Forensic Victimology
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It is impossible to accomplish anything of professional merit alone. If you do, it’s because you weren’t, and were at the very least surrounded by able minds with capable hands. We had the benefit of that and more. And the result reflects it.

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In particular, we would like to single out Joe Diaz, Claire Ferguson, and Michael McGrath for recognition and praise of their efforts. Apart from being an able writer, Dr. McGrath has tremendous editorial skills. We thank him for lending us his expertise and being part of this project. Joe Diaz and Claire Ferguson were invaluable resources as well. Both furnished critical research and writing to this project, giving of their time and meeting their deadlines despite significant professional workloads and other commitments. We were lucky to have their talents on board.

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Preface

An Argument for Forensic Victimology

Brent E. Turvey

Victimology is a social science regarded as the scientific study of victims. It is a broad subject with many subcategories of research. Some of these are theoretical and some are applied.

The objective of this textbook is to provide readers with the basic principles and practice standards of forensic victimology: the scientific study of victims for the purpose of addressing investigative and forensic issues. It is intended to educate the student in an applied fashion and to act as a guide for victimologist practitioners who assist investigators and provide expert testimony in court. It gives readers the means and rationale for examining victims with a scientific mindset, as opposed to the mindset of a police officer, victim’s advocate, or treatment professional.

Dr. Petherick and I collaborated on this text for the following reasons: there is really none other like it available; professionals are less and less encouraged to approach victims with the skepticism that science requires; and victimization is not always simple.

On Friday, March 11, 2005, at 9:00 a.m. in Atlanta, Georgia, a suspected rapist named Brian Nichols overpowered a courthouse deputy. As is customary, his handcuffs had been removed so that he could change from jail to civilian clothes for the jury. Nichols took the deputy’s keys and gun and made his way to the courtroom where his trial was to be held. He entered at the back, through the private chambers of Judge Rowland Barnes. Nichols then shot Judge Barnes in the head, killing him. During his escape, Nichols also shot and killed Julie Brandau, the court reporter, and deputy sergeant Hoyt Teasley. Sometime later, Nichols shot and killed U.S. Customs Agent David Wilhelm, taking his badge, gun, and vehicle. By that time, a nationally publicized statewide manhunt was already under way.
According to Ashley Smith’s initial statements to police, the following took place on Saturday, March 12, 2005, at around 2:00 a.m. Nichols encountered 26-year-old Smith in the parking lot of an apartment complex where she had just arrived home. He followed her after she parked and forced his way through her apartment door, with Smith at gunpoint. Nichols tied her hands and feet with masking tape and an extension cord. At one point, he forced her to sit in the bathroom with a towel over her head while he took a shower. He told her who he was, and she was afraid for her life.

But something unexpected happened: at 9:50 a.m., after seven hours of holding Smith hostage in her own home, Nichols allowed her to leave. She called 911. Shortly thereafter, Nichols was taken into custody by authorities. As explained in Mattingly (2005):

Smith said Nichols eventually unbound her hands and feet and that he began to relax as they spoke for hours about religion and family—including Smith’s 5-year-old daughter and her late husband, who was stabbed four years earlier and died in her arms.

“I basically just talked to him and tried to gain his trust,” she said.

Smith said she showed Nichols family photographs and read him passages from Rick Warren’s bestselling book, *The Purpose Driven Life: What on Earth Am I Here For?*

After 6:00 a.m., Smith said she followed Nichols so he could hide [Agent] Wilhelm’s truck and then took him back to the apartment in her car. She said that Nichols did not bring any weapons on the trip, and that she had her cellular phone but did not call police.

Smith said Nichols was “overwhelmed” when she made him a pancake breakfast and that the two of them watched television coverage of the manhunt.
Smith said Nichols allowed her to leave for a 10:00 a.m. visit with her daughter, who lives with Smith’s aunt. Nichols gave her money, saying he was going to stay at her apartment for a “few days.”

She dialed 911 about 9:50 a.m. and within minutes a SWAT team converged on building. After several tense minutes, police saw Nichols waving a white T-shirt.

In subsequent interviews, Ashley Smith gave any and all credit for her survival directly to God, saying that among other things she also read to Nichols from the Bible. The religious community enjoined the sensational mainstream coverage of the case. With Smith’s assistance, they promoted her successful use of faith to end Nichols’ killing spree, save her own life, and demonstrate that even the most horrific among us cannot resist the word of God.

In the months that followed, Ashley Smith was hailed as a hero by the news media and local law enforcement for executing what some have referred to as a textbook hostage negotiation for her own release. She was also given more than $70,000 in reward money for her role in Nichols’ capture. She even coauthored a 2005 memoir, *Unlikely Angel: The Untold Story of the Atlanta Hostage Hero.*

However, in that memoir, Smith publicly revealed for the first time that there were crucial details she had withheld from her account. She was actually a methamphetamine addict who had spent time in a psychiatric facility and had given up custody of her child by the time that Nichols took her hostage. Moreover, her captivity by Nichols did not just include reading from religious works to gain his trust and calm him down; it also involved sharing some of her personal meth stash with him. These were details that had been omitted from her interviews with the religious and mainstream media. More importantly, she also failed to mention her meth addiction,

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1 This was published by Zondervan, which also publishes the *NIV Study Bible.*
possession, and sharing with Nichols to police until giving a supplemental interview to investigators months after the incident. In her memoir, she claims not to have used meth with Nichols and asserts that being held hostage by him was the reason she ultimately decided to stop using altogether.

