Murder Ob/Scene: The Seen, Unseen and Ob/scene in Murder Trials

Carolyn McKay[1]

> MESSENGER: Wretched me, what account, what words am I to tell? … Wretched me, I cry it again; for I bring great misfortunes. Euripides 411-408 BCE *Phoenician Women* (Craik 1988: 137)

Tragedies and murder trials explore the relationship between the living and the dead; the present and absent; the seen, unseen and obscene. The central focus of my recent research into *viva voce* testimony was to consider the role of the live human voice in resuscitating the past crime scene, providing me with the opportunity to observe and interpret murder trials from the perspective of a visual artist who has also studied law. Given my legal background, I was also interested in re-interpreting and deconstructing court procedures, rituals and aesthetics and, through this process, revealing issues of theatricality and the concept of the ob/scene.

> *Obscene*. That is the word, a word of contested etymology, that she must hold on to as a talisman. She chooses to believe that *obscene* means *off-stage*. To save our humanity, certain things that we may want to see (*may want to see because we are human!*) must remain off-stage (Coetzee 2003: 168).

The etymology of the English word *obscene* is obscure, with most dictionaries referring to the French *obscène* and Latin *obscaenus* meaning from or with filth, ill-omened or abominable. The legal definitions

follow this line, referencing that which may deprave or corrupt or which is offensive to decency (Osborn 2001). Like Coetzee's *Elizabeth Costello*, others suggest *obscene* derives from the Latin *obscaena* or Greek *ob skene* meaning off-stage, not fit to be seen on-stage, 'scenes that do not belong in the light of day', and it is this derivation that I adopt as appropriate to my exploration of the absent crime scene in a murder trial (Coetzee 2003: 159). Surprisingly to the modern eye, it was violence, not sex, that was kept off-stage in ancient Greek theatre. Obscenity was not originally associated with sex, which often appeared in ancient Greek satyr plays and comedies. Hendrickson argues that Shakespeare's *Richard II* first used *obscene* as meaning offensive to the senses '… so heinous, black obscene a deed' (Act IV Scene I). The meaning of *obscene* then broadened to refer to that which was 'indecent and lewd' (Hendrickson 1987: 384; Partridge 1961: 446; Farfan 2004: 68).

Indeed, in her examination of the 'Museum Secretum', created to house sexually explicit antiquities at the British Museum, Nead conjoins both concepts. She considers the isolation of the (pornographic) obscene as a 'spatial enactment' of the off-stage etymology of obscene, that is, the obscene should remain outside the 'immediate frame of representation' (Nead and Douzinas 1999: 204). What is therefore obscene, Michelson suggests, is the bringing onto stage of that which, relative to contemporary standards, is usually kept off-stage (Michelson 1993: xi-xii). The term may also be considered as 'that which works against representation' or is unscriptable, the prime example being the representation of death or a murder scene (Richards 2009: 573-4).

Ob/scene in Tragedies

In ancient Greek theatre, scenes of great violence or catastrophe occurred off-stage. Death and brutality were implied rather than graphically represented with the sense of the off-stage action being invoked through the power of the spoken word and emotional enactment (Rabinowitz 2008: 29). Eyewitness accounts and oral evidence of the off-stage fatal violence would be recounted in the 'messenger speech'. The ubiquitous messenger would come on stage

to narrate the terrible off-scene action 'using incredible, detailed and specific visceral, musical, dynamic language'. Actor Steven Berkoff (2008) contends that, in theatre, there are things we are not meant to see or voyeuristically enjoy, for example, the Oedipal bedroom or a suicide:

> MESSENGER: … Their mother, on seeing this catastrophe,
>
> overcome with grief, seized from the corpses a sword
>
> and did a dreadful thing. Through the middle of her neck
>
> she plunges the weapon and amid those most dear to her
>
> she lies dead, having thrown her arms around both …
>
> Euripides 411-408 BCE *The Phœnician Women* (Craik 1988: 143)

