

CHAPTER 13

The News Media Community

The news media play a significant role in public safety by providing important information about the nature and extent of crime occurring in communities and efforts to prevent crime and assist victims. However, this coverage sometimes raises legitimate concerns about the rights of crime victims to privacy in the vulnerable aftermath of victimization, particularly in high profile cases. In some cases, victims perceive aggressive, insensitive reporting as a direct threat to their ability to grieve with dignity and to their personal safety.

Timely and sensitive coverage of victims' cases can be helpful, particularly when it publicizes the abduction of a missing child or provides information on emergency crisis services following a communitywide disaster. High-profile coverage of specific cases and emerging crimes has contributed to positive changes in public policy, including recognition of the need for community notification of released sex offenders and anti-stalking statutes. It has also helped to change public attitudes about the seriousness of violent crimes such as drunk driving and rape. But the media can have a negative impact on individual lives when victims are thrust, often unwillingly, into the limelight solely because of the crimes committed against them. Inaccurate reporting and insensitivity to victims' needs for privacy compound the trauma of crime and often revictimize the victim.

The President's Task Force on Victims of Crime did not issue recommendations specifically pertaining to the news media, although the longstanding ethical dilemma surrounding the public's right to know versus the victim's right to privacy has received substantial attention from media professionals, legal scholars, and crime victims and their advocates. One of the first formal examinations of the legal and ethical considerations of this crucial issue took place in 1986 at a Crime Victims and the News Media symposium in Fort Worth, Texas, sponsored by the Texas Christian University Department of Journalism and the Gannett Foundation. The symposium's participants concluded that ensuring responsible media coverage of crime and victimization is a two-way street. Journalists must become more knowledgeable about crime victims' needs and concerns, and victim service providers must learn more about issues and constraints journalists face when covering crime.²

Within the last decade, both crime victims and journalists have begun to ask whether crime reporting is victimizing the victims again. The issue is not what newspapers and the electronic media have a right to do legally. It's what we ought to do ethically. The records of crime and its prosecution are public records. The public has a right to know. But where does that right to know end, and where do the privacy rights of private citizens begin?

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During the past decade, increasing numbers of media professionals have sought sensitivity training from crime victims and victim advocates to both improve the accuracy of their coverage and minimize the trauma it causes to victims. Today, crime victims and service providers offer training programs to newsrooms, professional journalism associations, and university-level journalism classes about media sensitivity in addressing violence and victimization.

In the past decade, several national victim advocacy organizations have developed media codes of ethics. A brochure published in 1987 by the National Victim Center (NVC), *Victims' Rights in the Media*, offers valuable guidelines for the ethical coverage of crime victims by print and broadcast media. In addition, the National Organization for Victim Assistance has developed a working policy for media coverage of victimization in *The Victim Advocate's Guide to the Media* that examines the areas of greatest concern to crime victims and their families.

Research Regarding Coverage of Sexual Assault Victims

Various studies indicate that crime victims, especially sexual assault victims, would be more likely to participate in the criminal justice system if the media were more respectful of their privacy. Data from The National Women's Study presented in *Rape in America: A Report to the Nation* found that 84 percent of rape victims in America do not report the crime to police. The study reported that:

- Half of rape victims (50 percent) would be “a lot more likely to report” to police if there was a law prohibiting the news media from disclosing their name and address; 16 percent indicated that they would be “somewhat more likely to report” rapes to the police.
- Almost 9 out of 10 women (86 percent) felt victims would be “less likely” to report rapes if they felt their names would be disclosed by the news media.
- An overwhelming majority of women (75 percent), rape victims (78 percent), and rape service agencies (91 percent) favored legislation that would prohibit media disclosure of rape victims' names.³

Recent surveys of American newspaper editors have shown that, as a general rule, many do not print the names of rape victims. In 1982, a study found that 68 percent of the editors surveyed believed that names of rape victims should not be printed.⁴ In 1990, another survey of editors indicated that about 10 percent believed that the rape victims' names should never be printed; 40 percent believed that they should be printed only with the victims' permission; and 44 percent believed that they should be printed only in exceptional cases.⁵