Despite her deception, the authorities let Smith keep the reward money and did not press charges against her for methamphetamine possession or false reporting. She also turned her story of survival into a credential as an author and motivational speaker. But the story does not end there. Nichols, whose capital murder trial has been postponed four times because of funding issues, has yet to face justice. When the Nichols case gets before a jury, sometime in 2008, it is hoped, there may be a question as to whether Smith can or will be asked to testify against him at trial. If the state does not call her, she may be called by the defense to cast doubt on her version of events as they relate to the charges against him. It's certainly true that in this complex case, the public will not know the full story until Smith takes the stand, raises her right hand, and swears to tell the truth, the whole truth, and nothing but the truth.

Again, victimization is not always simple.

REALISTIC VICTIMOLOGY

The Brian Nichols/Ashley Smith case illustrates how complex victimization can be. Victims are not theoretical, ideological, or archetypal constructs, they are people. They are susceptible to the same frailties and imperfections as the rest of us. Trying to examine victim behavior through any other lens is going to fog the truth and preclude actual understanding. Subsequently, as explained in Fattah (2000), there is a need to move towards what may be referred to as realistic victimology (39):

The current dominant view in victimology of a bad offender and a good victim, of an innocent victim and a guilty criminal, will slowly give way to the more realistic and defensible view of two human beings caught in a web of intricate social relationships and human emotions.

Victimization is not always simple. It does not always happen in a straightforward manner to the innocent, the honest, or even the law-abiding. Nor does it occur in a vacuum under controlled laboratory conditions. Because it involves real people with real lives and real problems, victimization occurs under convoluted circumstances and within or as a result of relationships that are equally complex.

The victimologist is challenged with establishing, examining, and interpreting the features of these complexities. In doing so, she must contend with corrupted and incomplete victim information, the overt falsity of victims and...
witnesses, and the unique social-political pressures that arise for and against every victim population imaginable. And that’s when things are going well.

Dietrich Dorner, a cognitive psychologist, professor of psychology at the University of Bamberg, and author of *The Logic of Failure: Recognizing and Avoiding Error in Complex Environments* (1996), argues that there are three common features that make problems difficult to solve:

**Complexity:** When many interdependent features that cannot be understood exist in isolation.

**Dynamics:** When the environment changes over time, creating pressure.

**Opacity:** The lack of visibility of certain parameters needed to accurately characterize the situation or problem.

As we will learn throughout this text, it is reasonably safe to argue that victimology suffers from all of these to varying degrees. So how can victimologists make informed and useful examinations and interpretations under these conditions? What Dorner found in his research is that those who were able to solve complex problems gathered information before acting, thought systematically, reviewed their progress, and corrected themselves often. Those who made the most errors tended to cling to preconceived theories, did not correct themselves, and blamed others when things went wrong. The errors made in complex situations, Dorner surmised, were not a feature of human capability; rather they were a feature of poorly conceived reasoning and an overall human tendency for laziness.

Certainly Dorner’s findings cannot be irrelevant to the questions posed in victimology. So how does the victimologist apply them in her work? Before we can address that issue, we must first agree what victimology is, and what it is not.

**VICTIMOLOGY DEFINED**

*Victimology* is intended to be the scientific study of victims ([Drapkin and Viano 1974](#)). Currently, victimologists tend to find themselves operating within one of three main subgroups: general victimology, penal/interactionist victimology, and critical victimology.

*General victimology* is the study of all those individuals or groups who have suffered harm or loss, whether they are victims of a specific crime, general oppression, or a natural disaster. According to Mendelsohn (1976), this vast landscape includes victims of criminal offenders, the social-political environment, the natural environment, technology, and even those who victimize themselves. General victimologists are concerned with identifying or developing preventative measures, as well as tools for victim assistance. They not only want to study the characteristics and causes of victimization, they also want to determine remedies.
Interactionist victimology, or penal victimology, is the study of the dynamics between victims and their offenders. It is limited, however, to those who have been the victims of a specific crime. Interactionist victimologists study the victim’s participation in crime causation through their interaction with the offender, the interaction between the victim and society, and the victim’s subsequent role in the criminal justice system. Like the general victimologist, the interactionist intends to examine causes to develop remedies that favor the victim.