Berkoff (2008) laments that what was once off-stage is today, in the hands of directors such as Quentin Tarantino, 'glutinously examined in close-up, in panoramic high voltage, super-coloured, slow motion, splattering blood …'. There seems to be an unrestrained lust for explicitness, for the ob/scene to be seen. Yet the messenger device to narrate off-scene violence continues to be used in contemporary works, for example, in Milch's (2002) *Deadwood*:

> Bullock noted the approach of an UNKEPT MAN on a slow-moving horse. Bullock's scrutiny prompts the man to check his instinctive, furtive gaze at the contents of the tent –
>
> MAN: I seen a terrible thing tonight.
>
> BULLOCK: What did you see?
>
> MAN: White people dead and scalped, man, woman and children with their arms and legs hacked off.

Leaving it to the spoken word to evoke the brutal scene within the audience's imagination is somewhat paradoxical. Evocative words compel the audience to envision the inferred violence from a self-reflexive viewpoint, provoking an awareness of their own vulnerability to the uncontrollable forces of misfortune and evil; *there but for the grace*

of God go I. In forcing an internal confrontation with mortality and the fragilities of existence, ob/scene inferred violence provides a perhaps more powerful, chilling and unnerving affect than explicit depictions. Indeed, the clinching appeal of tragedies and murder trials is that we are enthralled by a dystopic ending because the tragic event happens to someone else. Another contradiction is that, as with the Museum Secretum, the ob/scene violence is known to exist but remains out of vision (Nead & Douzinas 1999: 205).

Ob/scene in Trials

Ob/scene crime scene

In light of the above, the murder trial is the epitome of the legally imagined theatrical construct of the ob/scene. Firstly, the murder itself has been committed in another temporal and spatial dimension, virtual and off-stage, distant from but made present in the courtroom proceedings. Rehm refers to the off-stage in spatial terms as *extrascenic space*, a place of danger that must remain unobserved (Rehm 2002: 20-21). The witness/messenger who delivered reports became the tragedians' conduit for revealing and describing that unseen locus of violence, for example, the scene of a double suicide:

> MESSENGER: And in the recesses of the tomb we saw her:
>
> Hanging from a coil of finely woven linen.
>
> He was prostrate before her, clasping her waist, bewailing
>
> This bed of death, his father's deeds and his own star-crossed marriage…
>
> … He leans
>
> against the sword and drives it deep into his side. With his
>
> last strength, he holds the girl in a tender embrace.

A jet of blood hits her blanched cheeks.

Corpse embraces corpse.

Sad wedding-feast to the music of death.

Sophocles c 441 BCE *Antigone* (Wertenbaker 1992: 133)

Similarly in a murder trial, the event is not present, but must be created — the crime scene implied and evoked through spoken word and the display of remnant physical evidence, both the banal and the blood-spattered.

Figure 1 Carolyn McKay 2009 *Fragments* Digital video still on cotton rag 68 x 108 cm

Even in this age of surveillance and video evidence in the courtroom, a camera can rarely capture effectively, or even contextualise, the whole scene of the crime. A common evidential failing of CCTV footage is that, while it may be replayed continuously, the salient action, peripheral events and surrounding context often remain out of camera shot and ob/scene.

Like a clichéd crime show, the crucial dramatic action of the trial — the murder — has taken place elsewhere and so the unfolding is

retrospective and comes complete with multiple perspectives, subplots and flashbacks (Rugoff 1997: 33). A basic plot outline is presented in the opening address by the Crown Prosecutor and the various witnesses provide new pieces of evidence connecting the who, how, where and when with what in order that the complete gestalt of the crime may be re-constructed. *Viva voce* evidence effectively reconstitutes the ob/scene crime scene, bringing the extrascenic past locale into the present trial setting.

Ob/scene victim

The second ob/scene attribute relates to the victim. A distinguishing feature of the murder trial, as distinct from other proceedings, is that the ultimate witness — the deceased — remains absent, off-stage, mute and unavailable to unravel the truth in the open public space of a courtroom. Lacking presence, the murder victim becomes a representation, rather like a fictional character, fleetingly revived and brought into being by the spoken word. Thus the spoken word becomes instrumental in providing murder victims with an ephemeral resurrection so their voices, filtered through the words of witnesses, may be heard.

