver consistent levels of support nationally. Most inevitably have a focus in the area where they are based and where they have established sound links with local agencies. Whilst volunteers and workers are prepared to travel huge distances to meet families and provide emotional support, it is almost impossible for them to sustain face-to-face support for families that live far away.

Some groups have developed and offer respite/retreat programmes – some of which include an element of professional counselling. Some offer a degree of practical help and advice based on the knowledge and skills of individual workers. By definition, however, and despite their immense commitment and unswerving dedication, as small groups with limited resources their reach/coverage is not great.

The challenge for these groups is to begin to establish a national network of self help/peer support to provide coverage nationally for families bereaved by homicide. Additional public funding is necessary but it should be conditional upon their agreement to collaborate with the other publicly-funded groups in this sector – whether peer support, casework or specialist. This could then deliver a guaranteed offer of peer support to families that has consistent basic elements, is available nationally and is integrated with the practical and specialist services and support provided by others.

Legal Advice

The need for legal advice and advocacy on various issues is evident from this report. The Co-op legal advice telephone line provides up to 15 hours of free legal advice on matters such as probate and property issues, employment and child custody and guardianship. The service is well-used, however, it cannot represent or act for families, nor can it advise on debt, benefits, road deaths or legal issues relating to the criminal justice process.

The Co-op invoice Victim Support for each hour of advice given. While the advice is undoubtedly useful to families, there is question about whether it is meeting their needs; restrictions on the subject areas covered and the fact that they are not able to act for families means that families end up receiving only a partial advice service which does not fit easily around their needs.

There are also one or two small victim-focused organisations which provide more in the way of advice, representation and advocacy to bereaved families – for example, writing on a family's behalf arguing their case and securing specialist legal advice, and providing assistance and representation on coronial, housing and child custody issues.

Access to specialist legal advice and assistance is a gap in what is available to families bereaved by homicide, which means problems are not tackled early on, creating problems further down the line.

Trauma and emotional support services

In preparing this report we undertook a survey of trauma service providers across England and Wales with members of the UK Trauma group (a managed clinical network for trauma and PTSD) to learn more about the availability and scope of services for those suffering trauma.

Though there is some provision of appropriate trauma treatment, following the National Institute for Clinical Excellence (NICE) guidelines, our survey found long waiting lists, low levels of referral and very little provision for children.

During the course of this review, specialist organisations providing trauma and/or bereavement counselling and therapy have been commissioned via the Ministry of Justice to provide a service to families referred to them from Victim Support's homicide caseworkers . Whilst this is a welcome

development, the question remains about whether there is sufficient capacity to meet the demand for trauma services.

In commissioning these providers, it appears that the Ministry of Justice had insufficient information on need and therefore on likely demand – contracts have been let by the Ministry of Justice on a payment-by-case basis rather than payment based on known need.

This makes it difficult for service providers to plan or develop service capacity which, in turn, is likely to lead to the creation or maintenance of long waiting lists: this means the people who need support will get it later than is needed. The payment-by-case approach also means providers cannot achieve economies of scale and thereby attain value for money.

Services for children

This report has shown that children have significant needs arising from bereavement through homicide and not infrequently are witnesses to the murder of one parent by another. While some needs can be met through supporting families as a whole, there is a recognised need for specialist age-appropriate help and support for children to build their resilience.

The Ministry of Justice has commissioned specialist organisations to provide services for children but on a reactive payment-by-case basis rather than payment based on known need, leading to similar problems outlined above.

A new national offer to families

This report has described the impact of traumatic bereavement and, alongside the practical problems that would arise with any bereavement, there are financial issues, housing problems, childcare issues, trauma and the deleterious effects of the criminal justice system. These cumulatively have an extraordinary impact and families who cannot and should not be expected to 'cope' alone. It is patently obvious that anyone in this awful situation will require proactive help; they should not have to go looking for or begging for it. For many families there is an overwhelming sense of relief experienced when they are contacted by someone who understands what it is to go through this experience.

This report has also shown that there is a relatively high level of predictability about particular needs and about the numbers likely to be affected at any given time – information which should be central to the commissioning of services by, or on behalf of, the Government.

The landscape of support services for bereaved families has improved dramatically, although there is still a long way to go before families can be assured of an integrated 'offer' that helps them cope with the myriad of problems that we know they face.

