

Faces of the Aftermath of Visible & Invisible Violence & Loss: Radical Resiliency of Justice & Healing

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As a victim/cosurvivor, my experiences with the criminal justice system have called me to confront hard truths and the brutal facts of coming to terms with death, life, meaning, responsibility, and healing in innumerable ways. The real and tangible balance as a practitioner, victim, and healer are oftentimes disconnected from theory, practice, and life and death experiences. What does it mean to be human in the processes of restoration and reconciliation while hosting complexities, contradictions, and complacencies that all too often reduce victims/cosurvivors to being forgotten, dismissed, and neglected within the criminal justice system? Why do communities of people who long for and deserve trauma-informed interconnect-ness, restoration, healing, and reconciliation continue to suffer from the absence of them? My multidimensional perspective as a victim and advocate grapples with my role as a practitioner as it relates to bodies of evidence, theories, best practices, and justice policies.

Proximity to violent death and the aftermath of visible and invisible loss make for such a painful, disorienting implicit ugliness of trauma and vulnerability, a time that begs for a clarifying set of steps toward healing from grief. The disappointing news is that grief and loss encountered by and with violence neither follow models nor clear pathways toward healing. Grief is neither transformational nor redemptive. As a Community Dispute Resolution Specialist and Faculty Instructor at Wayne State University's Center for Peace and Conflict Studies and as a survivor of acts of terrible violence, I come to you at once as a professional and as an individual with deep personal experience in facing the aftermath of visible and invisible violence and loss. I come to you with an authentic, vulnerable, and conflicted heart, and with a story of grief as it sits inside a story of love. This complicated and complex grief is not a path to self-betterment; rather, it is a choice to find meaning and growth despite tremendous loss – an act of personal sovereignty and self-knowledge – as I learn to continue to carry grief, loss, death, my purpose, and a deep-rooted love in a fragile state. To date, I have

not had a good cry. I have not cried to the extent of a deep release that even comes close to the radical cleansing tears that are required to minimize the fear that I and a collective host of Black women who are mothers have of the length of time it takes to come to terms with a violent death. I would like to invite you to explore this with me, not in ways of persuasion or influence, but rather with your respect and agency.

In 2007, I became a front-line antibullying parent advocate for my youngest child. My only son possessed unique learning abilities and was a part of the cognitive impairment community. During his freshman year at a public high school in Detroit, he experienced a violent bullying attack during which he was pistol whipped. He sustained a severe concussion and received twenty-two stitches to his head as a result.

As a mother and the first and only teacher in my family, I would not tolerate bullying against my daughter and son, and I would not let them feel helpless and victimized. I created strong messages and tools necessary to become an effective mediator within my household, within the school that my children attended, and within my community. My aim was to somehow figure out how to transition from a long career in media to one in mediation, utilizing decades' worth of communication skills to help my children, so I obtained my master's degree in dispute resolution and a graduate certificate in peace and security studies from Wayne State University. I learned various ways to mitigate conflict and antiyouth violence practicalities, adding these to an already well-established skill set in conflict resolution simply from being a mother.

After my son's high school graduation in 2011, we decided to relocate him from Detroit to Colorado Springs, Colorado. My daughter had moved there a year prior, and she and I agreed that it would be a beneficial experience for my son to be in an environment that was less violent and to have more opportunity for growth and maturity. Although the transition from Detroit was tough for me and my son, my daughter and I motivated him to see another part of the country, away from one of the most violent cities in the United States.

I removed my son from this environment so he would no longer experience the extremes of violence that pervaded his life. Despite my intention to expose my son to a new, safer community, we soon discovered that violence is too common across the United States.

Although this is the most difficult writing I've done to date, this type of academic writing is beneficial in understanding my personal grief process, traumatic cognitive performance, and my grief journey, and in connecting the experiences of a mother of a murdered son and a crime victim survivor/covictim to other individuals with similar experiences, to local communities, to the larger community of country, and to the future of justice – a victim-centered justice – for all.¹

The following is my victim impact statement – one of three victim impact statements that I’ve given. I read this one on June 28, 2019, to the judge, officers of the court, Colorado Springs Police Department, District Attorney’s office of El Paso County, and, more important, to the communities of Colorado Springs, Colorado, and Detroit, Michigan.

I’m the mother of two children, Charmaine El-Jones and Conte Emanuel Smith-El. I’ve been a mother since I was 16 years old. I’m 55 years old. Collectively, I’ve been a mother longer than I’ve been an actual human being. I don’t know any other life except for being a loving, responsible, nurturing provider and protector, and I raised my children to respect themselves, to respect me, and to respect humanity. My life has not been my own.

