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## Restorative Justice and the Value of Victims, Offenders, and a Cloud of Witnesses, 50 J. Marshall L. Rev. 451 (2017)

Jeanne Bishop

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# RESTORATIVE JUSTICE AND THE VALUE OF VICTIMS, OFFENDERS, AND A CLOUD OF WITNESSES

JEANNE BISHOP

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## I. INTRODUCTION

I am a family member of three murder victims. My younger sister Nancy, her husband Richard and their unborn baby were shot to death in their home on the North Shore of Chicago in 1990 by a teenager who lived a few blocks away.<sup>1</sup>

I am also a criminal defense attorney, a public defender who has represented people accused of similarly heinous crimes.

That unusual combination gives me a foot in both worlds: one of crime victims and their survivors, and the other of criminal defendants and their families and advocates.

I know what it is like to sit on a hard wood bench in a criminal courtroom and listen to gut-wrenching details about the slaughter of my loved ones, to pray silently for the defendant to be found guilty. I also know what it is like to be the lawyer arguing for the person accused of the crime, striving for a “not guilty” verdict or a lenient sentence after conviction.

In the aftermath of my loved ones’ murders, I have met crime victims and defendants in places as far away as Japan. I have met family members of both perpetrators and victims, as well as other defense attorneys, prosecutors, and activists on both sides of efforts to reform the criminal justice system.

What I see is often a tale of woe, of misunderstanding, of lack of communication, of false assumptions, of potential human relationships wasted. Perpetrators who want to reach out and apologize to their victims, but are strictly warned by their lawyers, “Don’t say a thing! Don’t even look at the victims when you are in court.” Victims who, as a result of never hearing an “I’m sorry” from the perpetrator, mistakenly but understandably believe that he is remorseless. Parents of a defendant who desperately want to tell the victims’ families how sorry those parents are for what their child has done, but who are afraid of traumatizing the victims’ families further by contacting them unbidden. Parents of a victim who feel hurt that no one has apologized, and misjudged as angry and vindictive for simply coming to court to stand for their family member.

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1. Terry Wilson, *Biro Sentenced to Life in Winnetka Slayings*, CHI. TRIB. (Dec. 21, 1991), [http://articles.chicagotribune.com/1991-12-21/news/chi-911221winnetka-murders\\_1\\_life-sentence-killing-nancy-langert](http://articles.chicagotribune.com/1991-12-21/news/chi-911221winnetka-murders_1_life-sentence-killing-nancy-langert).

Advocates, too, are stymied. Defense attorneys often know that taking responsibility and showing remorse is the right thing to do, but feel obligated to preserve their client's ability to deny the crime in legal proceedings. Prosecutors know that hearing an apology may mean more to a victim than another five years in prison for the defendant, yet feel their role is to seek punishment for the defendant rather than reconciliation among the parties. Activists on both sides of the criminal justice debate—pitting mercy against retribution—often stay in their corners, too, afraid or unwilling to talk to the other side.

Meanwhile, at least in my state of Illinois, few resources exist to help bring all those disparate factions together.<sup>2</sup> “Restorative justice,” which seeks to bring stakeholders into contact with one another, to talk and to listen, is in its fledgling stage at best in my jurisdiction and so many others in the United States.<sup>3</sup>

The lack of restorative justice resources matters to me. Long after his conviction and sentencing, when I wanted to reach out to the young man who killed my family members, I did so without help. In my book *Change of Heart: Justice, Mercy and Making Peace with My Sister's Killer*,<sup>4</sup> I tell the story of my own kind of seat-of-the-pants restorative justice with him. I wrote to him directly and met with him during prison visits the two of us arranged ourselves. There was no mediator, no pre-counseling, no program resources. We just wrote, met and talked—something rare among defendants and murder victims' survivors.<sup>5</sup> Until we met, I assumed—wrongly—that the killer remained remorseless while he assumed—wrongly—that I did not want to hear from him. We sat in our corners for twenty-three years after my sister's murder, silent towards each other.

The John Marshall Law School's symposium on restorative justice gave me an opportunity to reflect: what would have helped us break that silence earlier, so that the opportunity for healing and reconciliation could begin? What would help others like us, on opposite sides of a divide that, like all others, can be breached?