The Homicide Service has developed thanks to the hard work, dedication and expertise of Victim Support. The police and CPS have also been critical in assisting in the establishment and running of the new service (the secondment of a senior Metropolitan Police Officer to Victim Support was a particularly helpful action), and families can be assured that the help now available is significantly better than it was pre-2010.

But there have also been unwelcome developments in the provision of support services to families in recent years. The reduction in financial support from the Ministry of Justice to volunteer-led peer support organisations, has threatened their ongoing existence and therefore meant that many families (particularly those bereaved pre-2010 and so not able to benefit from the new casework service referred to above) have not gained the necessary support to help them cope with their bereavement.

What is needed is to make best use of all the different skills that exist within the organisations in the sector – small and large, specialist and generalist – to formulate an integrated and wider-ranging guaranteed service for all bereaved families, which meets their needs efficiently and effectively.

This requires the Government to institute a change in the manner in which it commissions services so that families can be guaranteed the support, help and advocacy they need.

A separate report is being prepared for the Ministry of Justice with a greater level of detail on the service needs of families with full recommendations for action.

However, the key components of a new integrated package of support to families bereaved by homicide should be:

- A **dedicated casework service** to help with the practical problems and support that families need in the early weeks and months following bereavement. The service needs to be demonstrably ‘on the side’ of the families and support them in this fashion through all of the problems that present, including through the criminal justice process, as well as with issues such as housing, welfare benefits, compensation claims and child care proceedings. This service should not fall off immediately after a trial, and there should be good and effective handover arrangements agreed with the family and any onward care provider such as a peer support/self help group.
- An assessment of their need for, and timely delivery of, **trauma and bereavement counselling** for all families within national clinical guidelines and by appropriate providers. It should be expected that all children will have the need for, and will therefore benefit from, specialist emotional/therapeutic support.
- An offer of **befriending and peer support** from groups whose volunteers and workers have experienced homicide themselves should

It is vital to remember that welcome though the establishment of the Homicide Service and other developments in services have been, these are not available to those bereaved by homicide before 2010, or to those bereaved by culpable road deaths, even though their needs are the same.

Limiting the Homicide Service to newly-bereaved homicide cases only was a pragmatic response to getting the service off the ground within the resources available at the time. However, many, many comments from families completing our survey demonstrate that families remain in desperate need of help years on from the homicide. The only help they are currently receiving is from volunteer-led, peer support or self-help groups who are clearly struggling to meet demands on their service, and this must be given urgent attention.

It should be noted however, that the Homicide Service is now commissioned to assist all families bereaved by homicide abroad since November 2010. This is a welcome development. However as with the offer to families bereaved through homicide domestically, it is clear that the peer support/self-help element is not factored into that offer.

Families bereaved through culpable road death present with very similar needs to families bereaved through homicide. They face a raft of practical, emotional, trauma-related and criminal justice-related problems, and specialist road-related charities are struggling to meet needs. The numbers of families affected, at around 500 a year, are not large but to help them would mean that new money would have to be found. This should be an early priority for the Government as it expects to find additional resources for victims' services from prisoner earnings or the Victims Surcharge.

Conclusion

There have been major changes in the services available to families bereaved by homicide since April 2010. Though extremely positive, it is clear that there remain a number of gaps in what is provided to those families and a need for an enhanced and integrated service offer. It is also apparent that more needs to be done to address the needs of families bereaved prior to April 2010, as well as for families bereaved abroad or those bereaved by culpable road death.

CHAPTER 6: Recommendations.

Victim's Law – giving status to families bereaved by homicide

The death of a loved one in any circumstances is a personal tragedy and a time of grief and emotional distress. Families bereaved by homicide face not only the bereavement itself, but in many cases, traumatic grief and its dreadful physical and emotional effects; at the same time they also face a legion of practical problems and perhaps most significantly in most cases, they face the criminal justice system. This system appropriates not only the body of their loved one to use as evidence, but in the process their lives, and often the lives of the family around them can be turned upside down in pursuit of a prosecution or in defence. Yet while this aspect dominates their lives, the criminal justice system barely recognises that family, because they have no formal status.

There is much at stake for all parties in a homicide trial – for the Crown and the defendant and their defence team. But for the bereaved family who are there to bear witness for their loved one, who want to see justice is done and to find out what happened, their interest in the process is often barely recognised.

