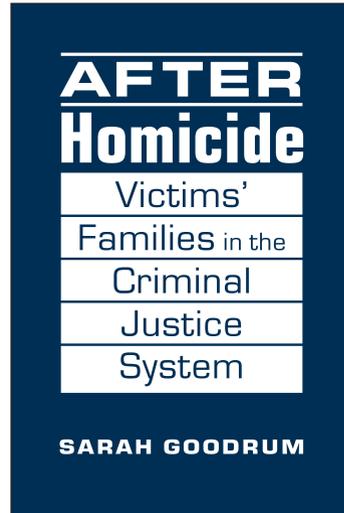


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After Homicide:
Victims' Families in the
Criminal Justice System

Sarah Goodrum

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1

After Homicide

I gotta admit though to you, Sarah, every time the phone rings, I hope it's Detective Russell. . . . I [know] I will never have her back. . . . But I know it would make me be able to handle what we've gone through a lot better, if I knew her perpetrator [were] behind bars.

—Norman Howard, father of 32-year-old homicide victim (Pretest A)

For more than 40 years, crime victims' advocates have fought to give victims a voice in the criminal justice system and a role in the criminal justice process. By 1995, all states in the United States had passed a victims' bill of rights. These rights allow victims to learn about upcoming court dates, obtain compensation funds to cover funeral costs, and give an impact statement to the court during the offender's sentencing. Advocates believed these rights and services would improve victims' satisfaction with the system and their recovery from the crime. Research, however, finds that these rights and services have had only a marginal effect on victims' satisfaction and recovery, raising questions about what victims want and doubts about what the system can offer (Campbell 2006; Carr, Logio, and Maier 2003; Englebrecht, Mason, and Adams 2014; Erez, Roeger, and Morgan 1997; Frohmann 1998; Parsons and Bergin 2010; Rock 1998; Rosenbaum 1987). The truth is, we know little about what victims want from the system or how that compares with what criminal justice professionals do. Few studies have included

both perspectives on the victim–criminal justice system relationship, particularly in cases of homicide.

In this book, I examine victims' experiences with the criminal justice system with a focus on people who have lost a loved one to homicide.¹ I also explore larger questions about the relationship between law and society. What do victims expect from the system, and what do they get? What is the role of victims' rights in promoting change in the criminal justice system? To answer these questions, I collected qualitative data from homicide survivors, criminal justice professionals (e.g., detectives, prosecutors, counselors, judges, and defense attorneys), and crime victims' advocates in the Union County (a pseudonym) criminal justice system.

The decision to collect data in Union County and from this group of victims (also referred to as *homicide survivors* or *bereaved*) bears comment. First, since the 1990s, the Union County criminal justice system has had a national reputation for being an innovator in victim services in the United States. Before most other cities and counties in the United States, the Union Police Department, Sheriff's Office, and District Attorney's Office had full-time social workers on staff to provide victims with crisis counseling and information. These counselors, victim-oriented programs, and a strong victims' advocacy group have made Union County a model for victims' rights and services. As a result, Union County detectives and prosecutors followed the state's victims' bill of rights, and my findings reveal that prosecutors often went beyond those rights to honor victims' requests for a trial instead of a plea bargain. Thus, if victims are not having a good experience in this system, they are unlikely to be having a good experience in other systems. Second, few studies examine victims' experiences across all aspects of one criminal justice system (e.g., police, prosecutor, trial). A detailed exploration of victims' encounters in one system proves important for identifying the gaps in rights and services, sources of frustration within the system, and avenues for improvement in the victim–criminal justice system relationship.

Much of the previous research on victims in general and homicide survivors in particular draws on data from one population—the victim population. This study includes in-depth interview data from three populations—homicide survivors, criminal justice professionals (e.g., detectives, prosecutors, counselors, judges, and defense attorneys), and crime victims' advocates (from a nonprofit group)—providing a more complete understanding of the victim–criminal justice system relationship. Hearing the real voices of people working in and encountering these various parts of the system provides a well-rounded understanding of the issues.