Part II below tells the story of the resentencing of a serious offender which brought to the surface many of the issues from the swamp of

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2. See Rebecca Beitsch, *Finding Responsibility, Reconciliation After a Crime*, PEW CHARITABLE TRUSTS (July 21, 2016), [www.pewtrusts.org/en/research-and-analysis/blog/stateline/2016/07/21/finding-responsibility-reconciliation-after-a-crime](http://www.pewtrusts.org/en/research-and-analysis/blog/stateline/2016/07/21/finding-responsibility-reconciliation-after-a-crime) (showing that Illinois has no victim-offender mediation program which allows victims to pursue conversations with inmates).

3. Bryant Jackson-Green, Dianna Muldrow & Derek Cohen, *Making Illinois Smart on Crime: First Steps to Reduce Spending, Ease Offender Re-Entry and Enhance Public Safety*, ILLINOIS POLICY (Aug. 2015), [www.illinoispolicy.org/reports/making-illinois-smart-on-crime-first-steps-to-reduce-spending-ease-offender-re-entry-and-enhance-public-safety/](http://www.illinoispolicy.org/reports/making-illinois-smart-on-crime-first-steps-to-reduce-spending-ease-offender-re-entry-and-enhance-public-safety/).

4. JEANNE BISHOP, *CHANGE OF HEART: JUSTICE, MERCY AND MAKING PEACE WITH MY SISTER'S KILLER* (Westminster John Knox Press 2015).

5. BRIAN WILLIAMS, *VICTIMS OF CRIME AND COMMUNITY JUSTICE* (Jessica Kingsley Publishers 2005).

relationships among victims, offenders and their advocates. Part III discusses what I hope can be learned about restorative justice from that resentencing.

## II. THE CASE OF ERIC ANDERSON

Eric Anderson was fifteen years old in 1995 when he killed two thirteen-year-old girls, Carrie Hoval and Helena Martin, on the Southwest side of Chicago.<sup>6</sup> The girls were riding in a van that Anderson thought was carrying rival gang members (Anderson was a member of a gang called the Popes).<sup>7</sup>

Anderson and some other young men stole a gun and decided to use it to shoot up the van, which they believed was roaming the streets of territory they considered theirs.<sup>8</sup> Anderson volunteered to do the shooting,<sup>9</sup> planning to fire at the van as it drove by. Anderson did not know the two girls were inside, though he certainly knew some human beings were.<sup>10</sup> Anderson fired at the van. The bullets he shot struck both girls in the head and killed them.<sup>11</sup>

Anderson was charged with the murders of Carrie Hoval and Helena Martin.<sup>12</sup> He went to trial, never apologizing to his victims' families<sup>13</sup> on advice of his lawyers. Anderson's parents, Julie and Rick, a realtor and a Chicago Police Officer, respectively, had not apologized by the time of trial, either;<sup>14</sup> they felt too ashamed and stricken to speak to the relatives of the two dead girls their son had killed.<sup>15</sup> The families never spoke, before, during or immediately after trial.<sup>16</sup>

Anderson was convicted of killing both girls.<sup>17</sup> The judge gave him the mandatory sentence upon conviction, life in prison without the possibility of parole.<sup>18</sup> Eric went to prison, spending years in the

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6. Joel Kaplan & Andy Martin, *Cops' Neighborhood Finds It Isn't Immune to Violence*, CHI. TRIB. (Dec. 16, 1995), [http://articles.chicagotribune.com/1995-12-16/news/9512160133\\_1\\_police-officers-west-64th-street-violent](http://articles.chicagotribune.com/1995-12-16/news/9512160133_1_police-officers-west-64th-street-violent).

7. *Id.*

8. Megan Crepeau, *Killer resentenced because of high court ruling given 60 years in prison*, CHI. TRIB. (May 23, 2017), [www.chicagotribune.com/news/local/breaking/ct-juvenile-killer-resentenced-decades-later-met-20170523-story.html](http://www.chicagotribune.com/news/local/breaking/ct-juvenile-killer-resentenced-decades-later-met-20170523-story.html).