Furthermore, more news media today are examining their policies on covering rape. A 1994 survey of newspaper editors revealed that:

- The topic of rape coverage had been discussed extensively in respondents' newsrooms, with nearly 60 percent of editors noting that their paper had seriously re-examined its policy on rape identification and 55 percent reporting that they had re-examined their policy on rape coverage in general.
- More than 40 percent of editors believed their newspaper was more sensitive toward rape victims than it was 5 years before, and more than 50 percent said they believed newspapers as a whole were more sensitive.
- Almost one-fourth of the editors (23 percent) disagreed with the idea that routine printing of the names of rape victims would remove the stigma of rape.
- Only 24 percent of editors agreed that not printing names of rape victims was a violation of the public's right to know.

The survey also indicated that editors believe that the decision to withhold a name should be the newspaper's and not mandated by legislation prohibiting the press from publishing the name of a sexual assault victim. Almost three-fourths of editors believed that such laws should be repealed because they violate the First Amendment.⁶

Guidelines for Journalists Who Cover Crime and Victims' Cases

The impact of media coverage on crime victims and survivors—positive or negative—depends to a large degree on the sensitivity with which journalists approach their reporting. Written guidelines incorporated into a news organization's policies, much like the guidelines news organizations have adopted in other sensitive areas, can provide journalists basic principles of ethical coverage of victimization. Once in place, they can be used as a tool for initial and ongoing professional education of media employees.

The guidelines on privacy issues developed by the *St. Louis Post-Dispatch* provide an example of ethical standards for major newspapers. They address such key issues as publishing names and addresses of crime victims and witnesses, interviewing family members of victims of crime, dealing with victims of crime who are juveniles, taking photographs that portray victims or survivors in private moments of deep emotion, and covering funerals, sexual abuse, incest cases, and kidnaping involving sexual abuse.⁷

The following has been excerpted from the *Post-Dispatch* guidelines to provide an example of what news organizations can do to ensure more responsible news reporting on crime and victimization and, in particular, vulnerable victims.

VICTIMS OF CRIME: General.

Crime victims often suffer long-term psychological problems that scar their lives. In many cases, victims identified in news stories about the crime involving them are further traumatized. Some feel humiliated by the community knowing what has happened to them. Others fear the criminal who victimized them, or his associates, will somehow use the information from the news story to threaten or harm them. Still others are afraid that the publicity has opened them to harassment from psychotic strangers.

Our policy on crime victims should provide readers with the most relevant information while underlining our concern for the well-being of the victimized.

VICTIMS OF CRIME: Names and addresses.

The general policy will be to publish the names of crime victims as an integral element of news stories.

Names will not be used of victims of sex crimes, pigeon drops and scams or other crimes that tend to humiliate or degrade the victim.

Names will not be used if identification is likely to endanger the life or health of the victim. Any request by police, a victim or representative of the victim to withhold the name from a news story for reasons of health or safety should be given great weight.

An exception to the policy of non-identification will be made for victims of degrading crimes who want to be identified or who seek publicity to serve as an example for others.

PHOTOGRAPHS.

Some of the sharpest controversies over invasions of privacy have resulted from sensational spot news photos at scenes of violent crime or other tragedy. . . . A common dilemma is the picture of the grieving relative. Such an image might capture a private moment of deep emotion that dramatizes the event in starkly human terms. But the intrusion of the press at that moment may be resented by many readers, not to mention the subject of the photograph. . .

Care must be taken in publishing pictures of victims of crime and tragedy, and relatives of victims. As a general rule, photographers should identify themselves and seek permission from the subjects to take such pictures, especially on private property.

SEX ABUSE: General.