The current code of practice for victims of crime does not meet the legitimate expectations of a family that they will have some proper acknowledgement in the legal process.

A 'victim's law', which outlines families' rights with regard to the criminal justice process, and their right to help and support, is needed to ensure they are given adequate recognition and protection.

These rights are listed below and then set out in more detail in other recommendations in this section.

A victim's law should make clear that:

- The coroner will release the body back to the family for burial within 28 days unless exceptional circumstances apply.
- The police will keep families updated at each stage of the investigation.
- A police protocol is adopted for reviewing cases which remain 'unsolved' that sets out clearly how and when families are to be kept consulted and updated.
- Families have the right to information from the CPS and to meet with the CPS lawyer at key stages of the process, including on conviction, or acquittal, and on appeal.
- There is a new Criminal Procedure Practice Direction about the needs and treatment of bereaved families in court.

- That the family are provided with an integrated package of help and support following the death and up until any trial and beyond. This should include:
 - A dedicated homicide caseworker providing support and advice on practical problems arising from the homicide;
 - Access to specialist help on issues like housing and child care proceedings arising as a consequence of the homicide;
 - Access to trauma and bereavement counselling from approved providers to help them through traumatic bereavement; and
 - Access to a national network of peer support groups who can provide befriending and support for families.

These new legal rights should be enshrined in legislation when Parliamentary time allows.

Releasing the body for burial [balancing up]

Despite guidance, a good practice memorandum and a draft charter which state that coroners should release a body for burial within 28 days, it is clear that this is just not happening in practice. Whether the practice of retaining bodies until a defendant has commissioned a second post-mortem is driven by financial considerations or by concerns about due process, the fact remains that the consequence of delay is felt most keenly by bereaved families who have no route of challenge. In Northern Ireland there is no conflict between the needs of justice and the timely return of a body to a family. This is an inhuman practice which needs to be addressed urgently.

Recommendation: *The new Ministerial Board given oversight of non judicial coroner matters should stop extended delays in releasing a body for burial to enable families to bury their loved ones within 28 days.*

Treatment of families in court [status in court]

A Practice Direction focused on the needs of families bereaved by homicide and culpable road deaths should highlight the importance of good treatment and awareness of their needs and interest in proceedings. A practice direction is necessary for this group precisely because they have no voice and no formal status in proceedings in many cases, and are therefore not covered by any other proceedings/rules. The Practice Direction would be for the judge to then ensure this good practice was occurring in his court.

The Practice Direction should include, for example:

- The overriding principle that ‘the trial process should not itself expose bereaved families to avoidable intimidation, humiliation or distress’.
- The treatment that relatives of a murder victim receive in court should preserve their dignity and afford them respect.

- The court should be flexible in start/end times of the court day so that family members who are witnesses are able to complete their evidence with the least upset possible.
- Where the evidence is likely to be particularly distressing, families should be given due warning and in exceptional circumstances, the judge should consider clearing the courtroom.
- The Plea and Case Management Directions should direct the court to have a family meeting to ensure that the practical needs of the victim's family during the trial (such as facilities they require, seating arrangements etc) have been discussed – and met.
- In the event of a conviction, the family should decide whether their Victim Personal Statement is read out in the court or not, and by whom.

Recommendation: *a Practice Direction is introduced.*

Sentencing remarks in writing [information/accountability]

The judge's sentence is key piece of information for families and the detail of it may not be taken in by the families when it is read out, nor can it always be recalled after. It is also an important part of the trial when the judge makes it clear how s/he has reached their decision. The sentence will live with those families for many years and it is important they are therefore very clear what it entails.

Recommendation: *Bereaved families should be provided with written copies of the judge's sentencing remarks at the sentencing hearing so that they have access to accurate information and are not reliant on other parts of the criminal justice system to inform them.*

Trial transcripts [information]

The need for information and to understand what happens in the court room means families often want to go over certain parts of the trial, or pass on what happened in court to other family members. This will be for many, as close as they come to understanding what happened to their loved one and why. For these reasons some, understandably, want a written record of the court case.

Recommendation: *Bereaved families should be informed by the court that they are entitled to request transcripts of the trial, and a request for a transcript should be looked on favourably by the judge. The court should look at how such transcripts are provided at minimal cost to a family.*

Adjourning cases [attending hearings]

Families want to be able to follow the process of seeking justice for their loved one. For example, they want to be able to attend all hearings. The system should recognise and respect that wish wherever it can.