Homicide survivors provide an excellent opportunity to examine the victim–criminal justice system relationship and the larger law–society relationship for four reasons. First, the extreme nature of a loss to homicide and the seriousness of criminal justice workers’ investigation reveal taken-for-granted assumptions about these interactions (see Konradi 1996a; Stenross and Kleinman 1989). Second, the stark contrast between workers’ and victims’ approaches toward and emotions about the case reveals how each group experiences the same case from very different and unequal perspectives (see Goodrum 2005, 2007, 2008, 2013; Goodrum and Stafford 2003; Stretesky et al. 2016). These disparate perspectives can make for awkward encounters and social conflicts. Third, over time, victims become socialized about the ways of the criminal justice system, and this knowledge informs, angers, and challenges them. Asking victims about their expectations for and experiences with all parts of the system reveals the sources of tension and places for improvement in the process. It also allows for the consideration that victims may feel more satisfied with some parts of the system than others and that some parts may be more amenable to victim involvement than others. Finally, homicide survivors represent a particularly vocal and influential group of crime victims (e.g., John Walsh, father of Adam Walsh; Beth Twitty, mother of Natalee Holloway). In the United States and in the state of study, homicide survivors have led the effort to change the system. Understanding what homicide survivors expect of the system clarifies their—and other victims’—needs and goals.

It is important to note that victims are not a unified group, although current victims’ rights legislation treats them as such. What robbery victims want from the system may be entirely different from what homicide survivors want. A common theme underlying victims’ comments from this and other research, however, is the sense of powerlessness they feel in their encounters with criminal justice professionals and their desire for compassionate understanding from those professionals. Here, I explore what homicide survivors want and need from the system and how that may apply to other types of victimization.

Themes

In the chapters that follow, I provide empirical data on homicide survivors and criminal justice workers from many different perspectives. By reporting firsthand accounts, the research conveys the poignant ways victims try to make sense of and cope with a “shattering emotional experience” (Denzin 1990: 104). Participants’ narratives reveal a great

deal about the role of the criminal justice system in the healing process and the place of rights in promoting institutional change. The interrelated themes throughout the findings are

1. The conflicts between victims and the criminal justice system arise in unexpected places.
2. The solutions to these conflicts are also unexpected (victims do not want a role in the system but a relationship with decisionmakers).
3. Victims' rights helped promote social and cultural change in the system, but victims typically do not call on or mention those rights.

The findings indicate that homicide survivors expected an ally and an advocate in the criminal justice workers handling their loved one's murder case; they wanted a detective and prosecutor who understood the depth of their loss, connected to their pain, and fought for the deceased. These findings translate to other fields and social encounters where people need help navigating new institutional terrain (e.g., school, hospital). Homicide survivors sought compassionate (but not mushy) allies in the criminal justice system.

Theoretical Framework

Symbolic interactionism provides the theoretical framework for the study. This perspective explains the role of meaning in human behavior and social interaction, and the meaning that homicide survivors assign to a case reveals a great deal about their sources of angst and frustration. Herbert Blumer's (1969: 2) first premise of symbolic interactionism states, "Human beings act toward things on the basis of the meaning that the things have for them." When people thoughtfully reflect on something, they set it apart and give it meaning. This meaning helps them make decisions about how to act in the situation and toward others. But meaning does not arise in a vacuum; it emerges over the course of social interactions with others. In addition, meanings are modified over time, in situations, and through life experience; these modifications can create confusion, distress, and conflict. It can be difficult to learn that your definition of the situation is not shared—or even understood—by others. In the case of loss to murder, symbolic interactionist theory helps reveal the meaning that victims assigned to the news of their loved one's murder, the police's investigation, the prosecutor's case, and the trial (see Stretesky et al. 2016). The theory also illuminates the meanings that criminal justice workers assigned to murder cases.

As you might imagine, homicide survivors assigned significantly different meanings to things than did criminal justice workers, particularly in the early stages of the murder investigation. How people interpreted and responded to these disputed meanings applies to many other fields and social encounters. Given the apparent disconnect between victims' rights and their satisfaction and our confusion about victims' needs, the symbolic interactionist perspective clarifies the meaning of the case and the criminal justice process. Guided by the empirical research on victims and the symbolic interactionist perspective, I focus on the following research questions:

1. What do victims want and need from the criminal justice system?
2. How do victims experience the criminal justice system, including workers and criminal justice procedures? How do these experiences influence their recovery?
3. How do criminal justice workers (e.g., detectives, prosecutors, counselors, judges, defense attorneys, and advocates) perceive and handle victims?
4. What role do victim services counselors play in survivors' experiences?
5. What do these findings tell us about homicide survivors, the criminal justice system, and victims' rights legislation in the United States?
6. What do these findings say about the role of victims' rights in meeting victims' needs?
7. How might these findings apply to other victims, individual-organization relationships, and social situations?