9. *Id.*

10. *Id.*

11. Kaplan & Martin, *supra* note 6.

12. *Id.*

13. Andy Grimm, *Double-murder life sentence reduced to 60 years for Eric Anderson*, CHICAGO SUN-TIMES (May 23, 2017), <http://chicago.suntimes.com/news/double-murder-life-sentence-reduced-to-60-years-for-eric-anderson/>.

14. *Id.*

15. Interview with Julie and Rick Anderson (Apr. 4, 2013).

16. *Id.*

17. Steve Schmadeke, *Judge limits resentment of killer to 60-year maximum prison term*, CHI. TRIB. (Sept. 27, 2016), [www.chicagotribune.com/news/local/breaking/ct-juvenile-double-murder-sentence-met-20160927-story.html](http://www.chicagotribune.com/news/local/breaking/ct-juvenile-double-murder-sentence-met-20160927-story.html).

18. *Id.*

notorious Menard Correctional Center,<sup>19</sup> an antiquated fortress of a building on the banks of the Mississippi River in southern Illinois.

In 2012, the United States Supreme Court in *Miller v. Alabama*<sup>20</sup> held that life without parole sentences for juveniles as a mandatory matter were unconstitutional. The court struck down those sentences as violations of the 8th Amendment ban on cruel and unusual punishment, but declined to say whether the ban applied only to new cases going forward or also to prisoners like Eric Anderson currently serving the sentence.<sup>21</sup>

In 2014, the Illinois Supreme Court answered that question for state law purposes, holding that *Miller* was indeed retroactive.<sup>22</sup> However, other state courts and law officials decided differently.<sup>23</sup>

In 2016, in *Montgomery v. Louisiana*,<sup>24</sup> the Supreme Court resolved the question. The Court held that *Miller* was retroactive.<sup>25</sup> That opened the door to resentencing for Eric Anderson and hundreds of other inmates like serving mandatory sentences of life without parole.

Anderson's lawyers petitioned his trial court to resentence him in accordance with *Miller* and *Montgomery*. His petition went to hearing over a period of several days in April 2017.

The hearing took place in courtroom 600 in Chicago's main criminal courts building at 26th and California, the same room where Eric Anderson's trial had taken place years earlier. The judge presiding was different, though: this time it was Arthur Hill, a well-regarded former prosecutor known for his patience, fairness and knowledge of the law.

I was called to testify on behalf of Eric Anderson by his attorneys, a team of diligent and caring pro bono lawyers from the large Chicago law firm of Neil, Gerber and Eisenberg. They called me because I had been visiting Eric Anderson in custody after having met his parents.

I had asked to meet the Andersons because of my own history with murders in my family. When the juvenile in my sister's murder case was sentenced to life in prison without parole for the murders, I was glad. I supported that sentence.

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19. Menard Correctional Center, ILLINOIS.GOV, [www.illinois.gov/idoc/facilities/Pages/menardcorrectionalcenter.aspx](http://www.illinois.gov/idoc/facilities/Pages/menardcorrectionalcenter.aspx) (last visited Aug. 10, 2017).

20. *Miller v. Alabama*, 567 U.S. 460, 465 (2012).

21. *Id.*

22. *People v. Davis*, 6 N.E.3d 709, 720 (Ill. 2014).

23. *See, e.g., People v. Carp*, 852 N.W.2d 801, 821 (Mich. 2014), *cert. granted, judgment vacated sub nom. Carp v. Michigan*, 136 S. Ct. 1355 (2016), *cert. granted, judgment vacated sub nom. Davis v. Michigan*, 136 S. Ct. 1356 (2016) (holding that *Miller* was not retroactive); Mark Wilson, *Pennsylvania Supreme Court Finds Miller v. Alabama Not Retroactive*, PRISON LEGAL NEWS (July 19, 2017), [www.prisonlegalnews.org/news/2016/aug/12/pennsylvania-supreme-court-finds-miller-v-alabama-not-retroactive/](http://www.prisonlegalnews.org/news/2016/aug/12/pennsylvania-supreme-court-finds-miller-v-alabama-not-retroactive/).

24. *Montgomery v. Louisiana*, 136 S. Ct. 718, 736 (2016).

25. *Id.*

Over time, though, my views on juvenile life sentences changed. I came to believe that those sentences are merciless, that they foreclose recognition of the possibility of human change, that they deny forever the truth that redemption can be more healing than retribution.