I’m the mother of a murdered son. For the past 23 months, I’ve lived a life of physical, emotional, and psychological turmoil, trauma, and unspeakably complex and complicated grief.

I am not the only one who walks this journey and I need for you to hold space for each and every mother that has lost a child. The planned demise and murder of my only son, Conte, has caused a reordering of my life in such a way that no one will be able to understand, except for the mothers who have lost their children due to homicide, gun violence, lethal violence, and murder. You have destroyed my family.

Let me tell you a little bit about my son, Conte. Conte was a kind, respectable, loving, and affectionate young man with unique – very unique abilities. My son always spoke to everyone and greeted you with a smile that made you feel special, valued, and important. Conte did that without fail because he did not want others to feel the pain of never, ever being loved, valued, and respected. He wasn’t treated kindly by others and he didn’t want anybody else to experience that. My son’s unique ability to value everyone and everything was exhibited by his persona.

Driving down the streets in Detroit, my son’s unique ability to value everything arose in conversations when he would shout out, “Momma, watch out for that squirrel!” I would put on the brakes to avoid hitting that squirrel. This happened often because whether it was in Detroit or Colorado, we were always in a hurry to get somewhere. “Momma, don’t hit that squirrel! Momma, don’t hit that squirrel!”

I would press my brake, we would both look back, and the squirrel would make it across that street in whatever direction that that squirrel was going. Conte would turn to me and smile, and I would smile back because I was just proud that I didn’t hit that squirrel. He’d said, “Whew! Okay, momma, we didn’t hit the squirrel,” and then he would continuously smile.

That smile, that smile, that smile. Conte valued life. Even the squirrel’s life.

I had just seen my son 26 days – 26 days – before his tragic death on an unexpected trip that my daughter facilitated. My last visit with my son was full of love, laughter, and immediate plans for me to finally leave Detroit and relocate to be with my children. I was going to continue my work in Colorado Springs in advocacy for young people and anti-youth violence and restorative justice. In fact, I had just had a job interview the day before my last visit with my son. We held hands, we talked about my moving, and he was so happy. Conte told me he was in a good space and that he was a little bit more comfortable being in Colorado Springs after almost six years. His words brought me such immense joy.

I got that phone call – that dreaded unexpected phone call – from my daughter on the morning of October 31, 2017, at 3:35 a.m. her time, which was 5:35 a.m. my time. The ringing of my phone at that time wasn't anything startling because my daughter is a night owl. I really thought it was her or my granddaughter calling me because my granddaughter got ahold of my daughter's phone often and knew how to dial her Grammy.

I heard many voices when I picked up and answered the phone, and the many voices on the other end weren't talking directly to me. But amidst all of these voices, I heard my daughter wailing in the background. This was a wail that I had never heard before, not even when she was born. My daughter was unable to formulate the words to let me know about my son – her only brother who she'd been a second mother to because she's 11 and a half years older than him. It was one of the detectives from the Colorado Springs Police Department who had to tell me that my son was dead.

My entire family has had to wrestle with the facts that were caught on multiple surveillance cameras and two Ring cameras inside the business where my son was employed. I viewed twelve and a half minutes during which my son gave service with a smile, during which I watched my son cover his mouth in horror, shocked that one of his peers – a 23 year old whom he did not know – bolted in with an AR-15 semi automatic rifle, and during which my son was shot seven times.

I watched my son tied up. I watched my son brutalized. I heard my son scream for help. I watched my son attempting to fight and flee, something that I never taught him. I taught him either you fight *or* you run. My son did both at the same time. I watched my son endure twelve and a half minutes of torture, exploitation, bullying, and execution. I watched and heard my son scream out in pain. I watched my son and heard my son crawl on the floor to an exit. I watched my son take his last breaths before he gurgled and died.

You laid next to my son, pretending to be a victim, and then ultimately helped to tie him up. You advanced his demise without shame and when he witnessed your contri-

bution to this horrific act . . . I could not think of what was going on through my son's mind, but I watched it.

Don't think for a minute that I haven't thought about you and your family, and if I was in that same exact position as you and your mother and your entire family. If my son had done this to you. I've thought about you. I think about you and I will never forget you for the rest of my life. You and your family will always be tied to me and my family, nothing will ever change that. The impact of your actions will forever be intertwined in my life and the community of Colorado Springs.