Crime Victims' Rights

At the time of this study, the victims' rights laws around the country were comprehensive and did not differentiate between various types of victims. In the state of study, the victims' rights were²

1. The right to receive from law enforcement agencies adequate protection from harm and threats of harm that might arise from cooperating with prosecutors;
2. The right to the prompt return of any of the victim's property that is held by law enforcement or the prosecutor when the property is no longer needed;

3. The right to be informed by a law enforcement officer about the defendant's right to bail and the procedures in criminal investigations, and by the prosecutor's office about criminal justice procedures, including guilty plea negotiations, restitution, and the appeals and parole process;
4. The right to have the magistrate take the safety of the victim or their family into consideration as an element in fixing the amount of bail;
5. The right to be informed of relevant court proceedings and to be informed if those court proceedings have been canceled or rescheduled prior to the event;
6. The right to provide pertinent information to a probation department conducting a presentencing investigation concerning the impact of the offense on the victim and their family by testimony, written statement, or any other manner prior to any sentencing of the offender;
7. The right to be informed of parole procedures, to participate in the parole process, to be notified of parole proceedings concerning a defendant in the victim's case, and to be notified of the defendant's release;
8. The right to be provided with a waiting area, separate or secure from the offender, offender's relatives, and other witnesses;
9. The right to have the prosecutor notify the victim's employer of the need for the victim's cooperation and testimony in proceedings;
10. The right to receive information regarding victims' rights compensation;
11. The right to counseling regarding AIDS and HIV and testing for AIDS and HIV.

Wemmers (2012) has described victims' rights as human rights that recognize victims' independent interest in the system.

Victims' Experiences with the Criminal Justice System

Research indicates that victims' independent interest in the system includes the perceived fairness of procedures, access to information about the case, and workers' responsiveness to their concerns. Having a sense that the procedures are fair can reduce anxiety, which may aid healing, particularly when the final outcome of the case (e.g., convic-

tion, sentence length) remains unknown (Tyler, Goff, and MacCoun 2015; Wemmers 2013). Wemmers (2013) found that victims' perceptions of the fairness of criminal justice procedures (i.e., procedural justice) positively correlated with their psychological recovery from the crime, and the quality of their interaction with criminal justice workers informed their sense of procedural justice (see also Tyler, Goff, and MacCoun 2015). The therapeutic jurisprudence literature recognizes the potential for the law as a social force to produce positive or negative psychological effects in victims and offenders (e.g., healing or empathy, respectively) (Winnick 1997). In a study of homicide survivors, Milman and colleagues (2018) found that survivors' perceptions of the fairness of the system were positively associated with mental health outcomes (e.g., depression, complicated grief). Indeed, the victims' rights movement has championed the notion that the law can serve as a "therapeutic agent," where research on mental health and victimization informs legal practice (Winnick 1997: 185).

Advocates have argued that having a voice in criminal justice proceedings would benefit victims' psychological recovery from the trauma of the crime (Ashworth 2000; Kelly 1990; Wiebe 1996). The opportunity to give a victim impact statement during the sentencing phase of a trial has been one of the more visible platforms for victims' voices to be heard (see victims' right no. 6). Openly sharing with the court the effect of the crime on the victim's life is thought to offer a cathartic release. Yet evidence indicates that victims who gave a victim impact statement to the court felt no more satisfaction with the system than victims who did not (Erez, Roeger, and Morgan 1997), raising questions about what victims want. Victims may want information about the investigation and the prosecution more than a role in proceedings (Englebrecht, Mason, and Adams 2014; Stretesky et al. 2016). This study explores victims' and criminal justice workers' perceptions of the criminal justice system with elements of procedural justice and therapeutic jurisprudence, shedding light on how we might better meet victims' independent interests.