As I was going through this change of heart, I sought information wherever I could get it on what it felt like to be on the other side of me, someone who had lost loved ones to murder and who once had supported a punishment which ended only in death.

I wanted to sit down and talk with family members of a juvenile convicted of murder and serving a sentence of life without parole. Through a mutual friend, Bernardine Dohrn,<sup>26</sup> a heroic advocate for the rights of children, I found them: Julie and Rick Anderson, the parents of Eric Anderson. They agreed to meet with me because they, too, wanted to know what it was like to be on the other side.

We met over coffee and sat at a table and talked. Julie is a warm red-head with an easy laugh and an uncanny ability to grasp the heart of something and express it in strong, simple language. Rick is a gentle, white-haired, plain-spoken former police officer. When his son was arrested for a double murder, he said, his fellow police officers didn't shun him. Rather, he said, the universal reaction among those officers, most of them parents, was, "There but for the grace of God go any of us."

I had brought a great prejudice, and misconception, into the meeting with me. My attitude toward the family members of juveniles serving natural life sentences was this: You're lucky. You can visit your loved one, talk to him on the phone, exchange letters with him, even hug him on prison visits. My family member is in a grave. I will never see her again, never get to hold her or see the light shining in her eyes. She is gone.

Julie explained that yes, she is able to see her son in prison. But when visiting time is over, she has to watch him get up from the table and go back into a bleak and violent place from which he had no hope of ever leaving. Nothing she could do would protect him from anything he might face there. No power of hers could ever set him free. In a way, she told me, visiting him in a grave would be easier than this living death.

It struck me: she was right. I am the mother of two boys. I cannot imagine seeing either of my beloved sons taken away in chains to a place where there was nothing I could do to help them. It must be agonizing, I realized.

The Andersons asked me questions, too, especially about the idea of apology and forgiveness. They knew that Carrie and Helena, their son's victims, had family members who deeply mourned their loss. The Andersons had always longed to say they were sorry, but felt that even speaking to the victims' family members might be seen as a callous intrusion on their grief. I explained that Eric's silence, and theirs, could be read instead as a lack of remorse or responsibility. I had assumed that the

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26. Susan Chira, *At Home With: Bernardine Dohrn; Same Passion, New Tactics*, N.Y. TIMES (Nov. 18, 1993), [www.nytimes.com/1993/11/18/garden/at-home-with-bernardine-dohrn-same-passion-new-tactics.html?pagewanted=all](http://www.nytimes.com/1993/11/18/garden/at-home-with-bernardine-dohrn-same-passion-new-tactics.html?pagewanted=all).

killer in my sister's case wasn't sorry because he had never told me so. I learned, years later, how wrong I was.

The Andersons and I became friends, meeting regularly for dinners that always involved warm food and deep conversation. They spoke often of their son, of how sorry he was from the very beginning. How much he had tried in prison to better himself, to work hard. How he thought only of them, the hardship he had brought upon them, and not of himself. "He has so much to offer the world," Rick said once of his son, his throat constricting with emotion.

So, when the Andersons asked if I wanted to meet Eric, to go with them to Menard prison, I immediately said yes. First, it would give me a close-up view of what it is like for two parents to drive almost six hours each way to a remote prison and go through lengthy security screening, and waiting, to visit their child. Second, getting to meet him would give me a window into the world of a prisoner like the one serving time for my sister's killing.

What I saw during that visit was a young man who did not feel sorry for himself in the least. Eric Anderson knew he deserved to be locked up for what he had done. He made no complaints, and asked for no sympathy. Seeking to understand the families of his victims, he asked for my perspective on what it is like to be the loved one of murder victims. I told him, in blunt language. He took it all in, soberly.

His focus was mostly on his family. How were they doing? How were his sister and brother? He, Rick and Julie laughed about funny memories from a fishing trip they had taken together when Eric was little. Their closeness was palpable. Their parting at the end of the visit, when the guard called time, was difficult to witness—though in that moment, I thought also of the permanent parting of Carrie and Helena from the families who loved them.