The general policy of the *Post-Dispatch* is to question the use of names in all stories of a sexual nature. In reporting on sex crimes, our policy should be aimed at alerting the community and protecting the victim. Thus, we reiterate our long-standing policy of not naming rape victims and using only the most general identifying information, while naming and further identifying the accused when a warrant is issued.⁸

Legislation to Protect the Identity of Crime Victims

Feeling that the media's attempts to regulate themselves through victim-sensitive guidelines have not been adequate to protect victims, legislators have enacted laws to force more sensitive coverage. Some of these laws, however, have been held to be unconstitutional. In *State v. Globe Communications Corp.*, the Florida Supreme Court held that a Florida criminal statute that prohibited the media from identifying the names of sexual assault victims violated the First Amendment.⁹ In that case, *Globe Communications Corp.* twice published the name and identifying information of a sexual assault victim, violating the Florida statute. The paper had lawfully learned the victim's name through investigation. The Florida Supreme Court relied on the U.S. Supreme Court's decision in *Florida Star v. B.J.F.*, finding that the Florida statute barring any media publication of a rape victim's name was unconstitutional because it was "overbroad"; that is, it punished the media even if, for example, the name of the victim was already known in the community.¹⁰ It also found that the statute was "underinclusive" in that it punished only media publication and not acts by a private person.

Similarly, the U.S. Supreme Court in *Cox Broadcasting Corporation v. Cohn* ruled unconstitutional a Georgia statute that imposed civil liability on media for publishing a rape victim's name.¹¹ In *Cox*, the news station had obtained the victim's name from public court records—a factor the Supreme Court held to be important, noting that "the First and Fourteenth Amendments command nothing less than that the States may not impose sanctions on the publication of truthful information contained in official court records open to public inspection."¹²

Following these cases, several states enacted privacy statutes to conform with the First Amendment.¹³ The legislation limits access of the public, including the media, to records that might otherwise readily reveal victims' names. For example, Florida's Crime Victims

When tragedy strikes, journalists are thrust into chaos and forced to make decisions on the fly. These decisions can impact the lives of everyone involved. Both journalists and criminal justice professionals must work as a team to meet the needs of the public while also protecting the rights of the victims. By understanding how the media works, criminal justice professionals can help reporters get the information the public needs to know. By understanding victims' rights, reporters can avoid the common errors of judgment that cause victims needless pain.

Robert Davis, National Reporter, *USA Today*

Protection Act, passed in 1995, strengthened the exception to the definition of public records by excluding court information containing the identity of victims of sexual crimes or child abuse.¹⁴ While the new Florida statutes provide that the victim's identity may be released to the defendant and defense attorney, they also establish a specific procedure that, at the victim's request, can be employed to allow a trial court to determine that the victim's identity may not be made public through the court's proceedings or records.

Recommendations from the Field for the News Media

NEWS MEDIA RECOMMENDATION FROM THE FIELD #1

I hurt when I hear about [crime] happening to other people, when I turn on the news or pick up the newspaper. But when it's yours that's on the news or in the newspaper, it's like a dream. And you're wondering when you are going to wake up.

Wife of a shooting victim

The news media should adopt codes of ethics or guiding principles that clearly delineate policies sensitive to and respectful of crime victims. These guidelines should include policies that discourage the identification of victims of sexual assault and other vulnerable victims, including children, without the victim's consent.

Written guidelines similar to those developed by the *St. Louis Post-Dispatch* can provide basic principles to guide ethical coverage of victimization. A number of news media organizations have established informal policies and practices to protect the privacy of sexual assault victims and children. However, these policies are often not given the authority of written guidelines. Both print and broadcast media should adopt written guidelines and provide training to employees regarding standards for their coverage of crime victims. Written guidelines should serve as a foundation for making difficult decisions about coverage—decisions frequently made hastily under deadline pressures.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #2

News organizations, victims, and victim-serving providers should sponsor frequent educational forums for journalists on sensitive media coverage of crime and victimization.

Journalists should be educated about how to cover sensitive stories involving crime victims, with training and technical assistance from victim service providers as well as crime victims themselves.

Professional media organizations should incorporate this training and panel discussions of sensitive coverage of victimization into their state, regional, and national conferences.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #3

University departments of journalism should incorporate curricula that teach students about sensitivity to victims in the news media's coverage of crime.