Recommendation: *If a guilty plea is entered at a pre-trial hearing unexpectedly when the family are not at court, the CPS should request an adjournment, and judges respond sympathetically to such requests, so that bereaved families have the opportunity to attend for the rest of the proceedings.*

Keeping families updated: the CPS [information and ensuring justice is done]

A family's interest in the investigation and the trial is about learning what happened, but also about bearing witness for their loved one and trying to get justice for them. The prosecution therefore is of vital interest to them. The majority of families will have little or no experience of the criminal justice system or the trial process, and will need information in order to try and make sense of what is happening.

The CPS should introduce a new guarantee to provide more information at different stages of the process to families bereaved by homicide and culpable road deaths. This guarantee should ensure that:

- Meetings are offered to families at important stages of the criminal justice process whether the case is heard in either the Crown Court or a magistrates' court.
- Such meetings should cover the initial decision as to whether to charge a suspect, decisions to substantially alter or drop charges and also meetings to cover situations when there has been an acquittal or where leave to appeal against conviction has been granted.
- At such meetings the CPS should explain the anticipated progress of the case, the purpose of each hearing, the different processes for family members who are witnesses and those who are not and the possible sentences available for the offences charged.
- A named CPS lawyer should oversee the case throughout, be responsible for the legal decisions in the case and be present at all relevant meetings with bereaved families and at all court hearings where possible.
- The CPS should also arrange for the family to meet with the barrister who will be prosecuting the case in the weeks immediately prior to the trial hearing.

Recommendation: *A new guarantee for bereaved families is introduced by the CPS*

Victim Personal Statements [victim and family voice]

The Victim Personal Statement (VPS) is the family's only opportunity to have a voice in proceedings and to put a human face to the victim in court. Yet because the VPS is treated as part of the evidence, it is given to the

defendant along with other papers. Families have expressed concern, fear and anger over situations where there is an acquittal and the accused person has seen their heartfelt feelings as expressed in the VPS when it may not have been used by the court. The VPS should only be entered into evidence if there is a conviction.

Families ought to be able to choose how and by whom the VPS is delivered – by a family member, a family supporter, the prosecutor – or not read out loud at all.

Recommendation: *Changes to Victim Personal Statements should be introduced as part of a new practice direction for bereaved families.*

Appeals

If the defendant intends to appeal his/her conviction or sentence, they must first seek leave to appeal. But there is no obligation on the defence to inform the CPS which means that the first the family of the victim may hear about it is when they read about it in the papers.

Recommendation: *Action should be taken to ensure that the defence solicitor informs CPS Central Appeals Unit of the leave application when it goes to the appeal court so they can inform the family as quickly as possible, advising them of the implications.*

Where cases are unsolved [police and information]

Where a decision is taken not to charge because of lack of evidence or where there is an acquittal, families are left without justice. This hampers their search for truth and leaves them in limbo.

Recommendation: *ACPO should draw up a national protocol about the review of cases which remain unresolved; how regularly they are reviewed, and communication and consultation with the families concerned, which is adopted by all police forces.*

Victim Contact Scheme

The number and nature of concerns that have been raised with the Commissioner for Victims and Witnesses about the Victim Contact Scheme, (which has responsibility for keeping bereaved families informed on a more limited set of entitlements than those suggested above), raise questions about the extent to which the National Offender Management Service (who run the scheme), is able to properly fulfil its responsibilities when it comes to serving victims' need for information and having a voice in licence conditions and parole.

This is a wider issue than those bereaved by homicide, as the Victim Contact Scheme is available to victims of other serious crimes.

Recommendation *The Victim Contact Scheme should be reviewed by Her Majesty's Inspectorate of Probation, working closely with the Victims' Commissioner.*

Understanding the criminal justice process [someone on their side]

For most families the criminal justice process is unknown and their state of vulnerability makes it difficult and unreasonable for them to negotiate this themselves. Because there are a series of competing interests within that justice process, the rights of bereaved families can be overlooked. Those working with bereaved families who are not part of the criminal justice process – including the national homicide service caseworkers, volunteers and peer support groups – should know what families are entitled to expect and to challenge shortcomings. The system needs some challenge to ensure that it is taking account of the families' reasonable and legitimate needs.