When Eric was moved from Menard to the Cook County Jail, more than a year before his resentencing, I would stop in to see him on occasion. The closer we got to his hearing date, the more he felt the weight of what he was asking for: mercy. The grace of release on a date earlier than the one his victims' families were promised at the time of sentencing. He knew that, because he had taken two human lives, his life was not his own anymore. He placed his two hands far apart, as he was describing the huge chasm he saw between what he owed the victims and their families, and what he might be able to achieve in recompense.

When the day came for me to testify at his resentencing hearing, the proceeding had already gone on for two days. A steady stream of witnesses had testified, first for the prosecution, then for Eric. I was to go last, late on a Friday afternoon.

When I ran towards the closing doors of the elevator to head to the sixth-floor courtroom, a small group of people—two men and a woman—held the door open for me. I jumped on and thanked them. We talked all the way up, and continued to as we stood in the hall, waiting for the courtroom doors to be unlocked so we could enter.

I didn't know who they were, these amiable strangers. We hung out by the large windows on the east side of the hall, as a crowd started to gather some distance away from us. We had a pleasant conversation, about our dogs, the terrible Chicago weather that April, living in the suburbs versus the city.

When the courtroom doors finally opened, we all walked in down the large center aisle dividing rows of wooden benches on the left and right. I could see the crowd diverge into two groups. The larger group, people who were there in support of Eric Anderson's release, sat on the benches on the left. A smaller group sat in the first few rows on the right. The three, kind people I had been talking to sat down there and began to talk with a smattering of other people gathered at the front. It was clear: they were family members of one of Eric's victims.

I slipped onto a bench a few rows behind them, on that right-hand side. A well-meaning person from the left row of benches asked if I wanted to sit with them. I politely declined. I knew where I belonged.

Before my testimony, I listened to the second-to-last witness, an expert on gangs who had been hired by the defense. The prosecutors, two highly-experienced lawyers from the Office of the Cook County State's Attorney, were battering him with a well-researched cross examination.<sup>27</sup> The room filled with tension. You could feel the fault lines emerge, clearly. Spectators on the right were nodding their heads and murmuring approving comments. Those on the left cringed with dismay.

Finally, the expert's testimony concluded, and Judge Hill asked Eric's lawyers to call their next witness. I heard my name, and stepped to the stand to take the oath to tell the truth.

I sat down in the witness chair. Valerie Raedy, a bright, polished trial lawyer on the team from Neil, Gerber and Eisenberg, began to ask me introductory questions.

When I answered, I looked not at her, nor at the judge; I looked at the group of victims' family members straight ahead of me, including the three people I had encountered earlier. I was speaking to them.

DIRECT EXAMINATION BY MS. RAEDY

Q: Please state your name and spell it for the record?

A: My name is Jeanne Bishop. It's spelled J-e-a-n-n-e B-i-s-h-o-p.

Q: What do you do for a living?

A: I'm an attorney. I work for the Public Defender's Office in Cook County.

Q: Why did you choose to become a Public Defender?

A: I became a Public Defender, um, several years out of law school. I had been a corporate attorney with large firms, and when my younger sister Nancy and her husband Richard were murdered at a very young age—Nancy was 25, Richard was 29—I wanted to do something more meaningful

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27. Transcript of Record at 155-220, *People v. Eric Anderson*, 96CR0183802 (2017)[hereinafter Trial Tr.].



with my life and work, and do something that would honor their memory and this gift of life that I've been given so that's when I left.

She was murdered in April 1990, and I left the firm I was with and joined the Office of the Public Defender in November, 1990.

Q: What's your purpose in testifying here today?

A: My purpose in testifying here is to just shed light on the real remorse I have seen from my encounters with Eric Anderson, and particularly, his—his concern about the victims' families.

Q: How did you end up being a victim's family member, testifying on behalf of the Defendant?

A: When—it's actually very emotional being here in this room today, because I had not sat on these benches here in a room like this for 26 years.

26 years ago, the teenager who killed my family members were (sic) sentenced just one floor down from here, in courtroom 504. And I sat there, and I don't presume to know what it feels like to be the family members of these victims, Carrie and Helena.

And because they were as individual as a snowflake or a fingerprint. And I can't know your particular grief.

But I do know what it's like to sit on those benches and to feel your heart kind of ripped out....<sup>28</sup>

Q: Do you think it would be just to release Eric now?