My digital video work *I'm Talking about Truth and Lies* is a re-presentation of testimony given in the trial of a woman accused of murdering her father. Occasionally the words of the deceased are recalled and re-presented by living witnesses. But this abstract restoration through spoken word is transient, and the authenticity of words attributed to the deceased is impossible to judge. This particular work also highlights the mouth of the witness/messenger. Through digital masking techniques the mouth is isolated to create an image that, when projected, is simple yet unnerving. The mouth, so enlarged, alienated and abstracted from the face, stresses the primacy of the live voice and becomes emblematic of the secret internal stories it disgorges.

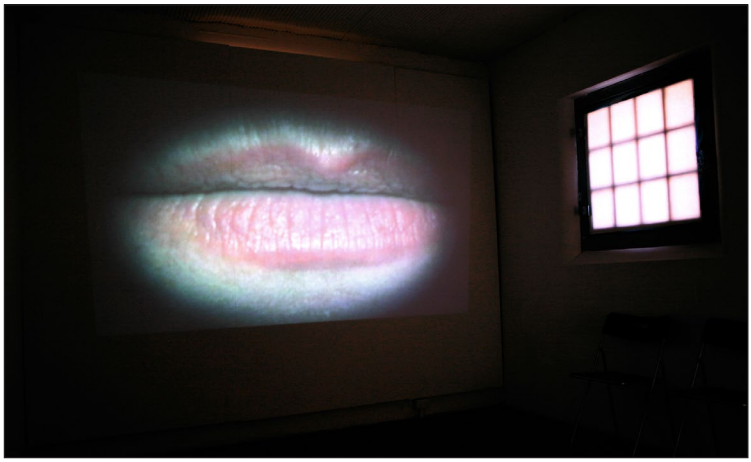

Figure 2 Carolyn McKay 2009 *I'm Talking about Truth and Lies* Digital video on DVD 20:45 min looped

While the victims' abstracted personality profiles may re-emerge in court, they remain ob/scene and invisible yet nevertheless capable of evoking a powerful emotional response from the living, with their names perhaps even finding tabloid fame. A murder trial presents a real-life mystery: it has a haunted or supernatural element not unlike the communal ghost-raisings of ancient Greek tragedies (Hall 2010: 2). Coupled with the dramatic dimension of live witness testimony, it is no wonder these proceedings are so enthralling, with the hard benches of the public galleries often filled to capacity.

Witness/messenger

A third ob/scene characteristic is the eyewitness who brings the oral evidence of the off-stage violence onto the stage or into the courtroom.

> MESSENGER: It is I, dear lady, who can tell you everything.
>
> I was there.
>
> Sophocles c 441 BCE *Antigone* (Wertenbaker 1992: 132-3)

In ancient Greek tragedies, the messenger speeches often highlighted the central, irrevocable catastrophic event and, as a consequence, were much anticipated by an audience keen to re-live the unseen action as divulged in rich and explicit language. They used both direct and indirect modes of speech to convey what happened (Hall 2010: 34).

> SECOND MESSENGER: … He tore the golden brooches that upheld
>
> Her queenly robes, upraised them high and smote
>
> Full on his eye-balls, uttering words like these:
>
> 'No more shall ye behold such sights of woe,
>
> Deeds I have suffered and myself have wrought;
>
> Henceforward quenched in darkness shall ye see
>
> Those ye should ne'er have seen; now blind to those
>
> Whom, when I saw, I vainly yearned to know'
>
> Sophocles c 430 BCE *Oedipus the King*[2]