Recommendation: *The Commissioner for Victims and Witnesses will, under its remit to promote the interests of victims of crime, run an advocacy programme to increase the knowledge and advocacy skills of national homicide caseworkers, peer support groups and others supporting bereaved families.*

Homicide Reviews

'Homicide Reviews' have recently been introduced by the Home Office whose objective is that relevant services, such as local authorities and the police, learn lessons when a person has been killed as a result of domestic violence (domestic homicide) to reduce the risk of such tragedies happening in the future.

These reviews can also provide a valuable insight into what happened in other types of homicide for families who have unanswered questions.

Recommendation: *Consideration should be given to whether this model of reviews could be extended to a broader range of homicide cases where it would be beneficial to families who would otherwise remain in the dark on what happened to their loved ones, and that services might learn lessons in order to help reduce risk.*

Services

Building on the positive start to the Homicide Service and capitalising on the goodwill and dedication of peer support groups, a new offer to bereaved families should be established.

Recommendation: It should encompass:

- *A dedicated casework service to help with practical problems and support families in the early weeks and months following a bereavement. Where aspects of a case include complex and specialist areas of law, there should be arrangements in place for families to access additional assistance.*
- *Trauma and bereavement counselling as necessary.*
- *An offer of peer support through a national network of peer support/self help.*
- *Age-appropriate services for children.*

Issues affecting particular groups of bereaved families

Some issues with services affect distinct groups of families bereaved by crime, and require specific recognition:

- **Families bereaved prior to April 2010**

There is no systematic help for those bereaved before 2010 despite the fact that the evidence shows that the problems experienced by families are enduring; lasting for many years. These families should not be excluded from specialist practical and emotional help including access to trauma counselling. This will mean that referral routes into specialist services will have to be opened up to Peer Support groups who are currently working with such families.

Recommendation: *Peer support groups should be provided with training on assessments and referral arrangements ahead of being granted direct referral routes to such services for families bereaved prior to April 2010.*

- **Homicide Abroad**

Families bereaved by homicide abroad have very similar needs to those bereaved in England and Wales – but with the additional complexity and sometimes added trauma of dealing with a foreign criminal justice system. Recognition of this came with the recent expansion of Victim Support’s casework service to include such families, as well as new funding for specialist ‘in-country’ assistance. However families in this situation lack a funded peer support service.

Recommendation: *In common with families bereaved in England and Wales, families bereaved through a homicide abroad should have guaranteed access to help and support from a peer support*

organisation that specialises in families bereaved through homicide abroad.

- **Culpable road death**

Families bereaved through culpable road deaths have the same needs but they are not provided for by the national homicide service. They therefore have practical, emotional, traumatic, physical, financial and criminal justice related problems which are currently unmet.

Recommendation: *As new funds become available, the Government should make it a high priority for those bereaved by culpable road death to receive a service similar to the new offer outlined above for those bereaved through homicide.*

Annex

Methodology for report

During the course of writing this review, a wide range of evidence-gathering methods were employed. In addition to an ongoing process of reviewing existing policy and new research (summarised below), there has been an ongoing and extensive programme of visits and meetings across the country to get a better understanding of what the situation is for bereaved families. The team also hosted a consultation event for the sentencing Green Paper which also drew out a variety of relevant views from over 50 victims and victims' organisations.

We would in particular like to express our deepest gratitude to those victims or their families, who we have not named here, who have met with the Commissioner or her team in person over the last year and relayed their often harrowing accounts of bereavement and the aftermath so that we could draw this report together. We'd also like to thank those bereaved families (over 400) who took part in our survey – often recounting very painful memories and experiences.

Service Reviews and in-depth meetings

During the course of the review, the review team met with numerous interested parties including many victims and witnesses themselves, Ministers, government officials, Chief Constables, charities, lobby groups, professional bodies (including NPIA, ACPO, NOMS), think tanks, academics, Members of Parliament, criminal justice staff and judges, amongst others, and attended a number of conferences on the subject matter.