Loss to Homicide

The loss of a loved one to homicide is a relatively unusual experience. Approximately 9 percent of adults have lost a family member or friend to homicide in the United States (Amick-McMullan, Kilpatrick, and Resnick 1991). In the late 1990s, when most of these study participants had lost their loved one, the murder rate in the United States was on the

decline: 5.5 per 100,000 people in 2000, down from 10.2 in 1980 and 7.9 in 1985 (Fox and Zawitz 2003). The murder rate in Union County proved similarly low at the time of the study, with an average of 45 murder victims a year for a population of approximately 750,000 people ([Omitted State Name] Department of Health 2000; US Bureau of the Census 2001).

The bereavement process following a murder tends to be complicated by the sudden and violent nature of the death, the criminal justice system's involvement in the case, and others' discomfort with the manner of death (Amick-McMullan et al. 1989; Amick-McMullan, Kilpatrick, and Resnick 1991; Burgess 1975; Englebrecht, Mason, and Adams 2014; Jacobs et al. 2016; Kenney 2004; Nakajima et al. 2012; Rando 1993; Stretesky et al. 2016). This book focuses on the system's involvement in the case. Unsuccessful police investigations, lenient court officials, and insensitive criminal justice workers can negatively affect survivors' grief process and contribute to posttraumatic stress disorder, complicated grief, substance abuse, and depression (Burgess 1975; Gekoski, Adler, and Gray 2013; Milman et al. 2018; Nakajima et al. 2012; Rheingold and Williams 2015; van Denderen et al. 2015). Several books examine this type of victimization (Bucholz 2002; O'Hara 2006; Rock 1998; Spungen 1998), but none of them approach the issue by using systematically collected interview data from survivors' and criminal justice workers' perspectives. This book examines homicide survivors' sequential journey through the criminal justice system from the death notification to the trial.

Data for the Project

I chose to collect qualitative data for the study for several reasons. First, qualitative methods allow researchers to learn about a topic from the participant's perspective, which is an empowering experience for marginalized or stigmatized groups. Second, homicide survivors represent a relatively small segment of the population, which means that probability sampling is not a practical method for recruiting participants (Amick-McMullan, Kilpatrick, and Resnick 1991). Third, it is time for victims to define the issues. This study gives victims a platform for voicing their concerns and defining the problem, while also considering workers' experiences and constraints. Finally, qualitative research methods are appropriate for highly sensitive topics and emotionally vulnerable populations.

I used a multimethod approach to data collection, including in-depth interviews and participant observation. I conducted audio-recorded interviews with 58 participants in total, including homicide survivors,³ detec-

tives, prosecutors, counselors, judges, defense attorneys, and crime victim advocates (for a detailed explanation of the data, see the appendix). These different perspectives reveal where victims' needs sometimes collide with and connect to criminal justice workers' responsibilities and interests. All participants came from Union County with the exception of three victims who participated in pretest interviews in the early stages of the project; a fourth pretest interviewee came from Union County. To preserve confidentiality, details about some of the more high-profile murder cases have been altered to protect participants' identities.

For two years, I conducted participant observation of the Union County criminal justice system by volunteering as a victim services counselor with the police department, attending support group meetings for victims of murdered loved ones, and observing court hearings and trials in murder cases. The participant observation data provided context for and validation of the interview data. For more details on the project data, see the appendix.

Participants' Demographic Characteristics

Homicide Survivors

To provide context for participants' experiences, it is important to note the demographic characteristics of the study participants. The homicide survivors participating in the study were 78 percent female and 22 percent male; in addition, 53 percent of the survivor participants were white, 31 percent were Latino, and 16 percent were black (for more details on the sample, see the appendix). The mean age of homicide survivors was 49 years. Most survivor participants were the parent of the deceased, and 56 percent of their cases were solved and resolved (i.e., a suspect was indicted, charged, and either tried or plea-bargained; a resolved case did not necessarily mean the suspect was found guilty) at the time of the interview. Survivor participants' quotes are identified with a "V" or "Pretest" case number and pseudonym.