A: That's such a good question, and it's a really deep question, and it's such a profound thing that we're doing. I was so appreciative of what the Court said earlier, that this is a grave matter. That we're talking about not just the life of this one person, because, in my view, as a victim's family member, this hearing is not so much about Eric Anderson as it is about Carrie Hoval and Helena Martin.

Because the question is, we can't bring them back. No matter how sorry he is, he can't bring them back. As much as we'd all like to turn back the clock—every single person in this room wants to turn back the clock to that day and undo that terrible decision he made, that he did, that terrible deed that he did. Everyone in this room wants to turn back the clock. And we can't.

We can't do that. And so, the question is, what can we do? There's two things that we can do to honor the lives of these young girls, and to honor their memory. One is we can say, we're just going to perpetually punish this person...with the life sentence, it would be, you know, forever, until he died...as long as possible, right? Within the limits of the law.

That's one way to do it....

But there's another way to honor their lives, and that is to say that this is a person who is doing good; is trying to do good; is sorry; is remorseful; wants to do good; understands what he shattered when he took part of the family because he is starting to appreciate...his own family, and, you know, the people around him.

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28. Trial Tr. at 229-231.

And so, another way of honoring the lives of Carrie and Helena would be to say, we're going to release this person. When he's done an appropriate amount of time equal to the gravity of taking a human life, and we are going to let him do that good in the world they no longer can, understanding that his life is not his own, and that everything he does from now on is to honor them, to honor their memory and to give to the world back a portion of what he took when he took their lives.

That is the more hopeful, proactive living way, and it is another way. It's another way.

MS. RAEDY: Thank you. No further questions.<sup>29</sup>

What I'd wanted to say to those people on the right, who loved and remembered Carrie Hoval and Helena Martin, was that the names of those girls, and their lives, would not be forgotten. Eric Anderson, the person who took their lives, was desperately sorry and regretted what he had done, to the core of his being. His family was deeply sorry as well, for having any relationship to the utterly senseless killing that took the lives of two precious girls, and for their failure to convey that sorrow earlier. Eric had worked hard over the years to prove himself worthy of being called a man and not a murderer only. He knew that his obligation for the rest of his days was to give back, to be a force for good. And he knew at the same time that, no matter what he did, he could never completely balance the scales. He could not give back Carrie and Helena.

### III. LESSONS TO BE LEARNED

As I testified at the hearing, the sentencing in the Eric Anderson case was not, ultimately, so much about him as it was about crime victims such as Carrie and Helena. How do we honor their lives? What can we do that is worthy of their memories? What can restorative justice do to help heal the deep rifts among victims and perpetrators, and their allies on both sides?

The point I tried, and am trying, to make is this: Often, the model for restorative justice is what I call "painting the garage." A youthful offender grabs a can of spray paint and tags a neighbor's garage with graffiti. The neighbor catches the kid and presses charges for the damage to her property. Instead of sending the kid to jail, restorative justice steps in. The kid and his family, and the neighbor and hers, sit down with a mediator and talk. They reach a solution: the kid will clean up the graffiti and paint the garage. The neighbor or another adult does some mentoring. Case closed.

The problem with serious crime, where irreparable harm is done to victims and their survivors, is that in those cases, the perpetrator cannot truly make things even. You cannot take back the shock and trauma of a rape. You cannot bring back a stolen life.

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29. Trial Tr. at 238-240.

When I took the stand and testified for Eric Anderson, my eyes swept the entire room, and I tried to convey that we have to decide between two clear choices about our response to that kind of crime.

First, we could say that what Eric did that day was so horrible that he should be punished forever, until the day he dies. No matter how sorry he may be, or how hard he has worked to become a better person, his sentence should only and always reflect the severity of his crime. In other words, endless retribution, despite his remorse and rehabilitation.<sup>30</sup>

But there is another, second way to respond, and that is through redemption instead of retribution.<sup>31</sup> Working to redeem the stolen lives of the victims by having them live on in good works undertaken by a whole community of people determined to honor those victims, especially including the perpetrator and his family. Redeeming the tragic separation among people bound by a single tragedy—the crime—by bringing them together in a space where one side can make a sincere apology and the other side can hear it, if they are willing. Redeeming the damage to the community from which both perpetrator and victims come by showing a way that people who should be perpetual enemies can meet in mutual efforts to understand one another as human beings.