Critical victimology has developed in reaction to the way that victimology is defined and studied by the first two subgroups. It seeks to question how criminality and victimity are established, tolerated, and even sanctioned. The basic premise is that any mainstream view of victims perpetuates existing yet inadequate definitions of crime and victimization. This may be observed in the overemphasis in research and policy on certain types of crime and crime victims, because they are clearly defined and easier to grasp. This in turn results in a failure to study—let alone recognize—a host of both victim populations and their related social issues. It may also be observed in the way that a given justice system penalizes those who would elsewhere be viewed as victims, such as prostitutes who are selectively punished in some Western cultures, and victims of rape may be punished in some Islamic cultures.

These victimology subgroups are alike in that they are ultimately oriented towards helping victims, in studying ways of “speeding up a victim’s emotional recovery, overcoming adversity, reimbursing financial damages, promoting reconciliation between the injured party and the wrongdoer, and restoring harmony to a strife-torn community” (Karmen 2004, 24). In other words, the professional compass in these subgroups points towards victim betterment. While this is an admirable goal and one well worth serving, it does not always promote an environment where scientific study is welcome.

THE PROBLEM

Contemporary victimologists can be found in many professions, including those associated with academia, the justice system, victim treatment, victim’s advocacy, and politics. They routinely have a mandate to help victims above all other considerations, or for political reasons they may need to be perceived as having such a mandate. However, satisfying this ideological imperative often requires uncritical and unconditional regard for those who present themselves, or are presented contextually, as victims. When this political or functional need clashes with the reality of victim imperfection, the results to any given professional can be chilling. The pendulum of bias can swing widely for and against. Consider the effect that this has had on some prosecutors, as described in Pokorak (2007, 710-712):
Although the effect is not often discussed, through the combination of the prosecutor’s unique “quasi-judicial” position that is freed from the normal constraints of a fiduciary relationship to an individual client, and the reality of a prosecutor’s high volume of cases, the result is that prosecutors have little contact with victims. This dirty open secret starts with the initial years as a young prosecutor. During this period, the thoughtful exercise of prosecutorial discretion may not be developed, but rather it may be constrained by office structures and policies that overload new prosecutors with large case loads of minor matters. In order to prevent serious consequences from mistakes made by inexperienced prosecutors, many prosecution offices regularize plea offers for these less serious, “routine” cases and significantly constrain discretionary decision-making by the new, overloaded members of the office. At this same time, a period of desensitization can occur among the newer members of the prosecution team. This takes the form of two separate, yet interrelated effects of high volume workloads. The first is the objectification of the defendant. Even though the prosecutor has a duty to the defendant as well as to all other members of the public, the reality of human interactions is that it is more difficult to argue that a person should be incarcerated if one knows that individual and sympathizes with his or her plight. Therefore, some prosecutors may be heard to refer to defendants in highly derogatory ways, such as “scumbag,” “dirt bag,” “animal,” and worse.

At the same time this tendency to dehumanize the defendant is being adopted by young prosecutors emulating more experienced attorneys in their office, they begin to realize that the defendants and the victims in cases share many characteristics and sometimes switch roles. Because most crimes are intra-racial and intracommunity, Monday’s defendant may also be Wednesday’s witness and Friday’s victim. Therefore, it is not a difficult leap from demonizing a defendant to treating victims with something less than complete respect.

Additionally, some victims can be very challenging to manage. Work, childcare, or economic constraints may prevent them from being readily available to meet to discuss and prepare the case or even to appear in court when needed. Ongoing relationships between the victim and the defendant also may severely complicate or compromise prosecutions. Certain victims may not present as good witnesses due to their lack of education, language proficiency, or simply because they are not good storytellers. At the same time, victims can be demanding — often calling to get status updates or seeking assistance in other, perhaps unrelated, areas of legal need.
In contrast to the access and communication barriers that might exist between prosecutors and victims, prosecutors, early on, learn to develop close relationships with police witnesses. For example, prosecutors in sexual assault cases have ready access to one or more police officers who help them put together and present their case. Often, these police witnesses interact with the prosecutors on a near-daily basis. Many police officers, in addition to being trained investigators and evidence handlers, are also specifically trained to serve as witnesses. Compared to these helpful professional witnesses, victims can seem to an overworked prosecutor like much more of a problem than an asset to the case development and prosecution strategy.

The result of these two acculturated responses—the dehumanization of defendants and the general impatience with many victims—is that prosecutors tend to rely on the police and investigators to manage victims during the bulk of pre-trial preparation. Simply put, prosecutors all too often would rather hear what a victim has to say from a police officer rather than from the victim herself.

At this point, the problem becomes clear to anyone actually trained as a scientist. Victimology is meant to be a scientific study. But bias that develops for or against victims because of routine contact with them can act as a wall to the mandates of scientific inquiry, namely the requirements of doubt and skepticism. This is a problem because some witnesses lie, some victims lie, and some people lie about being victims. Blind faith in a victim shields them from scientific inquiry; overt mistrust of victims shields others.

It should not take a scientist to put forth the premise that establishing the facts and defining the limits of evidence are preferable to falsity. In the social-political arena of victims and victimology, however, it does. As Goldberg explains (2003, 17-18):

There was a time when you could assume that an intelligent person looking for the truth was guided by the most basic of scientific intuitions: nature will give you a life if only you’re going her way....