Information and guidelines for dealing with crime victims should be incorporated into curricula for college and university classes in communications and journalism. Courses should cover the trauma of victimization, crime victims' privacy and safety concerns, services available to victims, and developing cooperative relationships with law enforcement and criminal justice officials in the coverage of crime and victimization. Victims themselves should be invited to classes to discuss their experiences with the media. Universities and colleges should use the handbook *Crime Victims and the Media*, published by the National Victims Center in 1989, as a resource for incorporating these topics in their journalism and mass media courses.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #4

Victim service providers should receive education about media relations and how to be a valuable resource for the press. Training and technical assistance for service providers should be made available from professionals in the journalism community.

In addition to training, guidelines for providing support and guidance to victims about dealing with the news media in the aftermath of a crime should be made available to victim service professionals, law enforcement, prosecutors, clergy members, and others who might be called upon to provide advocacy and assistance. With funding from the Office for Victims of Crime, both the National Victim Assistance Academy, sponsored by the Victims' Assistance Legal Organization and a consortium of universities, and the National Organization for Victim Assistance have developed curricula that outline tools and strategies to help victim assistance providers work with the media.

I'd like to see an article on how to avoid a specific abuser characteristic, or to make your apartment or car safe before assaults, abuse, or rape. So much can be done if people took an interest in saving people from abuse, and death from abuse.

A domestic violence victim

NEWS MEDIA RECOMMENDATION FROM THE FIELD #5

The victim service and mental health professions, in conjunction with media representatives, should develop debriefing protocols to help journalists cope with the trauma and stress of covering crime and victimization.

Reporters, photographers, camerapersons, and editors are confronted with a daily barrage of violence and tragedy, with little guidance on how to cope with the personal trauma of witnessing and reporting these events. Some journalists are themselves victims of crimes similar to those they are assigned to cover.

Representatives of the news media, victim service providers, and the mental health community should work together to produce a protocol to give journalists who cover crime and victimization a means to address the stressful nature of their careers. News organizations should establish a debriefing and counseling program for all journalists who need such assistance.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #6

State public policy leaders and media representatives should explore the development of legislation that would appropriately limit general public access to confidential information about sensitive victims.

As the U.S. Supreme Court has made clear, efforts to provide legislative protection of victims' privacy must take into account the important interests of the First Amendment. Several states have developed statutes that secure victims' privacy by eliminating confidential identifying information from public records. Other states may want to review these statutes.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

- 1 Thomason, Dr. T., "Compassion, Concern Mark Symposium," in CRIME VICTIMS AND THE NEWS MEDIA, Fort Worth, TX: Texas Christian University, 1986:2.
- 2 *Id.*
- 3 Kilpatrick, D., C. Edmunds, and A. Seymour, *Rape in America: A Report to the Nation*, Arlington, VA: National Victim Center and the Medical University of South Carolina, National Crime Victims Research and Treatment Center, 1992.
- 4 Oukrop, C. E., *Views of Newspaper Gatekeepers on Rape and Rape Coverage*, Manhattan, KS: Kansas City University, 1982:21.
- 5 Winch, S. P., *On Naming Rape Victims: How Editors Stand on the Issue*, Minneapolis, MN: Paper presented at AEJMC National Convention, 1991.
- 6 Thomason, Dr. T. and P. LaRocque, *Newspaper Coverage of Rape: Editors Still Reluctant to Name the Victim*, Fort Worth, TX: Texas Christian University, 1994:11-12.
- 7 St. Louis Post-Dispatch, *Post-Dispatch Guidelines on Privacy Issues*, St. Louis, MO: St. Louis Post-Dispatch, 21-30.
- 8 *Id.*
- 9 648 So.2d 110 (Fla. 1994).
- 10 491 U.S. 524 (1989).
- 11 420 U.S. 469 (1975).
- 12 420 U.S. at 495.
- 13 E.g., ALA. CODE § 15-23-69(b) (1995); ALASKA STAT. §§ 12.61.100-12.61.150 (1991); MASS. GEN. LAWS. ch. 258B, § 3(h) (1988).
- 14 FLA. STAT. §92.56, 119.07 (1995).