That sounds hopeful and rosy. Now I need to say some hard things, with which people are free to disagree. I believe them, though, steadfastly. They are my credo.

The restorative justice I am proposing is not cheap, and not easy. It comes with a cost, and requires humility.

The victims in the harder cases for restorative justice I am envisioning were innocent. The perpetrators who hurt or killed them are guilty. The perpetrators may have been victims of horrible crimes themselves at one point in their lives, and often are. I know this all too well as a public defender who has represented clients who were victims of unimaginable crimes as children.

But the perpetrators are responsible for the crime they committed. The victims are not. The victims did not choose what happened to them; their attackers did.

The offenders owe a debt not only to their victims, but to all who knew and cared about those victims as well. A perpetrator attaches all

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Retribution is at the heart of just about all judicial systems that deal with law and order. To the extent that punishment is supposed to fit the crime, retributive justice can be distinguished from revenge in the sense that defendants are supposed to give up something in return for the offenses they committed. Retribution can be considered a susceptible principle insofar as ranging in doctrines from ‘an eye for an eye’ to ‘the Golden Rule.’

*Retribution*, BLACK’S LAW DICTIONARY (2d ed. 1910).

31. “Redemption” has been defined as the “action of regaining or gaining possession of something in exchange for payment, or clearing a debt.” Definition of Redemption, OXFORD DICTIONARY (July 29, 2017), <https://en.oxforddictionaries.com/definition/redemption>.

those people to himself when he commits the crime. Again, the victims did not choose him. He chose them.

What stung my heart when I walked into the courtroom to testify for Eric Anderson was the large size of the crowd there for Eric, the living, compared to the small one for Carrie and Helena, the dead. I understood the disparity: it is easier to care for the living, for someone who is right there in front of you. You can see them; you can talk to them. You can see their growth, their goodness, their potential, the change they have demonstrated.

All the family members of the victims had were their memories of who these young girls were, and their hopes and dreams for what they could have become.

That places a special burden on perpetrators and their allies to stop in reverence, learn who the victims were, and take a long, hard look into the abyss of the crime and the resulting grief it caused and continues to cause long after. It obligates a perpetrator who is incarcerated for his crime to say not, "Poor me," but instead, "Poor them," and to respond out of a deep sense of that obligation.

This restorative justice requires perpetrators and their allies to say in plain, clear language, with active verbs, what the offender did. Not, "As a result of Terry's poor decisions that night, the victim died," but instead, "Terry shot and killed the victim."

It requires those who know and love the perpetrators to not regard or treat the victims and their families as enemies to be shunned, as obstacles to be overcome, or as roadblocks to be avoided. Rather, this restorative justice requires active efforts to reach out to victims and their allies in efforts to learn, to listen, and to communicate with sensitivity and respect.

What else can we do to navigate these crucial relationships within the context of the criminal justice system?

Some small steps we can take is to address two key problems: first, prosecutors who keep victims and their families in a perpetual state of anger over the crime and the perpetrator, and second, defense lawyers who keep those perpetrators silent rather than allowing them to speak their sorrow for their crimes.

One part of the solution is through judges, making clear that they want authentic testimony from victim's family members, not an orchestrated show of anger. Another part is through prosecutors, modulating a desire to win at all costs and keeping in mind the long-term toll of unresolved rage on victims and their loved ones.

Another part of the solution is to find ways for offenders and their families to reach out to victims. Yes, this may need to be after guilt is adjudicated—but it should be facilitated, and done as early as possible in the process.

I waited twenty-three years before I heard a direct confession and apology from the person who killed my family members. It meant the world to me when I did. He could not give me back Nancy, my brother-in-law Richard and my unborn niece or nephew. He did, however, give me

the assurance that he took full responsibility for taking their lives, and that he grasped the enormity of what he took.

#### IV. CONCLUSION

The criminal justice system in which I live, both as a defense lawyer and as a victims' family member, can be a vale of tears. But it does not need to remain so, unchanging, and leaving unchanged the people within it. We have the power to transform that system, through acts of will that recognize the common humanity of all and God's preference for peace.