In addition, in-depth reviews with a number of organisations that in some way come into contact or provide services to bereaved families were conducted. They numbered some 58 meetings in total including 9 meetings with Victim Support Homicide Service, 4 meetings with National Offender Management Service and 6 meetings with police representatives, plus meetings with:

Advocacy After Fatal Domestic Abuse (AAFDA)

ASSIST

BRAKE

Cardiff School of Medicine and Vale University Health Board/NICE Chair

Cassandra Learning Centre

Co-op legal advice line

Coroner, West Sussex

Coroner, Northern Ireland

CRUSE

Escaping Victimhood

Families Fighting for Justice

Justice After Acquittal

Knife Crimes.Org
Lucy Blackman Trust / Missing Abroad
Mothers Against Murder and Aggression (MAMAA)
Manchester LCJB and Victim Support
National Victims Association
Phoenix Chief Advocates
Probation Victims Network
Remedi
Roadpeace
Road Victims Trust
Royal Free Hospital
Support After Murder and Manslaughter (SAMM) Abroad
SAMM National
SAMM Merseyside
SAMM Northern Ireland
Stephen Lawrence Trust
Tavistock and Portman NHS trust
Through Unity
Victim Support Wales
Victim Support Northern Ireland
Victim Support Homicide Service
Winston's Wish

Consultative Group

With special thanks to the policy review consultative group who met with us throughout the review and helped guide us from their own personal experiences and their experiences supporting other people through bereavement and trauma:

Advocacy After Fatal Domestic Abuse (AAFDA) - Frank Mullane
Cassandra Learning Centre - Jennifer McDermott
Jimmy Mizen Foundation - Barry Mizen
Justice After Acquittal (JAA) - Carole Longe
Knife Crimes.Org & Victims' Advocates - Ann Oakes-Odger
Lucie Blackman Trust - Tim Blackman
Mothers Against Murder and Aggression (MAMAA) - Kate Whaley and Lyn Costello
National Victims Association (NVA) - David Hines
RoadPeace - Cynthia Barlow
Robert Levy Foundation - Ian Levy
Support After Murder and Manslaughter (SAMM) Abroad - Eve Henderson
SAMM Merseyside - Marie McCourt
SAMM National - Rose Dixon

Specialist bereaved services

The following organisations met with us as a group to share their knowledge about supporting bereaved families:

Assist Trauma Care - Barbara Goodfellow
BRAKE - Julie Townsend
Cruse Bereavement Care - Debbie Kerslake
Escaping Victimhood - Tim Newell
Winston's Wish - Liz Koole

Young People

Young people and their parents and carers met with us at OLLY (Our Lost Love Years), a support group for children and young people who have lost a family member to murder, manslaughter or culpable road death. OLLY is part of Families Fighting for Justice, and thank you to Jean Taylor for organising this for the review team.

A special thanks to ChickenShed, a London based inclusive theatre company that specialises in providing youth workshops, outreach projects and education programmes, who arranged for us to meet some young people who had been the victim of serious crime in London. They frankly shared with us their experiences of crime and bereavement.

Correspondence

The report also draws on the correspondence that people have sent in to the Commission. During the Commission's first year, around half of all unprompted correspondence we received was from bereaved families. We would like to thank the many people that have written to us to share their views and experiences of the system; their insight and perspective has been invaluable.

New research conducted as part of the review

Primary research was conducted to inform the review with the aim of learning more about the problems and challenges faced by those bereaved by homicide and culpable road death in England & Wales, and the services available to them.

1. Survey of those bereaved by homicide

The Victims' Commissioner's office worked with the charity SAMM (Support after Murder and Manslaughter) in order to conduct a postal survey of those bereaved by homicide. The aim of conducting this survey was to learn more about the problems faced by those bereaved by homicide in England & Wales. The Victims' Commission provided SAMM with a questionnaire designed to ask those on their membership database about the impact the homicide had on their health, relationships, employment, finances, and experience of the criminal justice system. In total 417 responses were received (a response rate of 27%).

Thanks especially to Heather Landsberg, Rose Dixon and Karen Mayne at SAMM National for their hard work and professionalism in administering

the survey, which has brought an invaluable level of detail to our review. Special thanks also to the 417 people bereaved by homicide who took the time and considerable effort to help inform the review by completing the survey and sharing their experiences. The high response is a testament to their willingness to help others.

2. Profile of those bereaved by homicide

In order to learn more about those bereaved by homicide in England & Wales, the Victims' Commission worked with the Victim Support Homicide Service to collect demographic information about those being supported in homicide cases during March 2011. Homicide caseworkers across England & Wales collected anonymous information about the circumstances and demographic make-up of those being supported and these data were passed to the Victims' Commission for analysis. Further socio-demographic analysis was conducted to compare the area profile of those being supported with the national picture. In total information was provided for 520 households and 732 individuals being supported. The information supplied refers to 292 cases currently in contact with the homicide service.

