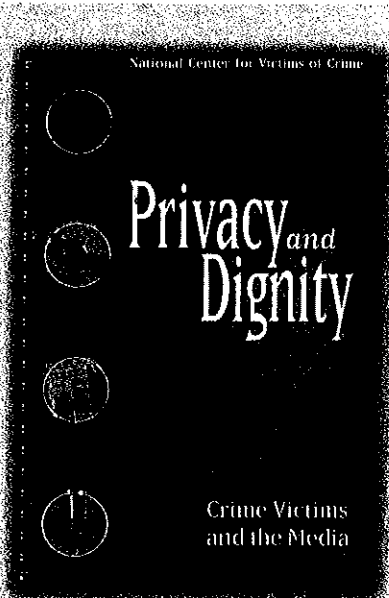


When Your Case is News:

Media Strategies for Crime Victim Litigation

By Jeffrey R. Dion, Esq.



*This article is based, in part, on information contained in **Privacy and Dignity: Crime Victims and the Media**, ©2000 National Center for Victims of Crime. This 45-page, user-friendly handbook includes practical tips, straightforward information, and useful insights into media relations as a positive crime victim advocacy tool. **Privacy and Dignity** is available through the National Center for Victims of Crime for \$12, with discounts for multiple copies and National Center members. Call (703) 276-2880.*

Crime is news. The more sensational or heartbreaking the crime, the more likely it is to make the front page or lead the evening news. From Court TV to the numerous television judges, Americans have become fascinated with civil litigation. Journalists recognize that real-life dramas are constantly unfolding in civil courtrooms across the country. When civil cases involve violent crime, they frequently draw media attention. Now, more than ever, a crime victim's attorney must be prepared to grapple with a question that is not taught in most law schools: namely, if the media want to cover a case, how much should the victim's attorney help them? Media coverage is a powerful double-edged sword in civil litigation. Used properly, it can greatly aid a case. Used carelessly, it can damage not only a case, but also the victim's well-being.

Most victims are traumatized by the original criminal act. Any publicity about the crime—either at the time of the crime or during a subsequent court case—may cause further trauma. Attorneys representing victims should not wait until a reporter calls before they begin thinking about responding to media inquiries or contacting the press. When handling a newsworthy case, an attorney should start thinking at the initial client interview whether and how to interact with the media. There are two main questions that an attorney must address. First, how will media coverage personally impact the client, assuming the client even wants to get involved with the press in the first place? Second, and just as important, will media coverage help or hinder the plaintiff's case?

Impact on the Client,

As a first step, attorneys should inform their clients that the media may be interested in their case. The attorney should assist the client in weighing the risks and benefits of media involvement. On a personal level, press involvement can present serious risks for a crime victim client. Media attention will likely cost the victim anonymity. In some circumstances, this loss of privacy may also compromise the victim's physical safety and psychological well-being. For example, press attention may increase the possibility of reprisals by perpetrators intent on re-victimizing and intimidating their victims. Given this reality, it may be necessary to grant interviews only in return for a guarantee that as little identifying information as possible will be revealed; for example, no pictures, no addresses, or no real names will be used in the piece. If the victim is a child, or if a child was in some other way involved in the case, special attention must be paid to protecting their identity.

Another unwanted result of media attention may be the oversimplification of details about the crime and the victim's experience, thus resulting in unwelcome stereotypes or sensationalism. For example, in the case of a victim who was sexually assaulted at a bar, an article that focuses on the victim's attire or the unsafe reputation of the bar may serve to stereotype the victim as a loose woman who was asking for what she got. Such a portrayal could easily traumatize the victim all over again. Therefore, if the decision is made to interact with the media, every effort

should be made to ensure that the reporting is complete and accurate. The best way to accomplish this is to establish and maintain relationships with the reporters covering legal issues in the local media market, and to personally telephone them as the need arises. In certain circumstances, it may be beneficial to prepare a written media statement that describes, in the attorney's own language, the relevant facts of the case. It may be also helpful to offer to be available to the reporter for fact-checking as the events of the case progress.