In social science today we can no longer make this assumption. Even if we continue to assume we are dealing with intelligent people, we find no way to maintain the belief that such people act on an impulse to find the truth. Instead, we find large and increasing numbers of ideologues who act as if nature is not something to be discovered.

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3 For a useful discussion, see “Science as Falsification” by Karl R. Popper’s Conjectures and Refutations (1963, 33–39).
no matter what she should turn out to be, but a handmaiden whose purpose is to satisfy one's psychological and ideological needs. Lacking the rudimentary scientific impulse of self-refutation...the ideologue assesses truth not by concordance with reality, but by concordance with psychological and ideological need.

As detailed in Turvey (2006), for more than a century the investigative and forensic science literature has acknowledged the importance of establishing the relationships between the primary components of a crime in order to solve it. These supporting pillars relate directly to evidence that establishes the relationships between the victim, the suspect, and the crime scene. This expansive body of work has given more than a small share of its pages to explaining the necessity of carefully investigating and documenting evidence as it relates to each, and determining the connections that can be reliably demonstrated. Establishing these pillars and the details of their relationships is in fact a threshold goal of all criminal investigation, so that criminal investigators and subsequent forensic examiners may adequately provide the foundation for any related court action.

When these pillars are not investigated, examined, and firmly established, the theories of a case are essentially unsupported. They are at best a weak guess, and at worst, the erroneous result of biasing influences such as politics, emotion, ignorant beliefs, and personal interest. As will be discussed presently, the solution proposed here is the application of forensic victimology as a necessary safeguard.

REINFORCING VICTIMITY

Doubt and skepticism are warranted in all realms of victimology, not just because they are mandated by good science, though that should be enough, but because of the manner in which any given system (e.g., school, employer, government, civil or criminal courts), culture (e.g., profession, family, religion, or region), or the general public responds to victims. Victims frequently need and are indeed entitled to counterbalance in the form of compensation for the loss and harm they suffer. However, these counterbalances invite abuse and can be a strong incentive for fraud.

Systemic Reinforcement

We must begin by acknowledging that many systems offer what may be viewed by some as incentives, even rewards, for suffering harm or loss, in the form of various compensations. These range from generally expecting less of victims and removing the barriers that are present in everyday challenges, to protecting them from responsibilities and liabilities, to direct financial reimbursement for a loss. As explained in Holstein and Miller, establishing oneself as a victim is one of the ways that someone can account for personal failures in an acceptable fashion (1990, 11):
In the course of daily life, we all fall short of our, and others’, expectations. The ways in which we depict, account for, and manage these failures is central to maintaining our public and self identities as competent practitioners of everyday life... In addition to denying responsibility for particular actions, designating one’s self, or another, as a victim provides an economical way of telling others that the performance at hand should not be taken to exemplify the nature, quality, or potential of either the actor engaged in it, or the activity itself. Such practices help us maintain a sense of purpose and competence in the face of situational demands which might ostensibly give little evidence that goals are being accomplished or standards being upheld.

Children are trained to think this way the moment they step inside of their first classroom. From grade school to grad school, students who become ill, suffer the death of a close relative, or befall some other personal tragedy are able to miss classes without penalty, skip or retake exams, hand in assignments after their due date, and may even receive some sympathy in their final grade. These lessons are then transferred from the classroom to the workplace. Employees who become ill, suffer the death of a close relative, or befall some other personal tragedy are often able to miss workdays with pay, push back deadlines, and be relieved or even excused from difficult responsibilities without shame or penalty. As further explained in Holstein and Miller (1990, 7):

Victimization is a method for absolving persons of responsibility. When trouble emerges, an “innocent” party—the object of the injury or trouble—can be specified by assigning victim status to one or more persons, thus exempting them from blame.

In short, whether a student or a professional, one is constantly reinforced with the notion that being a victim freezes the normal course of daily events and thereby shifts responsibility and accountability, if only temporarily.

There are also explicit financial compensations for victimity. Victims can seek or threaten to seek legal remedy in civil court and thereby receive financial or other material remuneration directly from those they believe are responsible for their harm or loss. Additionally, various governments and private organizations have developed victim’s assistance programs to provide money for everything from living expenses and lost wages to medical treatment and counseling.

This is a good time to point out that victim compensations are in place for at least two reasons: they are necessary, and they are humane. Compensations are necessary because in most cases when a person falls prey to illness and tragedy it is beyond their control. Furthermore, we often assume that no one would
intentionally cause himself or herself harm or loss—or at least we prefer to give people the benefit of the doubt. The subsequent prevailing wisdom is that we should not be penalized for our victimity, even when we fail to guard against it or do things to openly invite it. After all, bad things can happen to anyone. Systemic counterbalances can serve justice, restore a sense of fairness, and give a second chance when one is needed. Compensations are also humane, because victims may be in extreme pain or anguish. They may need time to heal or become whole before they can be expected to resume their life and the responsibilities that come with it.