Speech in speech (*oratio recta*) was a commonly used convention in tragedies to report another's words and create the sensation of live speech from another's voice. Oratio recta was considered more effective in capturing the essence of authenticity compared with the indirect quoting technique (*oratio obliqua*) (Bers 1997: 1-3). Like the ancient Greek messengers, eyewitnesses of a crime scene are summoned to relate their tragic narratives — their memory messages — within the court's *mise en scène*, using both direct and indirect forms of speech. In the courtroom, the witness/messenger delivers their testimony mixing alleged verbatim, direct reportage, as well as the more interpretative, oblique form of quotation. Certainly when a witness confidently asserts that someone at the crime scene said particular words, mimicking word-for-word what was said, it makes for compelling evidence. For

example, in the Supreme Court Trial of *R v Daniela Beltrame* on 6 February 2009 I summarised the following evidence given by the prosecution's key witness:

> I woke up and heard screaming. I got up and went straight to my grandfather's bedroom. I switched on the light and saw my mother kneeling on my grandfather. He was wrapped in gladwrap and she was forcing a pillow over his face, suffocating him. She seemed possessed and very evil and said ' Help me! He won't die. He has to go. He's a demon'. I tried to cut through the gladwrap but it was thick. My grandfather was mumbling and he took my hand, or I took his, I can't remember, and he said in Italian, ' God bless you, my child'. There was a struggle and I went into shock mode and went to the lounge room to pray. Later my mother came out of the room and said:
>
> 'He's gone. He had to go. I've suffered so much.' We had a cup of coffee and I went to bed.

Of course, such compelling oral evidence is susceptible to later contradiction by another witness. In the Beltrame trial, the accused took the witness stand to deny the above story. She was ultimately found not guilty of murdering her father, but guilty of lesser charges.

The focus of my research and studio practice has been to explore the phenomenological nature and paradoxical elements of live testimony, with particular focus on the voice of the witness. Despite advances in forensic sciences, *viva voce* testimony continues to play a key role in murder trials. While the ultimate goal of the trial is the production of an alleged objective truth, the entire process elevates subjective, phenomenological human experience and oral expression. As with the singular, embodied voice of the witness/messenger, the irreplaceable and unique, first-hand experience of the murder witness is delivered into the public discourse through the mouth. And it is through the accumulation of living testimonies, flesh-and-blood accounts and contradictory multiple viewpoints, that a narrative is plaited, the crime scene is reconstructed and a semblance of objective truth becomes apparent.

Figure 3 Carolyn McKay 2009 *Oath* Digital video on DVD 02:04 min looped

My digital video work *Oath* has a whispered audio track as a mouth appears on the textured wall of a former police station, The Lock-Up in Newcastle. The mouth opens, suggesting a speech act and creating tension in the expectation of a monologue, but then it slowly closes and dissolves without speaking. This work explores the unspeakable, un-narratable moments of testimony and the unavoidable elisions in verbal expression.

> MEDEA: … Take your time. Your story. How did they die?
>
> Was it really so horrible, so vile?
>
> The worse it was, the more I want to hear.
>
> Euripides 431 BCE *Medea* (Raphael and McLeish 1994: 39)

Testimony gives form to the formless crime scene. Such testimonial storytelling in the courtroom enables the modelling and understanding of intricate scenarios, particularly when the storyline flows over an extended period and implicates various sites and a cast of characters. Murder trials present considerable complexity and the labyrinth of evidence is best unpackaged and made tangible through a process of

storytelling. At times, however, the lived embodied experience of the witness/messenger may be pre-linguistic and the crime scene, or parts thereof, may remain ob/scene, unimaginable and un-narratable.

Using the medium of digital video, I explored the role of the human voice and associated nonverbal communication in articulating memories and the inner subjective experience. In addition to the weight of the spoken word, I found eloquence in nonverbal expression, utterances, stillness and gesture which are the tools of trade for actors and artists. For witnesses, such micro-behaviours and gestures of facial and bodily expression often revealed an unconscious leakage of truth. Through my work I delved into the gaps and silences, the soft subtleties of human expression, the spaces between phrases, that faint region between articulations of the internal narrative where the moments of unconscious are captured and revealed.

