

# Victims' Rights and the Struggle over Crime in the Media

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*Abstract:* This paper seeks to explain how crime victims have become increasingly visible in the criminal justice system and in media portrayals of crime by looking to the U.S. victims' rights movement and its strategic mobilization of a particular construction of "crime victim" into the public sphere. Through analysis of the movement's documentation of its media strategies and new forms of victim-oriented journalistic practice, the paper demonstrates how the movement portrays crime through its construction of crime victims as a class of citizens without rights, through which the families of murder victims become proxy-victims.

*Résumé :* Cet article cherche à expliquer la visibilité croissante des victimes de délits dans le système criminel de justice et dans les représentations de crime dans les médias en observant le mouvement des droits des victimes et sa mobilisation stratégique d'une construction spécifique de la "victime de délits" dans la sphère publique. Par l'analyse de la documentation que possède le mouvement de ses stratégies médiatiques et de nouvelles formes de pratiques journalistiques orientées vers les victimes, l'article démontre comment le mouvement dépeint le crime via une construction des victimes de délits en tant que classe de citoyens sans droits, où les familles des victimes de meurtre peuvent tenir lieu de victimes.

*Keywords:* Online journal publishing; Online publishing technologies; Open access; Online publishing survey

This paper explains some of the mechanisms through which crime victims have become increasingly visible in the criminal justice system and in media portrayals of crime by looking to the U.S. victims' rights movement and its strategic mobilization of a particular construction of "crime victim" into the public sphere. Through analysis of some of the movement's documentation of its media strategies and new forms of victim-oriented journalistic practice, this article demonstrates how the movement portrays crime through its construction of crime victims as a class of citizens without rights, cultivating representations of crime

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victims that make especially visible those individuals who can stand in as representatives of violent crime's direct victims, but who are not direct victims themselves: the families of murder victims.

The focus of this paper is the U.S. victims' rights movement and its development of strategic media advocacy initiatives that take advantage of crime-victim visibility in the media in order to define crime as an issue of murder-victim families' social and legal recognition. In doing so, the movement shifts the representation of "a culture of murder, with the murderer at its core" (Schlosser, 1997, p. 38) to that of the rights of grieving families and their killed family members. The U.S. movement's media activism also illustrates how social-movement activism dramatically, and strategically, defines the meaning of crime from a particular crime-victim position in order to impact policymaking and legislation in the name of crime victims. Writing from within Canada, this critical interrogation of the U.S. movement's media work and strategic political thinking provides a vantage point from which Canadian communication scholars might think about the increasing centrality of "victims' rights" rhetoric in Canadian media coverage of crime and the emergence of claims for increasingly harsh punishments of offenders in Canadian criminal law and policy. To this end, the paper demonstrates how the social management, prosecution, and punishment of crime is being tactically organized on the other side of the border through the kinds of stories victims' rights activism tells about criminals and victims. As this paper argues, the back-channel production of a victims' rights perspective on crime represents a powerful, but contingent, set of struggles over what crime can mean and how it comes to have meaning, through the mobilization of historically specific and place-based victims' rights activism. To do so, this paper first examines the political discursive role of "victim" in victims' rights activism and then turns to an examination of the strategies some victim-advocacy organizations and journalism schools have developed to translate victims' rights from a political discourse into a news discourse on crime victims.

### **Movements for victims' rights and the moral economy of crime victims**

Through their publicity work and legal reforms, victims' rights movements turn crime-victim families into potent symbolic tools in public debates about crime and punishment. Through victims' rights advocacy, victims have become, in the words of legal scholars, the "symbolic heart of modern legality" (Sarat, 1997, p. 164) and "a valued commodity in the circuits of political and media exchange" (Garland, 2001, p. 143). In the U.S., the movement comprises a network of grassroots activists and government institutions that organizes crime-victim families into visible agents in the wars on crime and terrorism.

As a set of political claims, "victims' rights" signifies the right of crime victims and their representatives to social recognition in their role *as victims*. These calls for rights recognition include the right to media access to tell their story of victimization from their own perspective; rights to participation in criminal justice procedures and information on the status of police investigations, court proceedings, plea bargains, sentencing decisions, and parole; and the right to choose not to participate in any of the above. Claims to "victims' rights" are calls to be

recognized within the institutions where crime is symbolically represented and legally adjudicated—in the mass media and the criminal justice system. Victims' rights movements, then, are representative examples of what political theorist Nancy Fraser (1997; 2000) calls the "politics of recognition," where the goal of activism is to garner social recognition of one's group identity. They assert that the identity of "crime victim" constitutes a form of unrecognized cultural and political difference. Yet unlike most identity politics, victims' rights activism's calls for recognition tend not to be based on histories of social marginalization and class, race, and sexual oppression. While the U.S. movement emerged in part from second-wave feminist anti-rape and domestic violence activism, in its current, and hegemonic, incarnation within the field of crime-victim politics, the identity of crime victim has largely been unmoored from histories of oppression. Most U.S. claims for crime-victims' rights shun structural explanations for violence in favour of defining the criminal event itself as oppression, where the individual "rights-bearing" criminal and the institutions of criminal justice become victims' oppressors.