Criminal Justice Professionals and Crime Victim Advocates

The 19 criminal justice professionals and 3 crime victim advocates participating in the study averaged 11 years of work experience and 107 murder cases over the course of their careers. The criminal justice

worker participants included five detectives, four prosecutors, four counselors, three judges, and three defense attorneys, and all worker participants were from Union County. Three crime victim advocates from a Union County nonprofit organization also participated. Sixty-four percent of the criminal justice worker and advocate respondents were male and 36 percent were female; in addition, 72 percent were white, 14 percent were Latino, 9 percent were Native American, and 5 percent were black (see the appendix). These participants' quotes are identified with "CJ" case numbers and job titles.

Survivors' Perceptions of Bias

The racial and ethnic background of the homicide survivors differed from the criminal justice professionals and advocates in the study, such that a smaller proportion of whites appeared in the survivor sample than in the criminal justice professional and advocate sample. Given the significance of race and ethnicity in today's world and in the criminal justice system, it bears noting that two homicide survivor participants (V23, Xavier Nettles and V02, Donna Taylor) described racial bias as a factor in the criminal justice system's work on their loved ones' murder cases. Xavier believed detectives assumed his son, a 21-year-old African American man, died in a drive-by shooting fueled by a drug war, but Xavier knew his son had no drug ties. Donna believed the white defendant's defense attorney portrayed her younger brother, a 20-year-old African American man, as a violent gang member to play on jurors' racial biases and promote his client's self-defense claim. Despite the paucity of homicide survivors' mention of racial bias during the interviews, several described their perceptions of socioeconomic bias in the system. In these scenarios, homicide survivors indicated that families with money and political power received a "better process" (V31, Carmela Esparza) than "poor peon" (V25, Karinna Sheridan) families with "no money" (V17, Deidra Fiero). Throughout this book, survivors' accounts of racial and socioeconomic bias are discussed as they arose in different parts of the system.

Plan for the Book

Homicide survivors wanted things not guaranteed by victims' rights legislation, and the partial healing of the harm of their loss occurred in unexpected ways within the criminal justice system. These findings

shed light on the lack of significant improvement in victims' satisfaction with the criminal justice system. No one and nothing can truly heal the harm of a loss to murder; nothing can or will make it right. But the findings indicate that we can make the system and our responses to the loss better. By identifying some of the problems and offering suggestions for how to address them, I hope to inform the work of criminal justice professionals and victim advocates. In addition, this book relates to work and research in sociology (e.g., criminology, emotions, and death and dying), social work (e.g., bereavement counseling, crisis counseling), and the criminal justice system (e.g., law enforcement officers, prosecutors, counselors).

The chapters are organized according to homicide survivors' chronological walk through the criminal justice system from the initial death notification to the defendant's trial or negotiated plea. I map the chronological milestones in a murder case—death notification, police investigation, prosecution, trial—against the conceptual themes identified in the data. Each chapter provides direct quotes from homicide survivors, criminal justice workers, and advocates. Each chapter begins with comments from one or two participants and features one participant's specific experience; these opening comments and experiences crystallize the overarching themes in the chapter. Throughout the chapters, victim and criminal justice worker experiences are included as boxed text (see Victim Accounts, Counselor Accounts, and Detective Accounts); these boxes contain more detailed accounts of participants' stories.

Chapter 2 discusses how survivors learned about their loved one's murder and how they responded to the news. The evidence suggests that the person who delivered the news and how it was delivered influenced survivors' acceptance and recovery. Law enforcement officers admitted to disliking death notifications, and often delayed making the notification or asked counselors to make the notification on their behalf. Survivors responded to the news with crying, shock, and disbelief. Some survivors alternated between expressing and restraining their grief to both feel and function immediately following the news of the murder; the back-and-forth movement between grief and emotional restraint gave survivors more control over their physical response to the news.

Chapter 3 turns to patterns in survivors' encounters with law enforcement. The findings reveal two major sources of conflict with police: over the deceased's body and over the investigation. First, detectives viewed the deceased's body as a piece of evidence to preserve and protect while surviving family members viewed the deceased's body as

someone to hold, hug, and say good-bye to. These different definitions of the murder victim's body created tremendous conflict in survivors' relationship with detectives and the criminal justice system. In these encounters, homicide survivors felt harmed, not helped, by the police officers investigating their loved one's murder. Survivors also wanted to provide detectives with information about potential suspects and motives and learn about the status of the investigation, but detectives wanted to keep a tight lid on case information and disliked getting advice from victims.