3. Financial costs case studies

Case study information was gathered in order to explore the costs experienced by those bereaved in detail. A questionnaire was drawn up asking about the different costs incurred by families following murder, manslaughter, or culpable road death. The cost categories included in the questionnaire were based on available literature relating to the types of costs associated with bereavement by homicide, and subsequent consultation with the Victims' Commissioner's bereaved consultative group. Members of the group were asked to complete the questionnaire, and to pass the questionnaire to others who would be willing to complete it. In total thirty-six people who had lost someone to murder, manslaughter or road death completed the questionnaire, outlining in detail the kinds of costs faced in the aftermath of the crime, and the kinds of sums involved.

4. Survey of trauma service providers

A survey of trauma service providers was conducted to learn more about the provision of trauma services for those bereaved by homicide in England & Wales. Trauma service providers were approached to assess whether these organisations provided services for the traumatically bereaved through murder, manslaughter or culpable road deaths: what the treatment consists of; referral routes; volume of clients and waiting times; whether they treat children and how they are funded. Twenty-five organisations were sent a questionnaire and sixteen responses were received, of which twelve indicated they dealt with traumatic bereavement. We would like to thank Professor Bisson and his team at Cardiff University for their support in compiling the questionnaire.

Footnotes

- ¹ Information collected in March 2011 by caseworkers based on their knowledge of the households being supported
- ² This contrasts with information about homicide victims which indicates that the majority knew their killer and may be explained in part by cases where the suspect is acquainted with the victim but not known to the victim's family.
- ³ Percentage of population of working age claiming a key social security benefit. Source: www.statistics.gov.uk/STATBASE/Expodata/Spreadsheets/D7753.xls
- ⁴ See: www.communities.gov.uk/documents/housing/xls/1806602.xls
- ⁵ Foreign and Commonwealth Office figures taken from their casework database.
- ⁶ Crime in England and Wales 2009/10 <http://data.gov.uk/dataset/crime-in-england-and-wales-bcs>
- ⁷ UK studies include Parkes, C. M., (1993) 'Psychiatric Problems Following Bereavement by Murder or Manslaughter' 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: Theory, Research and Practice* vol.75. British Psychological Society, and Harrisson, R. (1999) 'The Impact of Stranger Murder' in *The Therapist*, vol. 6, part 1.
- ⁸ Malone, L. (2007) 'In the aftermath: Listening to people bereaved by homicide' in *Probation Journal* Vol. 54 (4).
- ⁹ Unless otherwise stated all verbatim quotes are taken from the survey of bereaved families conducted via SAMM. Quotes from other sources are indicated as such in brackets after the verbatim.
- ¹⁰ Parkes (1993)
- ¹¹ Rock, P., (1998) *After Homicide: Practical and Political Responses to Bereavement*. Clarendon Press Oxford.
- ¹² Amick-McMullan, A., Kilpatrick, D., Veronen, L., Smith, S. (1988) 'Family Survivors of Homicide Victims: Theoretical Perspectives and an Exploratory Study' in *Journal of Traumatic Stress*, Vol.2, No.1.
- ¹³ For a summary of the possible effects of PTSD see: <http://ptsd.about.com/od/relatedconditions/a/effectofptsd.htm>
- ¹⁴ See for example Amick-McMullan *et al* (1988) and www.rcpsych.ac.uk/mentalhealthinfo/problems/ptsd/posttraumaticstressdisorder.aspx
- ¹⁵ Amick-McMullan *et al* (1988)
- ¹⁶ Black, D., Harris-Hendriks, J., and Kaplan, T., (1992) 'Father Kills Mother: Post-Traumatic Stress Disorder in the Children' in *Psychotherapy and Psychosomatics* 1992; 57: 152-157.
- ¹⁷ Statistics on Drug Misuse, England 2010 www.ic.nhs.uk/pubs/drugmisuse10
- ¹⁸ Mezey *et al* (2002)
- ¹⁹ *Ibid.*
- ²⁰ See for example Coronary Heart Disease statistics www.bhf.org.uk/publications/view-publication.aspx?ps=1001142 and Cancer statistics: <http://info.cancerresearchuk.org/cancerstats/incidence/>
- ²¹ Harrisson (1999), Miller, L. (2009) 'Family Survivors of Homicide: I. Symptoms, Syndromes, and Reaction Patterns' in *The American Journal of Family Therapy* Vol.37. Taylor & Francis 2009.
- ²² Parkes (1993), Brown, L. (1993) 'The Aftermath of Murder and Manslaughter: The Families' Viewpoint' in *Bereavement Care* Vol.12 No.1
- ²³ Harrisson (1999)
- ²⁴ Quoted in Kenny, J. S. (2004) 'Human Agency Revisited: The Paradoxical Experiences of Victims of Crime' in *International Review of Victimology*, 2004, Vol.11
- ²⁵ From a group discussion between the Victims Commissioner and *Our Lost Love Years* (OLLY), a group set up by *Families Fighting for Justice* to support children and young people in Merseyside who have lost a loved one through murder and manslaughter.
- ²⁶ Mezey *et al* (2002)
- ²⁷ SAMM Abroad (forthcoming) *Who Cares for the Families? Experiences of SAMM Abroad Members after Murder, Manslaughter and Suspicious Death Abroad*
- ²⁸ Malone (2007)
- ²⁹ Kaplan, T., Black, D., Hyman, P., & Knox, J. (2001). Outcome of children seem after one parent killed the other. *Clinical Child Psychology and Psychiatry*, 6(1), 9–22.
- ³⁰ Comment from bereaved family member, meeting with the Commissioner
- ³¹ See for example Clements, P. (2002) Children's Responses to Family Member Homicide in *Family and Community Health* Vol.25. Issue 1.
- ³² Harrisson (1999)
- ³³ Miller (2009)