Through various forms of movement activism, "victims' rights" has developed as a powerful political rhetoric of crime and criminal justice. Advocates strategically deploy images and narratives of right-less crime victims to argue that the legal system is too protective of defendants' rights. Offenders' "predation" against victims is interpreted as a sign of a permissive legal system that denies rights to representation for victims while protecting those of offenders, essentially claiming that constitutional rights protections for defendants cause additional harm beyond that of the crime itself. For politicians and criminal justice agents, the language of victims' rights offers a way to re-package law-and-order crime-control initiatives, with their emphasis on control and incapacitation over prevention and rehabilitation, so that their reforms appear to answer some crime-victim families' retributive calls for punishment (Dubber, 2002; Garland, 2001; Kaminer, 1995; Sarat, 1997; Shapiro, 1997). By the mid-1970s, "victims' rights ha[d] nearly displaced 'law and order' as a rallying cry for people who believe that crime is largely a consequence of an excessively lenient criminal justice system" (Kaminer, 1995, p. 75).<sup>1</sup>

Victims' rights advocates in Canada have made similar arguments about the *Charter of Rights and Freedoms* protections for criminal defendants. As in the U.S., victims' rights in Canada are directly linked to a crime-control model of criminal justice, where calls for victims' rights are linked to crime victims' desires for "truth in sentencing" and the limitation of convicted offenders' opportunities for parole (Canada, 2001). At the federal level, "victim's rights" perspectives on crime receive increasing symbolic attention in Canadian policy.<sup>2</sup> Each province has passed a victims' bill of rights in which crime victims are defined as new consumers of criminal prosecution (Roach, 1999). In 1988, with the victims' rights provisions made to the *Criminal Code*, crime-victim families gained the right to make victim impact statements at the sentencing phase of criminal trials and parole hearings.

Calls for victims' rights in both the U.S. and Canada have become particularly visible around high-profile murder cases, through which the parents of mur-

der victims become especially vocal and media-friendly victim activists. The parents of teenage murder victims Kristen French and Leslie Mahaffy, both during the trials of the “serial-killing couple” Karla Homolka and Paul Bernardo and several years later in news stories of Homolka’s release, relocation in Longueuil, QC, and the recent birth of her son in a Québec hospital; the families of victims killed in the biker-gang wars; and activists such as the late M.P. Chuck Cadman, the outspoken victims’ rights advocate from British Columbia whose 16-year-old son was murdered, are all highly visible reminders of crime’s emotional and physical costs to surviving families. In the U.S., the most visible and vocal victims’ rights activists are the mothers and fathers of light-skinned child murder victims, the latter being the “paradigmatic victim in victims’ rights” (Dubber, 2002, p. 189). Examples include Ellen Levin, whose daughter Jennifer Levin was murdered in 1986 by Robert Chambers in the case euphemistically called “the preppy murder.” Levin formed the organization Justice for All as a policy forum for victims’ rights concerns. Deborah Spungen (1998), the mother of Nancy Spungen, who was stabbed to death in 1979 by Sid Vicious, lead singer of the punk band The Sex Pistols, established an early chapter of Parents of Murdered Children in Philadelphia and later Families of Murder Victims. John Walsh, father of young Adam Walsh, who was abducted and murdered in 1981 by a Florida convicted sex offender, founded with his wife Reve the National Center for Missing and Exploited Children and stars in the long-running television show *America’s Most Wanted*. Others include Fred Goldman, the father of Ron Goldman, who was killed as he and O. J. Simpson’s former wife Nicole Simpson left her home; Candy Lightner, the founder of Mothers Against Drunk Driving, whose daughter was killed in a drunk-driving crash in 1980; and Ralph and Charlotte Hullinger, founders of the organization Parents of Murdered Children in Cincinnati, OH, whose daughter Lisa was murdered by her boyfriend. These figures, the parents of murder victims, demonstrate how the moral definition of crime in victims’ rights rests on a definition of “crime victim” that is inclusive of crime’s proximate “family victim.” In this way, it is crime-victim families that serve as symbolic “carriers” of victim-centred perspectives on crime, through which the political discourse of victims’ rights traffics in proxy form between crime media and the criminal justice system.

In seeking to construct a political narrative of crime, victims’ rights activism interprets the news media as a site of struggle over how crime is defined and adjudicated in the criminal justice system (see Bennett & Edelman, 1985). We can understand the increasing public visibility of symbolic crime victims and “victims’ rights” rhetoric by looking to the specific strategies some victims’ rights organizations develop to produce media coverage of crime that takes crime-victims’ rights as its reference point. The movement materials I examine here constitute a particular set of news-oriented training initiatives that reveal how victims’ rights advocates and journalists are being taught to represent crime through the language and images, or “grammar,” of victims’ rights. Rather than analyze the news representations that result from this activism, this article draws attention to the behind-the-scenes planning and institutional forms of intervention that create the conditions for more explicitly victim-based news coverage of

crime. It is here, in the form of training documents and activist media, that I locate the conditions for producing and distributing movement-based discourses of crime and victims, conditions that enable them to be strategically targeted within advocacy organizations and toward media and educational institutions.

### **Victims' rights strategies for portraying crime victims**

The victims' rights news activism I examine divides into two categories: news-source activism and journalistic training in "emotional literacy." In each, victims' rights advocates seek to mobilize victims' rights perspectives on crime directly into the news construction of crime-victim stories.

#### **News-source activism**

Victims' rights advocates perceive news as a site of struggle over the meaning of crime. The documents I examine here include two publications from the U.S. National Center for Victims of Crime (NCVC), *Privacy and Dignity* (National Center for Victims of Crime, 2000) and *Crime Victims and the Media* (National Center for Victims of Crime, 1990), the National Organization for Victim Assistance's (NOVA) training manual *The Victim Advocate's Guide to the Media* (n.d.), and the video *Crime Victims and the News Media* (1999) created for the National Victim Assistance Academy's yearly victim-assistance curriculum. NCVC and NOVA are national umbrella organizations that provide service and training to other crime-victim advocacy organizations. NCVC was founded by the children of Sunny von Bulow in Fort Worth, TX, after they saw their comatose mother portrayed in the news as a drug-addicted, uncontrolled diabetic, while her alleged attacker, husband Claus von Bulow, appeared in print news spreads on a motorcycle with his leather-clad mistress (Rose, 1989; Weed, 1995). As a result, organizations like the National Center for Victims of Crime in Washington, D.C., seek to "control the storytelling prerogatives of the media" (Weed, 1995, p. 90). With NOVA, their training documents and video demonstrate how crime-victim advocates build networks with media institutions and journalism programs in order to represent crime from the position of movement-defined crime victims. They put training materials into the hands of advocates and journalists to raise the media visibility of their crime victims and to change how the news media treat their news subject/victims in the process.<sup>3</sup>