Despite the potential dangers, crime victims can also derive benefits from publicity surrounding their cases. Many victims may get an emotional benefit from having the opportunity to publicly share their side of the story and to draw attention to the injustices they suffered. This can empower victims with a sense of control—in stark contrast to the powerlessness they experienced as crime victims; a powerlessness that may continue during the criminal case. Victims

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who are willing to speak to reporters, either directly or through a representative, increase the potential for sensitive media coverage that addresses not only the perpetrator's fate, but also the crime's impact on the victim and the community. In addition, in a civil case against a third party in which the perpetrator was never apprehended, cooperating with the media may keep pressure on law enforcement officials to apprehend and prosecute a suspect. Many crime victims pursue litigation because they want to keep others from suffering similar traumas. By speaking to the media in a straightforward manner, an attorney can put a human face on a crime story that may transform the case into a catalyst for change beyond the boundaries of that particular civil action.

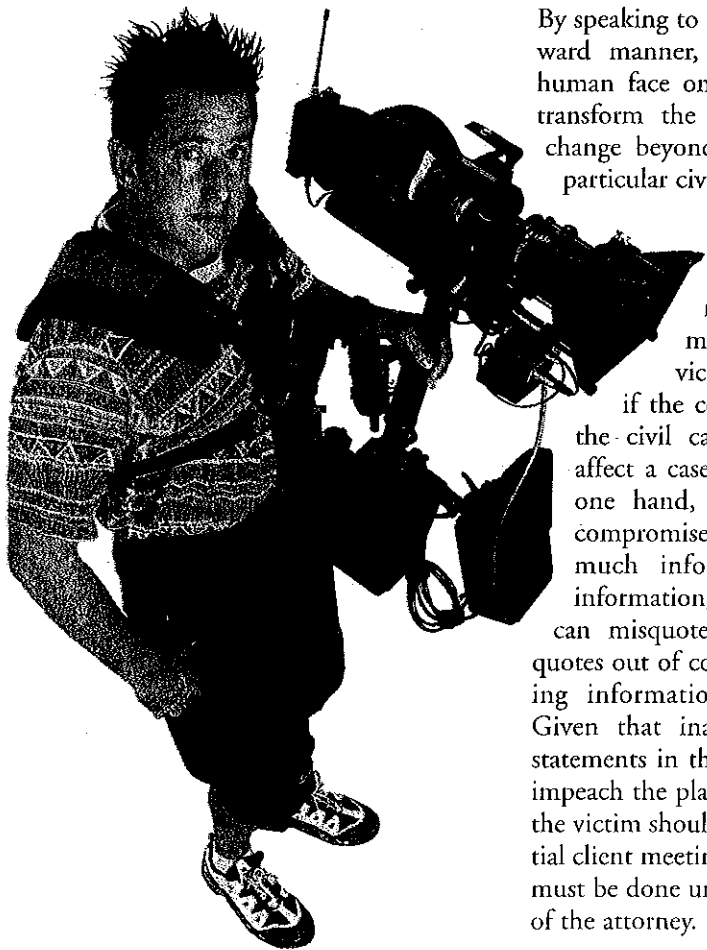
Impact on the Case

Regardless of how much media contact might personally help a victim, it should be avoided if the coverage is going to harm the civil case. Media coverage can affect a case in several ways. On the one hand, a case can be severely compromised when a victim gives too much information, or inaccurate information, to a reporter. Reporters can misquote their interviewees, use quotes out of context, or obtain misleading information from other sources. Given that inaccurate or inconsistent statements in the press might be used to impeach the plaintiff's credibility at trial, the victim should be instructed at the initial client meeting that any media contact must be done under the close supervision of the attorney.

Consumers of the local media are also the potential members of the jury pool. While a member of the public who admits to being influenced by media coverage probably will not serve on the jury, it certainly benefits a victim's case for the local public to have heard and read positive information about the victim in the days and weeks leading up to the trial. While some attorneys are wary about trying their case in the court of public opinion, not speaking with the media virtually guarantees that the victim's side of the story will not be told, or even worse, that the defendant will be the only one telling the story. Compelling presentation of the victim's story to the public at large can be just as important as the effective presentation of that story within the courtroom. The remainder of this article addresses specific techniques for presenting a crime victim client's story to the press.