Just as these systemic compensations are necessary and humane, their existence encourages some individuals to abuse them. Consider the following example:

**Case Example: Hurricane Katrina**

At 7:10 a.m. EDT on August 29, 2005, Hurricane Katrina made landfall in Louisiana as a Category 3. Maximum winds were clocked at nearly 125 mph. It was the most destructive hurricane in U.S. history, obliterating, rending, and flooding buildings, homes, and lives all along the Gulf Coast. The victims of Katrina are estimated in the millions, including nearly two thousand dead, thousands more wounded, and hundreds of thousands displaced, along with those who also lost property totaling in the billions of dollars.

Attempts to get federal aid to the victims of Katrina ranged from inadequate, to late, to never. They also resulted in one of the largest collective opportunities for victim fraud in recent U.S. history. As explained in a 2006 report by Gregory D. Kutz, Managing Director of Forensic Audits and Special Investigations, and John J. Ryan, Assistant Director Forensic Audits and Special Investigations, both of the United States General Accounting Office (GAO) (Kutz and Ryan 2006, 1):

> We estimate that through February 2006, FEMA made about 16 percent or $1 billion in improper and potentially fraudulent payments to registrants who used invalid information to apply for disaster assistance. Based on our statistical sample, we are 95 percent confident that the range of improper and potentially fraudulent payments is from $600 million to $1.4 billion. In our assessment of whether a payment was improper and potentially fraudulent, we did not test for other evidence of impropriety or potential fraud, such as insurance fraud and bogus damage claims. This means our review potentially understates the magnitude of improper payments made. Examples of fraud and abuse include payments to registrants who used post office boxes, United Parcel Service stores, and cemeteries as their damaged property addresses.

Absent proper verification, it is not surprising that FEMA continued to pay fictitious disaster registrations set up by GAO as part of our ongoing forensic audit. In one case, FEMA paid nearly $6,000 to one
registrant who submitted a vacant lot as a damaged address. Below is a copy of a rental assistance check sent to GAO after FEMA received feedback from its inspector that the GAO undercover registrant did not live at the damaged address, and after a Small Business Administration inspector reported that the damaged property could not be found.

We also found that FEMA provided expedited and housing assistance to individuals who were not displaced. For example, millions of dollars in expedited and housing assistance payments went to registrations containing the names and social security numbers of individuals incarcerated in federal and state prisons during the hurricanes. In addition, FEMA improperly paid individuals twice for their lodging—paying their hotels and rental assistance at the same time. For example, at the same time that FEMA paid $8,000 for an individual to stay in California hotels, this individual also received three rental assistance payments for both hurricane disasters. Finally, we found that FEMA could not establish that 750 debit cards worth $1.5 million went to hurricane Katrina victims. We also found debit cards that were used for a Caribbean vacation, professional football tickets, and adult entertainment.

This example is not proof that everyone is dishonest, or even that most people are dishonest. Rather it demonstrates that a significant percentage of the population is capable of varying levels of dishonesty and opportunism when the circumstances are in place and the appropriate controls are not. This remains true even during times of national crisis, when actual victims will be deprived of the benefits being defrauded. History has taught us that wherever there are sympathetic victims and corresponding efforts to assist them, there will be fraud.

Cultural Reinforcement
As we’ve already learned, cultural and public responses can be unconditionally warm and accepting for some victims. For others, they can be cold, judgmental, and rebuking. This may have to do with the nature of the crime, the nature of the victim, the nature of the offender, or unrelated elements present in the immediate climate. In their personal estimation of whether responses will be favorable, there are those who will be
drawn to embellish, omit, or fabricate some or all of the details of their victimization. There are also those who are compelled to invent their victimization entirely.

Consider the following examples:

**Case Example: Tanja J. Morin**

On July 17, 2006, 26-year-old Tanja J. Morin of Lancaster, Ohio, called 911 to report that her 2-year-old son, Tyler, was missing. She tearfully explained to the dispatcher: “The only way he could have went is through the back, and the only way you can get the fence open is if somebody kicks it from the outside… Somebody had to come through the yard.” The call was made at 10:51 a.m.

Tanja’s husband, Michael, immediately came home from work to help in the search for Tyler. He found the couple’s youngest child at 11:22 a.m., in a garbage dumpster less than a block away from their home. Had he been left in the dumpster much longer, the heat would have killed him; it was one of the hottest days of the year.

During the initial police investigation, the mother’s kidnapping story succumbed to realistic victimology and fell apart. A nearby surveillance camera had captured the activity at and around the dumpster before, during, and after Tyler was reported missing. On the surveillance stills, Tanja can be seen walking hand-in-hand with her youngest son in the alley near the dumpster at 10:35 a.m. A minute later, she can be seen leaving towards her home alone.

Tanja confessed to detectives that she hadn’t meant to hurt Tyler, only to create an emergency that would get her husband to come home from work. According to police, she told them, “He wanted to spend money today that we didn’t have, and I was trying to think of a way he could come home so he didn’t have to spend the money that he had.”