Victims' rights advocates frame their news-media training as a proprietary battle over who owns the story of a crime. In this line of thinking, "If the victim or their family 'owns' their crime story, then the victim should be able to squelch the retelling of the crime story or at least be able to insist on a dramatization that shows a conflict between villains and victims" (Weed, 1995, p. 90). In 1990, victims' rights activist Anne Seymour published the booklet *Crime Victims and the Media* (National Center for Victims of Crime, 1990) through NCVC. This booklet, along with NCVC's *Privacy and Dignity: Crime Victims and the Media* (National Center for Victims of Crime, 2000) and NOVA's *The Victim Advocate's Guide to the Media* (National Organization for Victim Assistance, published after 1995), teach victim advocates how to put victims' rights into practice with the news media. NCVC's *Crime Victims and the Media* and *Privacy and Dignity* tell advocates how to educate their crime-victim clients to see themselves as rights-

bearing subjects. The publications present their media training as a way to lubricate the movement of media-friendly victims, especially the families of victims who have been killed, into the news with the help of victim advocates.

The foreword to *Privacy and Dignity: Crime Victims and the Media* explicitly portrays the “victim” to whom this handbook addresses itself: the family.

Like wounded animals surrounded by packs of hyenas or wolves, the family of a murdered child, parent or grandparent is surrounded by reporters who ask in a kind of devil’s chorus how they feel and what they want in the way of retribution . . . . We’ve also seen families in lethal domestic violence cases having to endure first a devastating death, and then the demolition of a victims’ character in the newspapers and on TV before a trial even starts. (National Center for Victims of Crime, 2000, p. 3)

The handbook portrays its purpose as the restoration of privacy and dignity for the families of crime victims, who have become, in their view, media victims. Advocates, according to the text, “can recruit the media as an ally” (NCVC, 2000, p. 3) in the movement’s attempts to portray crime through the suffering of its victims. Large quotes printed at the beginning of the handbook interpret press behaviour toward victim families as forms of incivility and misconduct and warn readers that families of crime victims should cultivate a kind of risk consciousness for their interactions with the news media. According to renowned psychiatrist Frank Ochberg, who coined the condition “Stockholm syndrome” after Patty Hearst’s abduction,

What I would say to victims is: It’s important to know that you have choices. Every victim can shape the interview. You can establish a time, a place, have someone with you, even talk over the purpose of the interview. But what you can’t do is choose the comments that will be quoted, the pictures that will be selected, or the headlines that will be used. You can’t even control whether a lingerie ad will run next to your story about sexual assault. (Ochberg, 1996, p. 4)

Ochberg’s quote faces a page that contains another quote whose author, interestingly, has come out elsewhere as resolutely against the victims’ rights initiatives of the movement. The author, Bruce Shapiro, an editor for and frequent contributor to *The Nation*, survived a brutal knife attack and soon after began speaking out against the punitive politics of victims’ rights. He is now the Director of the Dart Center for Journalism and Trauma in Seattle, WA, a site I discuss in the next section of the paper. Shapiro’s criticisms of the victims’ rights movement, which are not discussed in the handbook, developed out of the ways he saw his own assault being used in calls for especially harsh punishments of his attacker in the name of “victims’ rights” (Shapiro, 1995; 1997). His quote in *Privacy and Dignity* describes his experience seeing his bleeding, knife-assaulted body on the local television news, a set of moving images he refers to as “propaganda in the crime war” (National Center for Victims of Crime, 2000, p. 5). Contextualized within this handbook, Shapiro’s quote speaks to his inability as a crime victim to control how the news media replay and commoditize the video portrayal of his assaulted body in the service of law-and-order solutions to crime, “a deft way of giving

those aggrieved by crime voice without giving them control" (Sarat, 1996, p. 25). It illustrates the concept of "secondary wounding" committed by the news media, but it does so without Shapiro's larger critique of how such commoditized images of victimization also function as powerful political documents in the crime war. The news media's forensic portrayal of wounded victims' bodies and its search for audiovisual displays of emotional and physical distress from violent crime reaffirm its police- and court-orientation to crime news. Victims provide the moral justification for criminal prosecution and the emotional content of punishment.

*Privacy and Dignity* never defines "victims' rights" in its pages, but frames its information, nonetheless, through a victims' rights perspective on the news. The handbook states that advocates "must empower victims to use the media to bear witness to the impact of crime and violence in our society" (National Center for Victims of Crime, 2000, p. 7), urging advocates to see relations with the news media as the means to serve the personal and political interests of crime's victims and the larger crime-victim movement. Through the text, quotes from well-known victim activists who are also surviving family members of murder victims describe the intrusive behaviour of the news media and the need for rights to privacy through which they can grieve their loss: individuals such as Ellen Levin (mother of murder victim Jennifer Levin), Marc Klass (father of murder victim Polly Klass), and Brian Rohrbough, whose son was killed in the Columbine High School shootings. The political stakes of media attention for crime-victims' families come through very clearly in a quote from Dan Levey, the brother of a homicide victim:

I used every opportunity to keep the case in front of the public. I didn't want people to forget my brother's face, the face of a victim of heinous crime. And I wanted to shame the perpetrator who had been charged, by letting people see his face, too. Reporters, who were sympathetic and sensitive and as outraged as I was, remained interested in the case and helped keep my brother's memory alive, and . . . ultimately helped bring the perpetrators to justice. (National Center for Victims of Crime, 2000, p. 28)

Stories such as Levey's assert that the cultivation of sympathetic reporters and the willingness to provide family photographs of murder victims catalyze the criminal justice system to punish offenders for the families of victims. These handbooks, then, illustrate how closely linked the victims' rights movement perceives news-media coverage of crime and criminal justice to be, where each can be cultivated as a platform for the rights of crime victims to have a voice in the formal procedures of punishment. Another quote reminds users of the text that, because news turns crime into a commodity to be sold for profit, "only in the rarest instances are victims portrayed as victims" (National Center for Victims of Crime, 2000, p. 10) and not as sensationalized news products. According to these texts, victim advocates must educate the news media on a victims' rights perspective so that crime news can better serve the movement's interest in criminal justice, that is, as a stage on which crime-victim families receive affirmation of their grief and loss in the process of seeking the punishment of violent offenders.