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- ³⁴ Harrisson (1999), Victim Support (2006) In the Aftermath: The support needs of people bereaved by homicide: a research report. Victim Support.
- ³⁵ Twenty-five trauma service providers were asked about provision for those bereaved by homicide.
- ³⁶ Victim Support (2006)
- ³⁷ Harrisson (1999)
- ³⁸ For example, the detection rate for Assault (ABH) was 39% in 2010, Burglary was 16%,. See Crime in England and Wales 2009/10 www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1210/
- ³⁹ Homicide case outcome information from: Smith, K., Coleman, K. Eder, S., and Hall, P. (2011) *Homicide, Firearm Offences and Intimate Violence 2009/10* Home Office Statistical Bulletin 01/11
- ⁴⁰ See Criminal Justice Statistics for England & Wales: www.justice.gov.uk/publications/statistics-and-data/criminal-justice/criminal-justice-statistics.htm
- ⁴¹ Smith *et al* (2011)
- ⁴² Ibid.
- ⁴³ Goodrum, S. (2007) 'Victims' Rights, Victims' Expectations, and Law Enforcement Works' Constraints in Cases of Murder' in *Law & Social Inquiry* Vol.32, Issue 3.
- ⁴⁴ Armour, M., and Umbreit, M. (2007) 'The Ultimate Penal Sanction and "Closure" for Survivors of Homicide Victims' in *Marquette Law Review* 91:381 2007.
- ⁴⁵ Amick-McMullan *et al* (1988)
- ⁴⁶ Kenney (2004)
- ⁴⁷ Rock, P (2000) 'Homicide, Voluntary Organizations, and the State in England and Wales' in *Homicide Studies*, Vol.4 No.1.
- ⁴⁸ Victim Support (2006)
- ⁴⁹ Goodrum (2007)
- ⁵⁰ www.justice.gov.uk/consultations/cp52011.htm
- ⁵¹ Home Office Circular No.30/1999 post Mortem Examinations and the Early Release of Bodies
- ⁵² Brown, Ellis, Lord, Parkes, VS, Rock
- ⁵³ Rock, (2000)
- ⁵⁴ Practice Direction III.30 Treatment of Vulnerable Defendants www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/criminal/practice-direction/part3.htm#id6328221
- ⁵⁵ Mezey *et al* (2002)
- ⁵⁶ Smith *et al* (2011)
- ⁵⁷ *Breaking the Cycle* Green Paper consultation Victims' Commissioner response.
- ⁵⁸ Judicial and Court Statistics 2009. Ministry of Justice.