Tanja was arrested that day, and charged with attempted murder, child endangerment, and kidnapping. At first, she plead not guilty. The judge subsequently ordered her to submit to a psychiatric evaluation. In November of 2007, she plead guilty to kidnapping, child endangering, and felonious assault charges.

In this case, the mother lived in a severely dysfunctional family where she was apparently convinced that the benefits of creating a false crisis outweighed the potential consequences to her or anyone else. Taken at her word, she was actually a victim of her husband’s financial irresponsibility and was acting with good intentions. Certainly her actions were enough to warrant a psychiatric evaluation—something that would not necessarily occur to the court if a man were facing the same charges. In cases of domestic violence and even homicide, women are often treated by the justice system as victims in need of help, and men are viewed as aggressors deserving of punishment. Such distorted views, based on cultural archetypes, can result in diminished responsibility, or at least sympathy, for the mother.

*The couple also had a 6-year-old girl and a 4-year-old boy.*
Caption: A tearful Tanja Morin is lead away by police. She plead guilty to kidnapping, child endangering, and felonious assault charges in 2007. The dumpster where she placed her child, pictured, was in a gravel parking area less than a block from her home.

The objective, scientific victimologist would restrain from taking this mother or any other alleged victim at their word, as this case and many others demonstrate that the institution of motherhood is not inviolate. Even a mother claiming to have the best intentions can put their child in a garbage dumpster and lie about it, if they think there is something to be gained.

**Case Example: D.C. Metro Police Officers Nathan Minor and Peter Snipes**

Just after midnight on August 7, 2006, Eugene Radcliff was being treated at Howard University Hospital in Washington, D.C., subsequent to his arrest for
possession of cocaine and unlawful entry. Officers Nathan Minor and Peter Snipes had been assigned to guard him. Radcliff escaped, and the two officers called for backup. As Segraves (2007) details:

A call for help came into police dispatch from Snipes, a 10-year veteran of the force. Snipes said the prisoner had attacked his partner and escaped.

The officers were giving chase through the Northwest D.C. neighborhood near the hospital and requested backup. A manhunt ensued as police canvassed the area.

But documents obtained by WTOP reveal a different story....

In his original statement, Minor, who has been on the force since 2000, wrote: “The defendant kicked me in the midsection knocking me completely to the floor. I then saw the defendant running down the hallway of the hospital. I gave chase...I saw the defendant running northbound on Georgia Avenue.”

But according to an affidavit filed by an agent with the Metropolitan Police Internal Affairs Department, a witness said the prisoner “was not restrained...walked directly out of the hospital with no police officers near, and saw no altercation between the prisoner and police officers.”

In other words, witnesses reported that the prisoner simply left the hospital while the officers weren’t looking—no fight or chase occurred. After an investigation was conducted into these conflicting accounts, Officers Minor and Snipes changed their story. In October of 2007, they both plead guilty to making false statements, as explained in Alexander (2007, B3):

Two D.C. police officers pleaded guilty yesterday to making false statements in an official report to cover up an incident in which they allowed a prisoner to escape.

Officers Nathan Minor, 33, and Peter Snipes, 32, face up to 180 days in prison and $1,000 in fines, prosecutors said. The officers, both assigned to the 1st Police District, resigned from the force as part of their plea agreements and remain free pending sentencing in D.C. Superior Court.

In this case, the officers attempted to establish themselves as victims to account for failure. They were responding to their perceptions of both law enforcement culture and eventual professional accountability. They did not want to appear weak or inept in the eyes of their fellow officers for letting a prisoner walk away, nor did they want to be held accountable for their incompetence by superiors. Rather than admit a mistake and ask for help, they contrived a
story with the necessary elements to seem plausible, mitigate responsibility, and deflect scrutiny. They portrayed themselves as victims of a violent criminal made more dangerous by the involvement of drugs. However, they could not control the statements of impartial witnesses to the event.

**Case Example: New Hampshire v. Brian Shephard**

Work involving victims draws all kinds of people into related professions. Some are balanced and well adjusted, and others are not. The imbalanced and maladjusted seek to please their surroundings, to satisfy the demands of their professional culture against the limits of the facts and evidence. At the far end of the ethical spectrum there are those who actively conceal, obscure, and avert evidence relating to a victim’s character, history, or condition. They do so for a variety of reasons. For some, it is a matter of bias in favor of the victim, the police, the prosecution, or against the offender. For others, it is a matter of egoism or narcissism, of needing to be perceived as the hero, the rescuer, or the protector.

In January of 2005, Brian Shepherd was convicted of Aggravated Felonious Sexual Assault. Shepherd and the co-accused, Matt MacDuff, were at a party at the home of the victim, Emily Thompson, on December 2, 2003. Early on at the party, Thompson reportedly advised Shepherd that she would like to have sex with him on the condition that he wore a condom, restating her desire throughout the evening.