My son has a face; he has a name. My son's life will never be restored so I must honor his legacy. I created Conte's annual memorial scholarship² for young people like you – for sons and daughters who are not even my own kids because I'm committed to helping and guiding young people. This is my ministry.

You must realize that you must admit your accountability in your actions against my son, eventually. The facts and evidence speak for themselves. There is no hearsay, speculation, or third parties' stories. You know and we all see your exact, specific, and undeniable role and responsibility in my son's death. If you make it through this program, this YOS program, you will approximately be 24 years old, the same age my son was when his life was deliberately stolen from him.

As a Restorative Justice Practitioner and the mother of a murdered son, I'm asking the Judge David Miller, the DA's office, the entire judicial system, your probation officer, Larissa Perea, the Department of Corrections Colorado Springs, the YOS officials of Colorado Springs, and CSPD law enforcement to set up and implement a formal and comprehensive Victim Offender Dialogue session involving me, you, and your mother, as well as with organizations who have the expertise right here in Colorado. This is my request and I pray it will be honored by the above-mentioned parties for me!

The victim often is silenced for the duration of a murder/criminal trial, except when the victim impact statement is given; yet victims and offenders can benefit from a victim's survivor impact story in a face-to-face, mediated setting with victim-offender professional facilitators within prisons and juvenile correction facilities. Currently, the State of Colorado offers restorative practices under the Colorado Victim Rights Act, statute 24-4.1-302.5, "Rights Afforded to Victims": "The right to be informed about the possibility of restorative practices, as defined in section 18-1-901(3)(0.5), C.R.S.," which include victim-offender conferences.³ Parties are invited, but not compelled, to participate in making decisions about how to respond to the offense. The process allows the offender to take accountability for their actions, to offer amends to the victim (something not often seen in our traditional punitive, retributive criminal justice model for violent crimes), to repair harm to the extent possible for justice to occur, and to prevent future harm.

We cannot heal what we are not willing to confront, and my request for a victim-offender dialogue was a key step toward my and my family's personal healing, as well as for the person who killed my son and for his family. The goal of this dialogue and of healing is not to patch up, cover up, or conceal the waves of grief resulting from the harms caused by violence in an effort to preserve, promote, or present as normal. It is to acknowledge your changed circumstances – your new life – with courage. We must be willing to confront the truth before we can even think about healing. Reconciliation and restorative justice seek redress for victims, recompense by offenders, and reintegration of both within the community.

Relatives of Smith-El railed against Daugherty's lack of accountability, saying it bars any hope of "restoration." The dead man's mother, Barbara Jones, a Detroit-based anti-violence advocate, said in court she would like to meet with Daugherty in prison for a "dialogue." The judge encouraged Daugherty to accept, saying he must confront his role in Smith-El's death before he can be fully rehabilitated.⁴

The necessity for criminal justice reform to reflect victim-offender dialogue and restorative justice and to normalize these opportunities for healing are paramount for victims' families and cosurvivors. Restorative justice is a social justice model that focuses not only on rule of law issues (as in our traditional criminal justice system), but also on the rules of relationship. The tenets of the restorative justice model are relationship, respect and honoring dignity, repair and reconciliation, accountability, reintegration versus recidivism, radical resiliency toward justice and healing (we cannot heal what we cannot confront), and peace-making, peace-building, and peace-keeping.⁵

There is ongoing work in Michigan, which I am involved in, to amend the state's constitution to address crime victims' rights and add restorative justice practices. In the Michigan Crime Victim Rights Act, this includes an effort to enact a victim-offender conferences statute that improves rights afforded to victims, providing reconciliation and restorative justice as a participatory status for crime victims and for the offender victims and survivors who request it.⁶ I assert that there are levels of personal accountability for offenders to their victims or their families, which is otherwise not afforded to them. This guidance and trained facilitators are available according to "Victim-Centered Victim Offender Dialogue in Crimes of Severe Violence," published by the National Association of Victim Service Professionals in Corrections and guidelines published by the State of Colorado for Victim Offender Mediation.