Most of *Privacy and Dignity* details specific steps that advocates and their victim-clients can take to make interaction with the news media more about what

crime victims want and need. On page 19, the text lists 16 choices available to victims in the news, such as their ability to request that they be allowed to fully present their side of stories about victimization or to refuse all interaction with the news media. The political language of victims' rights gets articulated as codes of behaviour that advocates and crime-victim families can embody. Readers learn that victims' rights emerge in the forms of cultivated social interaction between news subjects and reporters and the kinds of boundary assertion and maintenance that occur there (see also National Center for Victims of Crime, 1990; National Organization for Victim Assistance, n.d.).

The National Center for Victims of Crime's earlier publication, *Crime Victims and the Media*, whose main author is Anne Seymour (National Center for Victims of Crime, 1990), makes explicit the link between media training and the political struggle for victims' rights: "It is imperative to develop an ongoing, professional relationship with the media in your community. A 'one time only' interaction may serve your intent and purposes, but a continual sharing of resources and information will enhance not only your interests, but those of the entire victims' rights movement" (1990, p. 1, emphasis in original). The text also narrates some of the stories that repeatedly get told in the movement as evidence of the media's ability to create its own victims through intrusive and insensitive behaviours. One story tells of the news-media coverage of an Oregon medical examiner who, while on air, picked up the decapitated skull of a victim of the Green River serial killer, Gary Ridgway. In 2003, Ridgway admitted to strangling to death 48 women around the Seattle/Tacoma, WA, corridor over a 21-year period, disposing of many of their bodies near the Green River. The news video of the Oregon medical examiner displayed sand pouring dramatically from the skull cavity. It aired on three Seattle stations, and families of the victims who had purposefully chosen not to see the remains of their murdered family members were faced with striking video imagery of one victim's skull. As Seymour argues, "the media, upon airing this offensive video, took away the families' choice to refrain from seeing what their daughters had been reduced to" (1990, p. 3), indicting the media as a perpetrator against victims' families.

Advocates like Seymour object to what Neil Websdale and Alexander Alvarez call "forensic journalism" and its "hyperfascination . . . with weapons, wounds and the last horrific moments before death" (1998, p. 140). In forensic journalism, the visual display of crime-victims' bodies offers up physical evidence of the crime. Like crime-scene-investigation television programming, such as the CBS program *CSI: Crime Scene Investigation* and its two spin-off shows *CSI: Miami* and *CSI: NY*, forensic journalism focuses on the dead bodies of victims of violent crimes. "Forensic journalism is imbued with an 'investigative motif' or an 'ethic of detection' that feeds off minute details such as the location of corpses" (Websdale & Alvarez, 1998, p. 134). According to Websdale and Alvarez's analysis of Arizona newspaper coverage of homicide-suicides, news crime coverage routinizes reporting on the details of murder victims' bodies and the immediate situational dynamics of the crime itself, rather than on the lives of the victims and perpetrators and the histories of (primarily) male violence and abuse in which the killing of women in homicide-suicide would be better under-



stood. News stories “selectively reconstruct the persona of victims . . . to evoke a sense of loss” (1998, p. 136), but often not in ways that surviving family members wish to understand that loss—that is, through the visual display of the bodily remains of their killed family members.

Coupled with shocking stories such as the one of the Oregon medical examiner's display of a crime-victim's skull on local television news, victim advocate Anne Seymour tells other stories about successful uses of the media in NCVC's handbook *Crime Victims and the Media* (National Center for Victims of Crime, 1990). The text hails advocates as protectors in a scenario in which media are the victimizers and crime-victims' families are its victims. As protectors, victim advocates are also situated as powerful spokespeople for crime-victim politics. Seymour frames the role of media activism within the crime-victim movement as the ability “to give a face and voice to victims, who are traditionally faceless and voiceless. To show the devastating consequences crime has on individuals and communities . . . . To educate people on how people are victimized and stress ways people can deal with being victims themselves” (Anne Seymour, national victim advocate and co-founder and senior advisor for Justice Solutions in Washington, D.C., phone interview, November 1, 2000). Against the “forensic focus” of much news production, advocates such as Seymour assert that victims, their bodies, and images are not mute witnesses, but subjects that can be “coaxed into telling a story” with the guiding hand of victim advocates (see Hartley, 1992, cited in Jermyn, 2004, p. 176).

*Privacy and Dignity: Crime Victims and the Media* (National Center for Victims of Crime, 2000), and NOVA's *The Victim Advocate's Guide to the Media* all echo the same sentiment: that the families of crime victims deserve the right to participate in news coverage of their dead family member. The documents differ most significantly at the level of their construction and usability as material artifacts. NOVA's document *The Victim Advocate's Guide to the Media* is by far the most detail-oriented, offering 237 pages of information and requiring a sizeable three-ring binder. The information included in this document could occupy an entire semester-long course in how to conduct media advocacy for crime victims, so in many ways it is too detailed for most advocates to learn in a timely manner. It is also fully text-based, which means it has to be read carefully rather than glanced at quickly. NOVA's document does include highly detailed examples of how to write press releases, radio and TV public service announcements (complete with video and sound); how to establish annual media calendars; and how to maintain a working contact list. They also include information on language, timelines for what to expect from and do with the media at various intervals after the victimization, and very in-depth education on news- and entertainment-media behaviour.