Thompson participated in a number of drinking games and smoked marijuana at various times throughout the night. Because of her desire to make friends and fit in, Thompson drank more than she usually would have, and subsequently went into a back bedroom to lay down because of her level of intoxication. She later testified that she had lost interest in sex at this point.

At some point later in the evening, Thompson woke up and two men were engaging in simultaneous sexual penetration with her, though she couldn’t identify who these men were. She testified that because of her level of intoxication she could not resist the assault. She noted that she heard MacDuff’s voice, but could not make out what she was saying. She then heard an unidentified voice say, “I think she is going to pass out again.”

Thompson also testified that the next day she was unsure of what had happened in the bedroom; that she had a sense that something wasn’t right but was not

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5This issue will be explored further in Chapter 3 “Constructing Victim Profile,” in the section Examiners Bias.

4Unless otherwise stated, this section is largely adapted from, and all quoted material is taken directly from, The State of New Hampshire v Brian Shepherd, Rockingham Superior Court, Docket no. 04-S-1220, March 8, 2007; Court Decision by Justice Tina L. Nadeau.
able to recall specific details. Over the next few days, she heard from friends and other partygoers that she had intercourse with multiple male partners in the back of MacDuff’s trailer. Because of these discussions, Thompson reported the assault to the police who interviewed both Shepherd and MacDuff. After initially denying any sexual activity, Shepherd later admitted to the intercourse but maintained that Thompson was both awake and consenting.

At trial, the Shepherd called the co-accused (MacDuff), Detective Mulholland, and toxicologist JoAnn Samson as witnesses. Shepherd presented his theory that Thompson was awake, and that despite passing out several times, she had consented to having sex. The state argued the opposite; that Thompson was heavily under the influence, physically helpless, and therefore not able to resist.

On January 12, 2005, the jury convicted Shepherd. MacDuff was subsequently tried for the same crime, but the court dismissed the case. Shepherd later claimed that new evidence discovered during the MacDuff trial entitled him to a new trial.

After initially bringing the complaint to the attention of police, the victim was subjected to a sexual assault examination, performed by Dr. Wendy Gladstone. By way of introduction to Dr. Gladstone, consider the following background information:7

Dr. Gladstone earned her medical degree from Columbia University before going on to Columbia Presbyterian Medical Center to complete her internship and residency. After residency, she trained for her sub-specialty interest, adolescent medicine, at Children’s Hospital Medical Center in Boston. Dr. Gladstone is board certified by the American Board of Pediatrics and is a Fellow of the American Academy of Pediatrics. Dr. Gladstone came to Exeter in 1978 to join the Exeter Clinic. In 1982 she was co-founder of Exeter Pediatric Associates. She is currently an associate at Children’s Hospital Medical Center and a member of the teaching staff at Harvard University Medical School. A member of the Society of Adolescent Medicine, the American Public Health Association, the American Professional Society on Abuse of Children, and the [New Hampshire] Attorney General’s Task Force on Child Abuse and Neglect. Dr. Gladstone is the Medical Director of Seacoast HealthNet and was the President of the [New Hampshire] Pediatric Society from July 1996 [to] 1999.

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As explained in *State v Brian Shepherd* (2007, 3-4):

MacDuff was tried by a different prosecutor and before a different judge to ensure that MacDuff’s testimony, provided under a grant of immunity during the defendant’s trial, would not be used against MacDuff in his own trial. On the day of jury selection, the prosecutor learned that Dr. Wendy Gladstone, who had performed a rape kit examination of the victim, had redacted certain portions of her progress notes from the version that she supplied to the State during discovery. Consequently, the State informed the court and MacDuff. As a result, the court conducted an in-camera review of the medical file and released the completed version of Dr. Gladstone’s report to the attorney.

The unprecedented report contained information regarding the victim’s history of depression, including a list of counselors and therapists. In addition, the report contained a statement the victim provided during the exam in which she asked Dr. Gladstone not to inform the victim’s mother of the sexual assault until after the victim had retrieved her clothing “in order to avoid a confrontation.” The victim further explained that she expected her mother to be angry because they did not have a good relationship. The information contained in the complete report lead to the discovery of other mental health records from Seacoast Mental Health and Coastal Counseling. These records revealed that the victim had been diagnosed with a mental health condition which caused her to exercise poor judgment, use impulsive behavior, and engage in dangerous and risky activities that could lead to injury.

Just to recap the situation, Dr. Gladstone performed a sexual assault exam on Thompson. Two men, Shepherd and MacDuff, were subsequently arrested and prosecuted for raping her. Dr. Gladstone, after performing the forensic examination, provided two different reports of her findings. The first report went to the prosecution and included all of the necessary victimological information including the complainant’s mental health history and statements to her mother. The second report, a mirror of the first in most ways, did not contain the victimological information regarding the mental health history or the telltale page numbers.