At the National Association of Community and Restorative Justice Law and Policy Working Group, of which I am a member, we are developing model legislation that may be used by legislators to develop statutes and policies supportive

of restorative community justice applications, and we are creating advocacy materials to assist policy-makers with enacting these changes in law.⁷ We champion a restorative justice framework and practices that seek to repair harm, and restore and promote healing in communities; actionable priorities that are not victim-led but victim-centered. When confronting violence, the long, hard journey toward healing should compel us to examine the qualities and conditions of being human. We must explicitly grieve for those we have loved and lost, not to prolong and sustain our connection to suffering, pain, hurt, revenge, and retaliation, but to sustain love, peace-making, peace-keeping, and peace-building. No transformative redemption in the aftermath of visible and invisible grief can occur unless we all understand how to acknowledge those we grieve in all we do. Radical and redeeming social values are at the forefront that demands the reduction and elimination of barriers for victim survivors/cosurvivors to participate at every stage of the justice process, systemically, structurally, and collaboratively across agencies and service providers. Victims must be given a more active role and voice not only in their individual experiences, but also in the broader conversations about criminal justice system improvement.⁸

To transform the world, it takes people willing to face the reality of how violence affects their lives, and to insert their own morality and mortality into social values that serve humanity from an absolute place of common good, genuine support, forgiveness, compassion, and empathy. Moving from crisis to hope must be rooted in love. In regard to Joshua Daugherty, one of the two young men responsible for the murder of my son, whose humanity will not be considered in the current state of the criminal justice system and who may not experience the benefit of restorative justice-centered legislation during his incarceration, it will be up to the community to help this juvenile convicted of second-degree murder, who received a seven-year sentence in a youth offender program, succeed once he successfully completes his sentence and is released.

The harm of murder or homicide ripples beyond the victim, their families, and cosurvivors, and into the broader community. Crime is seen as a tear in the community fabric. Therefore, the victim, offender, and community members should have a voice in how harm can be reconciled and repaired. This collective approach generates distinctive roles and shared responsibilities for stakeholders, including victims, offenders, justice professionals, and community members.⁹

Victims and offenders are helped to become contributing members of their communities in the aftermath of the murder/homicide by reinforcing moral education and the values and norms of community standards. Moreover, it is a victim-centered, offender-sensitive response by the community to address not only the harmful incident, but the underlying causes often rooted in the community, and its ability to help the offender repair the harm caused to the victim, the victim's family, cosurvivors, and the community.

Few events are more seismically traumatizing than the loss of a loved one to homicide. However, homicide survivors quickly learn that the dominant social narrative makes the state the surrogate victim: harm done by offenders to victims is handled as if it is harm done by offenders to the state. Homicide survivors become invisible as the agenda of the criminal justice system, the media's interpretation of the facts, and the community's response construct the public meaning given to the tragedy. Too often, survivors are cruelly left alone to face the abject grief, rage, and sense of violation that accompany the abhorrent act of killing another person. As their meaning systems implode, they enter a netherworld where they fight to find footing in a world that no longer fits. As we collectively continue to shed light on these challenges, I pause and reflect on a quote by Audre Lorde, "Without community, there is no liberation . . . but community must not mean a shedding of our differences, nor the pathetic pretense that these differences do not exist."

Homicide survivors are forced into interactions with the public that rob them of important rights and deprive them of their justifiable privilege to define and control their realities. What they demand underscores what matters to them. The convictions they act on are fueled by moral indignation and passion for what is theirs to hold onto, correct, or take back. Fighting is a form of self-preservation to minimize more losses. Asserting their needs makes who they are visible to others.

Efforts, policies, practices, resources, and approaches designed to mitigate violence in the United States are stagnant, limited, uncoordinated, and governed by an extreme, outdated, and neglected disarrangement of authorities who prioritize immediate reactionary responses over inclusive creative options geared toward providing long-term relief, answers, and solutions. Violence is not an intractable social problem or an inevitable part of the human condition. In their analysis of emerging restorative justice legal doctrine, Shannon Sliva and Carolyn Lambert explain:

While many states' criminal and juvenile codes contain references to restorative justice generally or specific restorative justice practices, few provide detailed support and structure to ensure implementation. According to our findings, only Colorado, Minnesota, Missouri, Montana, New Hampshire, Texas, and Vermont have structured support for a restorative justice practice within their code. It should be noted that even these seven states – which have structured support for some aspects of restorative justice in some settings – do not mandate restorative justice as a system-wide criminal justice response. Nationally, restorative justice remains a marginally supported justice practice at the level of state policy.¹⁰

We can do much to address and prevent it; however, the United States has not yet fully measured the size of the task and has not designed and utilized all the

tools to carry it out. Bearing witness to the aftermath of visible and invisible violence results in survivors connecting these to larger issues of systemic dynamics and to the adoption of appropriate prevention strategies rooted in conscious values of equity and justice.