The National Center for Victims of Crime's training documents are more user-friendly and visually appealing than NOVA's. Since the Center was established by the children of heiress Sunny von Bulow precisely as a resource for crime-victims' families in their interactions with the media, NCVC has been a leader in media training among national victim-advocacy organizations (Weed, 1995). Produced with funding from the Leslie Glass Foundation (Glass is a crime

writer and former journalist) and created with the help of journalists, their handbook *Privacy and Dignity* (National Center for Victims of Crime, 2000) is only 45 pages. Ring-bound in five-inch by eight-inch heavy stock paper and published in colour, its information is visually well-organized and easy to navigate. It also includes camera-ready art for victim advocates' own publicity and for sharing with journalists. The handbook distills practical information on how to groom spokespeople, script interactions with the news, and establish rapport with reporters in well-organized sections and "to do" lists.

These media handbooks therefore contain more than practical information; they are also suffused with a normative critique of how the news media create victims in their own reporting practices and how the news should amplify the language and images of victims' rights through crime-victim families. In creating its own victims, crime news creates both the conditions of possibility and the experiential limits of victims' rights in the news. Victim advocates seek to create what they see as a more hospitable news environment for people who seek out the opportunity to appear as victims in the news because they think doing so will help their legal case or will constitute a therapeutic public testimonial to their dead family member's life.

Advocates interpret the problem of news coverage of crime as one of conflict between reporters and the families of crime victims. In the next section, I discuss how some journalism schools adopt the victims' rights interpretation of news as a conflict between reporters and news subjects and try to "train" this apparent conflict out of the news interview. Their training illustrates how the movement's definitions of crime and victimization find a home in the professional conduct of crime journalism.

### **Victims' rights and "emotional literacy training" for journalists**

For over 20 years, victims' rights activists have been criticizing the news media for what they consider to be insensitive treatment of crime victims (*Crime Victims & the News Media*, 1986; Levin, 1995; Roper, 1996; Viano, 1992). The activist texts discussed above mobilize this critique within the context of media training. While victim-advocacy media-training texts teach advocates how to court news-media attention and frame the reporter-news victim interaction as a matter of victims' rights, victim-oriented training directed at journalists translates victims' rights claims about the press into specific training protocols, modes of conduct, and forms of victim identification for reporters, all of which identify the interaction of news media and crime-victim family as an essential point of contact for the media representation of crime in more victim-centric terms. I term this educational initiative "emotional literacy training" for the ways it teaches journalists how to conduct themselves as emotionally sensitive professionals in order to encourage crime-victim families to participate in news making on crime. The videos and online materials used in these curricula present journalism as a set of "feeling practices" reporters can learn through instruction in empathic techniques of interaction. That is, they present journalism as a site of what Lauren Berlant (2000) calls "the place of painful feelings": a way of describing the social problem of crime and the movement for victims' rights through an interpretive framework that represents news making on crime as a primarily emotional exchange

between journalists and crime-victim families. When news is modelled as an emotional contact zone between reporters and crime victims, crime is no longer spoken of as an effect of social injustice best remedied through social services and more equitable distributions of wealth and resources. Crime instead is discussed as a problem of victim pain and reporter empathy in which the news functions as therapy. In this training, news-based familial testimonials to the memory of killed victims are linked directly to a desire to prosecute and punish offenders, yet they are described through the guise of mutual reportorial empathy and emotional healing.

In the training, student journalists are taught to approach the news interview with crime-victim families as both potentially injurious and therapeutic. They learn how to eradicate the well-worn intrusive behaviours of confrontational journalism to cultivate a more empathic demeanour—one that will encourage the families of crime victims to participate in the construction of crime news. The goal of this training is for journalists to learn how to create a news-interview environment hospitable to crime-victim families as news subjects who might otherwise feel secondarily wounded by their interaction with the news. As the training suggests, conflict between journalists and those people covered as crime victims prevents journalists from creating news of crime from a “victim perspective.” In this victim perspective, the grief of crime-victim families is mobilized to serve the criminal justice system’s interest in punishing criminal offenders.

By focusing on the more politicized aspects of this training, I do not seek to criticize crime-victim families’ need to publicly tell the story of their experiences of loss or participate in collective commemorative rituals of grief. According to Paul Rock’s (1990) research with homicide survivors’ organizations, the family members of murder victims routinely lack supportive public spaces in which they can re-construct their lives through the remembrance of their murdered loved ones, so they turn to mutual support organizations to create shared discursive spaces among other murder-victim families. “More than anything else, the relatives of murder victims need to be heard” (Schlosser, 1997, p. 39). My concern lies with what Sharon Lamb (1999) discusses as the “costuming” of victims’ voices in public testimonials—and the idea that giving “voice” to crime-victim families enables unadulterated access to the truth of crime. The coverage of crime-victim families in the news and the cultivation of news workers’ identification with victims’ rights do not occur within a cultural vacuum or an empty historical news-industry context. Crime news is already full of meaning and intimately linked to the worldview of law-enforcement sources and courtroom personnel, on whom most crime-news reporters depend for their information. That is, what “lies underneath the [victims’] voice is not the naked truth but a body that has also been shaped by cultural rules and discourses” (Lamb, 1999, p. 130), many of which come from the historical articulation of crime news and law-and-order policing (Chibnall, 1977; Fishman, 1978, 1980; Hall, Critcher, Jefferson, Clarke, & Robert, 1978). Journalistic training in victims’ rights offers hidden transcripts, or what sociologist Stanley Cohen calls “the quiet constructions of professional and expert claims makers” (2003, p. xxiii), of the ways the language of victim harm and the politics of victims’ rights make their way into the very conduct of journalism.

At least 10 U.S. university journalism programs have incorporated some form of victim-oriented training into their curricula. They have all established formal or informal relationships with the academic and therapeutic field of trauma studies and victim advocacy. Michigan State University's Victims and the Media program was founded in 1991 with funding from the Dart Foundation and assistance from its former head, Frank Ochberg, M.D. Michigan State University's program collaborates with the Michigan Victim Alliance (MVA), a state-wide victim-advocacy group. The MVA recruits victims and survivors to volunteer in role playing and special seminars in journalism classes. Until 2006, the Dart Center for Journalism and Trauma at University of Washington-Seattle worked with Miguel Sherer, a news photographer and rape survivor who is also a vocal advocate for victims' rights.