Chapter 4 describes survivors' perceptions of and experiences with the prosecutor handling their loved one's case. State statutes and legal scholarship define the prosecutor as a representative of the state, not as an attorney for the victim (Erez and Roberts 2007). However, victims frequently contested this legal definition. Homicide survivors expressed an intense desire for the prosecutor to emotionally connect with them in a deep and meaningful way, and the triangulated project data demonstrate that—contrary to previous research on victims and prosecutors—many Union County prosecutors bonded with the families of murder victims. These emotional bonds benefited victims' recovery and gave meaning to prosecutors' work.

Chapter 5 reports on homicide survivors' encounters with victim services counselors in the Union County Police Department, Sheriff's Office, and Prosecutor's Office. As a relatively new position in the criminal justice system, counselors assisted victims and their families by providing crisis counseling immediately following the trauma, offering information about resources in the community, and explaining the bureaucracy of the criminal justice system. Counselors were put into place to reduce the likelihood of a secondary victimization. The findings from this research, however, raise questions about the effectiveness of victim services counseling following a loss to homicide. Although homicide survivors appreciated counselors' offers of practical assistance (e.g., cleaning up blood on carpets and retrieving personal belongings after an investigation), many disliked counselors' offers of emotional support. Homicide survivors sought an emotional connection with prosecutors, not with counselors (see Chapter 4). This emotional connection paradox appears to relate to survivors' perception of the usefulness of emotions in criminal justice workers' efforts on the murder case.

Chapter 6 details victims' expectations for and experiences with the murder trial and case resolution. Survivors sought a public airing of the facts and thought the solemn legal ritual of a trial would give them those facts and the reason for their loved one's murder. The trial rarely

gave victims the answers they sought or the relief they expected. Prosecutors anticipated and tried to warn victims of the post-trial letdown many families experienced.

Chapter 7 examines the meaning of the murder case to survivors and for recovery. The murder case represented both an opportunity to do something for the deceased and the social significance of the deceased's life. Whereas others assumed the murder case represented "closure," survivors vehemently denied the link between closure to the murder case and an emotional closure to their loss. At the same time, survivors longed to have an ending to the case. Interestingly, survivors whose loved ones were killed in a murder-suicide had lower levels of depression than those whose loved ones were killed and the defendant was pursued (e.g., negotiated plea, guilty verdict, or not-guilty verdict). Exploring murder-suicide survivors' discussions about case information revealed a strong positive link between survivors' ability to learn details about the death and their recovery process; murder-suicide survivors learned case details sooner than other survivors, which appears to have helped their recovery.

In Chapter 8, I offer some concluding remarks on the question of whether the criminal justice system does and can heal the harm of a loss to murder. The short answer is, in some ways yes, but in most ways no. This chapter explores the meaning of procedural justice and therapeutic jurisprudence in the context of participants' experiences with the system. Finally, the appendix describes the setting for the study and the methods of data collection and analysis.

Notes

1. *Homicide* refers to the killing of one human being by another, and murder is the most serious type of homicide. In the literature, people who have lost a loved one to homicide are referred to as homicide survivors, homicidally bereaved, co-victims, or bereaved victims (Goodrum 2008; van Denderen et al. 2015). In this book, the terms *homicide* and *murder* are used interchangeably because the distinction is irrelevant to the bereavement process for those who have experienced this type of loss.

2. The name of the state has been withheld to protect the identity of study participants. Some of the details of survivors' experiences, as well as criminal justice worker participants' job titles and years of service, could make them identifiable if the name of the state were revealed. The language from the victims' rights legislation has been paraphrased for brevity and the listing of the rights has been reordered to further conceal the state's and participants' identities.

3. Two pairs of study participants shared the same loss: (1) Delia Jimenez (V18) and Rachel Donado (V20) talked about the murder of Erica, their 24-year-old

niece and daughter (respectively); and (2) Norman and Maryanne Howard (Pretest A and B) talked about the murder of their 32-year-old daughter, Amy. Obtaining data from two participants with the same loss provided an opportunity to obtain different insights on the same murder case and victim–criminal justice interactions.