When to Hold a News Conference

News conferences enable an attorney to disseminate information to multiple reporters at once. Some attorneys may consider it sufficient to face a bank of microphones on the steps of the courthouse, but others may find that the circumstances of their case call for more proactive measures. A news conference is best held between 10 a.m. and noon to accommodate filing deadlines for broadcast reporters. It should be held in a location that provides a visually interesting setting that is also easily accessible. Have a news release or written statement available for all reporters who attend. Provide notice of the press conference twenty-four hours in advance. To do so any earlier increases the chances that it will be forgotten about or overshadowed by other events before the assignment editor dispatches reporters for the day. It is not advisable to hold a news conference unless there are more reporters interested in the story than reasonably can be spoken with on an individual basis before their filing deadlines. A news conference should be held only if there is newsworthy information to convey. Except for the most high profile cases, it is usually preferable to speak with reporters individually.



Using a Spokesperson

Victims who do not wish to speak directly with the media may want a spokesperson to do so on their behalf. Family members or the victim's attorney commonly serve in this role. Because of the impact press statements may have on subsequent civil litigation, it is preferable that the attorney serve as the spokesperson. Whoever is selected, that person must be accessible to reporters and be able to deal with the pressure of being in the media spotlight. A spokesperson is not obliged to provide a substantive response to every question, but should always at least answer the reporter in some way. The spokesperson must separate facts from opinions, and avoid trivial details. If and when victims want to speak directly to the media, the spokesperson should accompany them to the interview or news conference and carefully monitor what they say. Two guiding principles related to civil litigation are that statements to the media should not address information that is privileged or otherwise not discoverable, and press statements should never open victims up to possible impeachment during subsequent trial testimony.

Pointers for a Successful Interview

Any time that a victim speaks with the press, a victim service provider or other support person should be present to help the victim cope with the stress. Whether victims, their attorneys, or spokespersons are speaking to the media, there are certain pointers that anyone should be aware of so as to communicate effectively with a reporter:

Be honest. Nothing will destroy a person's credibility more than a false statement, regardless of whether the falsity was intentional. Interviewees should admit it if they do not know the answer to a question. It may be possible to provide the reporter the information at a later time.

Short sound bites that get the point across in a memorable way should be developed and rehearsed.

The reporter should be given the victim's perspective. The perpetrator should be discussed as little as possible.

It should never be assumed that any

statement is "off the record." If it should not appear in the media, it should not be said to a reporter.

◦ A reporter may be asked to read quotes back to the interviewee in order to confirm that the quotes are accurate and that they convey the intended message. A reporter who takes the time to get a quote should take the time to get it right.

◦ Attorneys should be prepared to make their case to a reporter the same way they would to a juror.

◦ An attorney who receives a telephone inquiry from a reporter should feel free to ask about the reporter's familiarity with a particular type of case. If the reporter is relatively inexperienced, the attorney should provide more basic information than would be provided to an experienced legal correspondent.

◦ Find out if a reporter is on a deadline. It is not necessary to drop everything to field a media call, or to speak on any subject at a moment's notice. A reporter can be asked what information they are looking for and when they need it. This enables the attorney to offer more thoughtful comments and to retrieve information the reporter may need.

Answers should be kept short and to the point—just like in an appellate argument. There is no need to recite entire pleadings. The information should be synthesized and the most important points highlighted.

Appearance

Attorneys know that their appearance can affect their credibility. There are special considerations whenever an attorney, victim, or other spokesperson appears on television:

Clothing should

be kept simple and fairly conservative. Detailed patterns can be distracting and sometimes create the illusion of movement on camera. If possible, the color red should be avoided because it tends to "bleed" on camera, and similarly, bright white, which often reflects lights and washes out the picture.


◦ If possible, eyeglasses should be taken off to avoid reflection from television lights.

◦ Large, shiny, or noisy jewelry should not be worn. It can be visually distracting, and microphones can pick up any noise it makes.

◦ Men and women should apply light make-up with a matte finish to avoid a shiny face, but remain looking natural.

◦ Men should shave close to air time—even the slightest hint of a beard tends to show up on television.

Conclusion

At the earliest possible stage of the case, the attorney and the victim/client should evaluate how media coverage might affect both the plaintiff's well-being and the strength of the civil case. If the decision is made to become involved with media coverage, a proactive strategy should be pursued which tells the victim's story in a persuasive manner that is fully consistent with the story that will be told at trial. With careful advanced planning, and appropriate guidelines and boundaries, successful media relations can both personally help victims and enhance their civil lawsuits. 

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