Crime-victim advocates are interested in changing news-media behaviour toward crime-victim families because they perceive the news as a site of possibly therapeutic victim testimonials, where families can tell their stories of crime in a form that will receive broad public airing. To cultivate relations with the news media that could enable families to see the news media as a platform for the re-telling of their vicarious experiences of crime, advocates focus on the interaction between reporters and crime-victim families in the news-interview setting. In almost all of this training, the news interview is singled out as an injurious interaction between crime-victim families and news reporters that, unless carefully managed, prevents crime-victim families from defining crime news in victim-centred terms—as a stage on which to share their grief in ways that, sometimes inadvertently, link up with the police investigation and prosecution of offenders. This training enables crime-victim families to claim space within crime news, in ways that supplement, but do not replace, the offender orientation of police-defined crime news.

The curriculum offers a somewhat instrumental understanding of victims in the news. Roger Simpson, former director of the Dart Center for Journalism and Trauma, describes the training as a process of learning to treat interviews “as sequences of actions by reporters and responses of trauma victims”:

A good journalist takes some time to get a sense of how the interview subject is doing. Give him or her a sense of control. Tell them who you are, and what you're going to write. The sensitive reporter will talk to a person first, before walking into the home with a camera . . . . I'm optimistic that we can help newsrooms become more humane working environments and that reporters can be more creative in their approach to trauma. (Simpson, quoted in Zalin, 2001, p. 4 )

Simpson teaches students to set up interviews by foregrounding an “ethic of care.” He tells reporters to cede some decision-making power to the victim or survivor and to tune in to the emotional responses of their sources. In doing so, reporters can more consciously embody victim-centred conduct. According to Simpson, by changing the minutiae of their behaviours and acting with more forethought in their treatment of news victims, journalists learn to act as “victim scribes” or “news surrogates” for victims: that is, as enablers of a “victim” perspective on crime in the news. Simpson and others describe the space of the news

interview as a place of painful, shared feeling for journalists and news subjects who represent victims. Through changes in professional conduct, as this thinking goes, reporters can learn behavioural techniques and a language of emotional literacy that re-frame the news interview as a therapeutic dialogue between reporters and the news-media's victims.

The Dart Center for Journalism and Trauma at the University of Washington-Seattle constitutes one of the generative centres of curricular development in trauma training for journalists. Through its journalism program instructors offer classes to their students and journalists around Washington State, both in the classroom and online. Currently, the first four of the online curriculum are available on the Web in PDF format; some others are still in development. Module 1, titled "Journalism and Traumatic Stress" (Dart Center for Journalism and Trauma, n.d.), contains nine parts that include video segments, clearly written text (that could also be easily turned into overheads for classroom instruction), examples of news stories, and bibliographic reference material. The material contained in module 1 begins by defining different kinds of traumatic stress, its different symptoms, the kinds of effects it can have, and why journalists need this knowledge in order to better enable the portrayal of a crime-victim perspective in the news (this constitutes parts 1-3). In a video segment in part 3, "Choosing the Right Words when Reporting on Trauma," Migael Sherer, a part-time consultant for the Dart Center and director of their annual award competition (and also a rape survivor and former journalist), explains that

Reporters need to know about trauma science so they can report more accurately about the scenes that they are reporting on. Trauma science gives you a language to talk about what you've seen. Often those who are witnesses to events, or victims to events, present in certain ways. That, unless you know what's happening to someone who's been traumatized, you misinterpret it, not just for yourself, but then you are misinterpreting in your reporting, and then the community doesn't understand so much what is going on. (Dart Center for Journalism and Trauma, n.d.)

In other words, training in trauma science provides journalists with an interpretive framework for constructing crime through the psychological injury of its victims, where "victims" are people whose suffering from crime can be defined in psychological terms though conditions such as posttraumatic stress disorder.

There are a couple of prescriptions here, the most central of which is that crime is a one-time event, not a routine or daily part of life. Its main victim, then, is the one-time victim, not the repeat victim whose daily life conditions and social position put him or her into regular contact with experiences of violence. Trauma science, like the discourse of victims' rights, individualizes crime in two ways: by locating its effects in the traumatized body of the individual, one-time victim, and by defining crime as a single unusual event in an otherwise crime- and violence-free life—a "single blow"—which abstracts crime and violence from the routinized and socially embedded conditions of most criminal events (see Berlant, 2000). The language of trauma science gives journalists an interpretive framework for "diagnosing" victim trauma as part of the process of learning to create news of crime's most extraordinary victims: middle-class murder victims and

their families. The training in this online module, and in other curricular materials, teaches young journalists to become active “enablers” of recovery discourse in the news making process.

Trauma training teaches young reporters to probe the details of a case and the experiences victims have had in order to construct news stories that address the psychological effects of victimization on those whose lives have otherwise been crime-free. To depict victimization, they learn to describe and image the traumatic bodily experiences of victims. Journalism educators and victims’ rights advocates alike believe that reporters’ careful management of “relational messages” will elicit crime-victim news stories and images that depict crime in its most violent and murderous forms. Family photographs of primary victims and video footage of survivors transform run-of-the-mill crime-victim stories into lead news stories (Chermak, 1995b). Reporters with access to families, their stories, and their private photographs can produce especially newsworthy crime-victim stories. Crime-victim families help news workers portray crime as an affective and emotional reality through dramatic displays of their anguish and grief, and through idealized portrayals of the primary victim (for example, in photographs of childhood birthday parties or high school graduation).