Figure 4 Carolyn McKay 2009 *Utterance* Digital video on DVD 06:06 min looped

Staging

A fourth similarity between tragedies and trials is the built environment or staging of the proceedings. The courtroom proscenium frames a reverent, secure platform and controlled space for witnesses to articulate their inner secrets, narrate acts of great violence and generate an intersubjective experience for the jurors and public. There is a designated distance between the witness/messenger and the public onlookers who are effectively fenced off from the formal proceedings. To sit in the public gallery is to be an audience member, yet we must remain silent observers of due process and not interrupt proceedings. Nevertheless, any titillating new piece of evidence creates a flood of whispers and exchange of knowing glances among the public gallery coterie. The scaffolds of public execution may have gone but the communal spectacle remains.

Another similarity between tragic plays and murder trials is the physical position of the flawed character, the accused. Latched within the dark timbered dock, the accused awaits the verdict. In the nineteenth century courtrooms I attended in Sydney, the centralised structure of the dock was connected to the cells below and located beneath a large skylight, with the heavens looking down upon the accused's head. In ancient Greece, murder trials were held in roofless courts and tragedies were staged under the sun. A common device in defining the life and death divide in the Greek tragedies was a lament to sunlight, that light the dying and dead would no longer see, and under which humanity continues to live and suffer (Hall 2010: 2-3, 27, 302). It seems the staging of the ritual of truth-seeking and tragedy under the sun's rays or deity's gaze remains pertinent. Certainly, the inferred subservience of a tragic figure (the accused) to the heavens, or omniscient divine being, remains a potent image in contemporary proceedings.

Tragedy in murder trials

A final ob/scene quality of murder trials relates to the nature of tragedy itself. Murder trials — which are embedded with defective characters, unnatural deeds, fatal flaws and transgressions — reveal predicaments that are inescapably human. Akin to ancient Greek tragedy, they involve suffering and pity, spectral influences, enacted pain, narrative, fate and a brute reminder of mortality. But the violence in tragedies is transformed through an aesthetic process into art and becomes something beautiful, a pleasure and entertainment. We have an emotional and intellectual response to both tragedies and trials, although an aesthetic response is perhaps unusual in murder proceedings.

Nevertheless, in the murder trials I observed, I encountered the rich language and thought-clusters of the witness/messengers as poetic evocations, perfectly flawed, ambiguous, human descriptions inferring an inner form or sense of their experience (Žižek 2008: 3-5). The words spoken and the stories told were stranger than any fiction I could have imagined — with some unnatural poetry emerging from a violent realm. Fragmented phrases, articulations and utterances from the witness/messengers I observed inspired my body of work *Word of Mouth*, and found a second life as photomedia on cotton rag and digital video installations. I found that the ob/scene and ugly as well as the unspeakable could be reconstituted to function aesthetically in another medium. From one murder trial, I have taken testimonial fragments to create an interactive poem, *Photograph 43 Exhibit N,* where phrases videoed as projections onto a body are presented as disconnected pieces of evidence (see front cover). This work explores the notion of fragmented versus linear narrative.

Conclusion

In observing witness testimony in murder trials, I perceived dark secrets of ob/scene events conjoined with truth and lies, strata of discrepancies and the plaiting of disparate narratives. I engaged with the euphony of language, the sense and non-sense of sentences, the

emotive, imaginative arousals and aesthetic qualities of the witness/messengers' spoken words. Apart from the fractured, non-linear presentation of evidence and procedural disruptions, the experience was not unlike watching a theatrical tragedy. Similarities abound. Yet I conclude that it is dismissive and irreverent to describe the sombre ritual of a murder trial as directly analogous to theatre. As I sat in court between the two separately shattered families of a young victim and her young murderer, I was reminded that these were narratives brutally and viscerally embedded in reality, not fiction.

Notes

1 Thank you very much to Brian Joyce, Director of the Hunter Writers Centre, for his insights into the nature of tragedy, and to Marett Leiboff and Rick Mohr for their warm correspondence, comments and review of my draft.

2 The Oedipus Trilogy Project Gutenberg http://www.gutenberg.org/files/31/31-h/31-h.htm#king accessed 25 March 2010 10:18 PM

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