A key component of these tools is incorporating victims into the dialogue and solution-building. My son is the data. I am walking, breathing data. This new perspective of the criminal justice system as the survivor and the exclusion of voices and involvement of victims and survivors has resulted in my long-term personal goal to set restorative justice/victim-offender dialogue as a mandatory part of the offenders' session in homicide cases. Interconnection and intersectionality function at the foundational roots of collectively healing due to identities, systems, and structures.

Resiliency frameworks resulting from the layers of violence incorporate greater reconciliation efforts and instill restorative practices. As someone who has experienced a life shattering crisis, I have put a system of individual, community, and collective healing in place, based on what role restorative justice can play toward healing for victims, victim survivors, covictims, and the community, and the work to end violence. Such a framework aids in un-normalizing visible and invisible violence to ensure that no portion of the human experience will be unacknowledged. Of course, violence, trauma, and healing are nuanced, and this is a call for alternatives that recognize the intricacies and delicate differences in the way we handle violence, and, notably, to recognize that everybody hurts. Violence is pervasive and a part of that is because we, as a nation, address violence with violence and must actively and necessarily heal as a whole. This is my lifetime commitment toward structural, systemic, institutional change as a lifelong victim cosurvivor.

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ENDNOTES

- ¹ "Conte Emanuel Smith-El Obituary," *The Gazette*, November 8, 2017, <https://www.legacy.com/obituaries/name/conte-smith-el-obituary?pid=187185753>; and "How WSU Conflict Resolution Strategist Barbara Jones Works to End Neighborhood Violence while

- Grappling with her Own Grief,” Wayne State University, June 11, 2020, <https://today.wayne.edu/news/2020/06/11/how-wsu-conflict-resolution-strategist-barbara-jones-works-to-end-neighborhood-violence-while-grappling-with-her-own-grief-37549>.
- ² “Conte Emanuel Smith-El Annual Scholarship,” Wayne State University, My Scholarship Portfolio, <https://wayne.academicworks.com/opportunities/6879>.
- ³ National Crime Victim Law Institute, “Colorado Victims’ Rights Laws,” <https://law.lclark.edu/live/files/4923-colorado>.
- ⁴ Lance Benzel, “Teen Sentenced to 7 Years in Youth Prison in Deadly Colorado Springs Pot Shop Robbery,” KKTV 11 News, June 28, 2019, <https://www.kktv.com/content/news/Teen-sentenced-to-7-years-in-youth-prison-in-deadly-Colorado-Springs-pot-shop-robbery-511981012.html>.
- ⁵ See National Institute of Corrections, “Resources on Victim Offender Dialogue,” <https://nicic.gov/resources-victim-offender-dialogue>, for resources on the tenets of restorative justice.
- ⁶ To view my public testimony to Michigan legislators, see Michigan Supreme Court, “Joint Task Force Meeting 5 (Nov. 19, 2019): Afternoon Session – Public Testimony,” YouTube, uploaded November 20, 2019, 2:13:10–2:16:00, <https://www.youtube.com/watch?v=toVeUoTFZhe&list=FLYA-DvIxoVnt6VO6sEQNnLg&index=2>. For testimony and system assessment support, see Michigan Courts, *Michigan Joint Task Force on Jail and Pretrial Incarceration* (Lansing: Michigan Courts, 2010), <https://www.courts.michigan.gov/48e562/siteassets/committees,-boards-special-initiatves/jails/jails-task-force-final-report-and-recommendations.pdf>.
- ⁷ National Association of Community and Restorative Justice, “Policy Position Statements,” https://nacj.org/images/resources/Policy_Statements/NACRJ_Policy_Statement_on_VOMD_Board_of_Directors_Vote_-_Approved_-_Oct._6_2015.pdf.
- ⁸ Melissa Nelson and Kevin Thom, *Protecting and Serving Victims – Their Way, Not Ours*, Executive Session on the Future of Justice Policy (New York: The Square One Project, 2021). See also Aliya Brown, “Reflections on the Square One Roundtable,” Common Justice blog, January 3, 2021, https://blog.commonjustice.org/blog/reflections_squareone_roundtable.
- ⁹ Sandra Pavelka, “Restorative Justice in the States: An Analysis of Statutory Legislation and Policy,” *Justice Policy Journal* 2 (13) (2016).
- ¹⁰ Shannon M. Sliva and Carolyn G. Lambert, “Restorative Justice Legislation in the American States: A Statutory Analysis of Emerging Legal Doctrine,” *Journal of Policy Practice* 14 (2) (2015).