If reporters can elicit vivid emotional quotes and family photographs from crime-victim families, they can construct powerful, dramatic narratives of crime whose meaning comes from the emotional weight of familial loss and grief. One managing editor at a Midwestern local news affiliate told a reporter covering a victim’s family’s reaction to the sentencing of three defendants to “package it (make it a primary story) if she had enough emotion,” explaining to an interviewer that “the reporter has got a crying family and all that stuff on film” (Chermak, 1995b, p. 100). News stories increase in value from the news-media industry perspective whenever reporters have direct access to emotional audiovisual displays of surviving family members. Familial emotion defines not just the “newsworthiness” of coverage of crime and human tragedy, but also the blameworthiness of offenders, who are rarely, if ever, portrayed within a familial setting. With co-operation from crime-victim families, journalists can create stories of crime whose main emphasis is on the pain of victimization caused by the actions of a violent offender. By simply altering their communication behaviour, according to these training materials, journalists can elicit newsworthy displays of emotion from individuals who represent the vicarious, or surrogate, social position of victim on which victims’ rights perspectives of crime are based.

Training in empathic interpersonal communication techniques also provides journalists with an interview program—a set of behavioural and linguistic conventions for organizing the speech acts of interviewers and interviewees. They learn which words to use, how to position their bodies, how to conduct their expressions, and how proximate they should be to their subjects. Students learn to use physical and verbal conventions that communicate that their news story will be co-constructed with the victim. From the beginning of an interaction to its end, students learn communication strategies that treat the news interview as a “transactional” exchange of emotion between journalists and crime-victim news

subjects. They learn to open the conversation with formal, and rather clichéd, statements expressing sympathy, such as "I'm sorry this happened to you," "I'm glad you weren't killed," or "It's not your fault." These are the same statements viewers of prime-time television police dramas such as *Law and Order: Special Victims' Unit* or *CSI: Miami* hear television detectives and crime-scene investigators-cum-detectives deliver to the surviving family members of murder victims. Because they are so clichéd, such statements, according to trainers, work to avoid blame while acknowledging the grief of the surviving family members (Coté & Bucqueroux, 1996). These interview scripts fulfill basic expectations of support, reassurance, and sympathy, framing the news interview as a therapeutic exchange.

Many of these techniques aim to communicate to sources that the news media will approach news victims as rights-bearing participants in the news construction of crime. They talk about giving news subjects control over the interview process as a form of victims' rights to media attention. In the video *Reporting on Victims of Violence & Catastrophe* (1999), Michigan State University professor Sue Carter admonishes students to demystify the tools they use during the interview. Cameras, lights, microphones, and other recording technologies can increase the likelihood that news subjects will feel intimidated by the news making process. Demystifying the technologies and stage management of news making, she argues, can increase interviewees' sense of security and willingness to participate in the interview. Giving interviewees a reasonable estimate for the length of the interview shows respect for their time. Asking subjects if they even want to be interviewed, rather than starting an interview without their permission, again gives crime-victim families the option to refuse an interview. If they agree to the interview, asking them where they would like to do the interview and telling them they can signal for a break, request lights be turned on or off, use tissues, and alter in most any way the physical environment of the interview also give victims the feeling of control over the interaction. Asking how the interviewee would like to be referred to and whether they want to be called "victim" or "survivor" (if either at all), frames the news interview as a staged interaction over which crime-victim families purportedly have control.

In "Tips for Interviewing Victims" in the Dart Center for Journalism and Trauma's booklet *Tragedies and Journalists* (Dart Center for Journalism and Trauma, 2003), for instance, reporters learn how to ask questions about the lives of victims who have been killed to elicit what Nancy Miller (2003) describes as the "telling details" of their lives from their families and friends. Questions such as "Can you tell me about Jerry's life?" and "What did Jerry like to do? What were his favourite hobbies?" frame news of victims through the ritual repetition of everyday life events, like the practice of a hobby. Reporters should, according to the authors, "try to clarify [when interviewing surviving family members about their dead kin] that you seek to profile their lives before they disappeared and not to write their obituaries" (*Tragedies and Journalists*, 2003, p. 7). Gaining access to family photos brings the private life of family into news discourse through public, though still familial, representations of grief and loss.

Family photographs of dead victims further help to tell a story of crime that presents the criminal event as a violent intrusion on an otherwise normal, and violence-free, familial life. To have experienced violence or crime before would raise the question of whether a victim is truly innocent and blame-free (see Wood, 1999). In an interview in the video *Reporting on Victims of Violence & Catastrophe* (1999), Sue Carter warns her viewers that "It is difficult, it is appropriate, to ask for a picture, perhaps of someone who has been killed by a drunk driver. It's a hard thing to do. It has to be done gently." Carter advises young reporters to explain to family members how important it is to celebrate the life of the person who has died through the publication of a private family photograph. To gain access to private photographs helps ensure that news coverage of victims will garner a visible location in the newspaper or go to air on the local television newscast. These "private" victim images help define crime as an emotive, psychological experience best understood from the vantage point of family victims' rights to represent crime. And as Barbie Zelizer (2002) has argued, the news archiving of amateur photographs of major acts of violence, like those of September 11, 2001, in New York City, work to establish moral accountability and call into being the need for collective response, in ways that often favour punishment over understanding and reconciliation (see also Rentschler, 2004; Sontag, 2003; Zelizer, 1998). News of crime victims, then, can reinforce ideological constructions of crime as a battle between innocent victims, signified through the portrayal of the *unexpected* nature of crime and the violent interruption of victims' life narratives, and guilty, predatory violent offenders. In the process, they tend to ignore the offender in order to commemorate victims from the perspective of the crime-victim family.