In short, Dr. Gladstone crossed the line between forensic examiner and advocate. She delivered necessary contextual information to the prosecution that was deliberately withheld from the defense in their version of the report. Moreover, one cannot claim that this was a novice mistake, given Dr. Gladstone’s background and credentials. As provided by the court (8-9):
In this case, the court finds that Dr. Gladstone was acting as an agent of the State when she examined the victim and collected evidence for an eventual prosecution. Specifically, she is a member of the Attorney General’s Task Force regarding Sexual Assault Protocols and she assisted in drafting protocols regarding interview techniques. In addition, she was trained in the proper procedure for evidence collection. Moreover, Dr. Gladstone testified that she examined the victim in this case with the intent to collect forensic evidence during her examination for eventual use at trial. She explained that she collected the evidence in a manner designed to protect the integrity of the chain of custody. Thus, her failure to disclose the complete report of her examination to the police or the County Attorney constituted a breach of the State’s duty to the defendant.

The court also finds that Dr. Gladstone knowingly failed to turn over her complete report. She testified at the hearing that she purposely redacted a portion of the first page of the report and the entire second page. In addition, the report she provided to the police was photocopied without page numbers and in a manner that made the document appear complete. As a result, no one involved in the case could have made a request for further discovery because the document the doctor provided contained no indication that any information had been redacted.

As a result of the court’s finding that Dr. Gladstone knowingly withheld discoverable material, (material she also admitted was important and relevant to the assault) the court must next consider whether the State can meet its burden to establish beyond a reasonable doubt that the omitted evidence would not have affected the verdict. As stated in its previous analysis, the omitted evidence led to the discovery of mental health records that provided information regarding the victim’s state of mind. The defendant could have used the specific diagnoses contained in those records to rebut the victim’s claim of non-consensual sexual intercourse. Given that the outcome of the case turned largely on a determination of whether the victim accurately described her level of consciousness and whether the defendant’s claim of consensual sex was true, the State cannot meet its burden of establishing beyond a reasonable doubt that the omitted evidence would not have affected the verdict.

This case stands out as an example of intentional concealment of victimology by someone that is supposed to be an impartial forensic examiner. It is an abuse of the court’s trust, and ultimately resulted in Brian Shepherd’s conviction being overturned.
These examples serve to demonstrate that no victim culture or institution associated with the criminal justice system is wholly immune from the reinforcement that victimity can provide. None are beyond doubt, examination, critique, or redress. Not the institution of motherhood, or the “sacred bond” between a mother and her child; not the culture of law enforcement; and not the “objective” forensic examiner. Within each there are those who are willing to distort or fabricate victimity because they perceive a cultural reward for doing so.

THE SOLUTION

Let’s return to our original question: given that victimological evidence can be incomplete, ambiguous, and complex under the best of conditions, and given the possibility of falsity, how can the forensic victimologist make informed examinations and interpretations? How can we apply Dorner’s lessons to the problems we face? Answering these questions is the purpose of this text.

As we’ve already stated, *Forensic Victimology* is the scientific study of victims for the purposes of addressing investigative and forensic issues. The social scientist researching victim-offender relationships; the investigator going though a victim’s garbage or cell phone records; the criminal profiler reading a victim’s diary or making a “friends and family” list; the forensic nurse taking a victim history or looking for evidence of injury; the reconstructionist examining a victim’s toxicology or making a timeline of activities leading up to their demise; the psychiatrist or psychologist performing a mental health assessment; the medical examiner establishing a victim’s place of employment or last meal—each collects, examines, and interprets evidence related to forensic victimology. Their work serves criminal investigation and anticipates courtroom testimony. Their findings and interpretations bear directly on determining whether there is a victim, precisely who the victim is, and the potential consequences for those who caused them harm.

Forensic victimology is intended to serve the justice system by educating it. It is aimed at helping to provide more informed investigations, more scientific examinations, and more informed legal outcomes. All of this serves the betterment of society as a whole, if one accepts that truth is better than fiction.

PURPOSE

Forensic victimologists include investigators, criminal profilers, crime reconstructionists, medical examiners, forensic nurses, and testifying academics—anyone who uses their knowledge of victimology to serve investigative or forensic ends. Because of the need for accuracy and reliability in these complementary spheres, the forensic victimologist is best conceived as an objective,
dispassionate, and above all scientific examiner. They are critical and skeptical, and they put the establishment of fact before politics or any other consideration. To that end, they take nothing for granted, look for corroboration of any alleged victim’s statements, seek out collateral sources of information, and investigate alternate or contributing motives for victim behavior. Most importantly, the forensic victimologist is barred from assuming that alleged victims must have been victimized. For their purposes, victimity must be established unequivocally and may not be asserted simply for ideological purposes. They investigate as scientists, they report as educators, and they understand the gravity of their eventual courtroom testimony.

The purpose of this textbook is to distinguish the investigative and forensic aspects of victim study as a necessary adjunct to the practice of victimology. It identifies forensic victimologists in the investigative and forensic communities and provides them with methods and standards of practice needed to be of service. Forensic Victimology is necessary because it provides a scientific balance against the idealization or demonization of victims, a filter for deception and false reporting, and a means for providing an objective threshold of relevance for victim information and opinions already at work in the criminal justice system.

REFERENCES