The victim orientation of training materials such as Michigan State University's video *Reporting on Victims of Violence & Catastrophe* (1999) encourages crime-victim families to participate in the creation of crime news by eliminating the perception of conflict between reporters and news victims. The training presents news making as a shared construction of crime news, where crime signifies a conflict between offenders and victims. As news subjects, victims function as the corporeal texts of trauma and victimization for the news industry and news-media audiences. Their suffering proves the significance of punishing crime and its offenders. In *Reporting on Victims of Violence & Catastrophe*, Dr. Ochberg describes the quintessential news-friendly victim, who not only wants to tell their story to the news media, but also has the right to do so. It is journalism's obligation to create the conditions where those rights can be exercised. Other videos emphasize that crime victims in the news can also participate more directly in the police investigation and prosecution of offenders. The Michigan State University video *Covering a Rape Victim* (1992) tells reporters to describe victim participation in the news as part of the process of apprehending and punishing victims' attackers. It presents a role play where a victim of serial rape wants to come forward with her story through the help of the police department in order to encourage four other unknown victims of this same rapist to report to the police. This role-play scenario models victim participation with the news media as an extension of the police investigation.



## Conclusion

Through these training films, online modules, and tip sheets, the conduct of emotional literacy in the news interview is clearly, if not always overtly, being articulated in terms of the political claims of victims' rights to representation, in both senses of the term: 1) victims' rights to depiction and their ability to exert some control over this representation, and 2) the constitution of victim as a political position that different subjects—family members, direct victims, reporters, and others—can occupy while claiming to speak *for* victims. The deployment of the journalistic training materials and victims' rights media handbooks discussed in the prior section, then, signifies the institutionalization of victims' rights perspectives on crime beyond the confines of the victims' rights movement and the boundaries of criminal justice into media industries and the professional cultures of journalists.

While other critics of therapeutic discourse highlight what Dana Cloud refers to as their "politically motivated instrumentality" (Cloud, 1998, p. xiv), this article instead has emphasized the links between movement discourses for victims' rights and the news industry imperative to cover crime as an emotional drama—a drama captured most strikingly in the faces and bodies of grieving families and their familial portraits of the dead. Journalistic training in emotional literacy and the victims' rights media handbooks discussed earlier translate the political imperatives of victims' rights and the therapeutic impulse of psychological counselling into the routines of victim advocacy and the professional news cultures of crime. They encourage the news industry to further invest in the coverage of crime by framing crime news as a form of narrative therapy for some victim families. They also define crime victims as the families of individuals killed in extraordinary acts of violent murder, while being limited within this definition to ensure that it is generally the most innocent-appearing and unquestionably "good" victims that can speak through the symbolic politics of victims' rights (see Wood, 1999).

As Bruce Shapiro suggests, "if the politics of crime seems especially muddled today, it is because not only the facts but the story itself is up for grabs" (1996, p. 14). The movement's assertion of victims' rights *to* and *in* the media signifies that it seeks access to and participation in media-making on crime as part of the process of re-asserting a definition of crime as an interpersonal battle between offenders and their vicarious victims, the families of killed victims. In this scenario, victims' rights advocates and journalists both function as "reporters" of socially constructed knowledge and "editors" of the documentary realities" of crime from the perspective of victims' rights (Ericson, Baranek, & Chan, 1989, p. 14). While law enforcement and the court system have long been the preferred sources for crime news and other non-fiction media programming on crime (Chermak, 1994, 1995a, 1995b; Chibnall, 1975; Ericson et. al., 1989, 1991), the victims' rights movement encourages reporters and victim advocates to direct victims' rights discourse into the news media. They teach journalists how to identify with the grief, anguish, and other painful feelings expressed by crime-victim families in order to give the typical law-and-order character of news a therapeutic sheen through a re-orientation of the news-interview context itself.

They teach advocates how to translate victims' rights into strategic calls for victim-oriented news. And they teach us that calls for a more therapeutic and hospitable news environment for news victims can mean many things, one of which signifies the links between the news media's need for crime news and the political struggles for victims' rights.

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### Notes

1. The Warren Court established the federal rights of criminal defendants in the 4th, 5th, and 6th Amendments to the U.S. Constitution, including Miranda rights, the right to free counsel, the right to a jury trial, and the right to protection from unwarranted police searches.
2. The political discourse of "victims' rights" appears even more prominently in the 2003 update to the 1988 "Canadian Statement of Basic Principles of Justice for Victims of Crime" (Canada, 2003) stating that "the rights of victims and offenders need to be balanced" (Canada, 2003, p. 1). Additionally, the 2001 Solicitor General's report titled *National Consultation with Victims of Crime: Highlights and Key Messages* attributes the increasing significance of victims' rights claims in Canadian criminal justice to crime victims and their advocates. According to the report, crime victims consistently "express frustration with the rights they perceive offenders to have compared to their own entitlements" (Canada, 2001, p. 4). The 2001 document served as a follow-up report on several provisions to assist victims contained within the 1992 *Corrections and Conditional Release Act* (CCRA), such as the formal federal recognition of crime victims in the governance of decisions on corrections and conditional releases; a broad definition of victim that included victims' family members, spouses, and care-givers; and victims' access to personal information about offenders, including a judgment that victims' right to know other information such as whether an offender was in custody outweighed the offender's right to privacy. On the advice of the Standing Committee on Justice and Human Rights, and in consultation with crime victims and victim advocates, the Solicitor General's report states that victims' primary concern within the criminal justice system is that of an imbalance between the rights of victims and offenders. Such policy discourse and the passage of victims' rights reforms reflect how "victims' rights" is being defined and mobilized in Canada by the visible advocacy of murder victims' families and their legislative and movement-based representatives (e.g., Victims of Violence). In both the U.S. and Canada, murder-victims' families claim victim status for themselves in order to argue that the criminal justice system must "balance" the rights of victims with those of offenders. In victims' rights, crime is defined as a conflict between victims and offenders that hinges on the state's rights protections of each.
3. In the U.S., with the help of the federal Office for Victims of Crime and national private non-profit organizations, some of these materials have been made widely available, often for free or at very low cost. Others can prove to be difficult to acquire. Current proposals in Canada for a federal office for victims of crime may help establish a stronger national network of crime-victim advocacy and serve as a clearing house for knowledge and information production on crime victims and victims' rights (Canada, 2001; *Victims: A Voice not a Veto*, 1998).

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