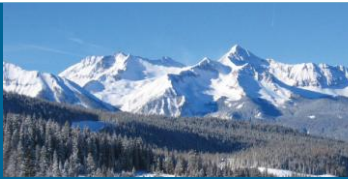


JUNE 2010

## MAKING SENSE OF THE UNIMAGINABLE

HOW LAW ENFORCEMENT CAN SUPPORT THE FAMILIES  
AND FRIENDS OF UNSOLVED HOMICIDE VICTIMS



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Criminal Justice Series

Working Paper 2010-1-CJ

An extended version of this paper is forthcoming in *Journal of Criminal Justice* as "Sense-Making and Secondary Victimization among Unsolved Homicide Co-Victims." This research was supported by a grant from the Nathan B. and Florence R. Burt Foundation and Families of Homicide Victims and Missing Persons.

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# Making Sense of the Unimaginable

HOW LAW ENFORCEMENT CAN SUPPORT THE FAMILIES AND FRIENDS OF UNSOLVED HOMICIDE VICTIMS

## SUMMARY

**Every day I do hurt. I hurt every day. Every day I do. My whole life has changed. I'm just existing. I am not living. I think once they find out who hurt my son, maybe I can start living again. I just get up and I just go. I'm not living right now. I'm just goin' through the motions, really, to be honest with you. You know, once they find who hurt my son, maybe I can start living again.**

**Hallie, mother of a murder victim**

In 2008, 151 people were murdered in Colorado, according to statistics kept by law enforcement agencies. National data suggests that less than two-thirds of these homicides will be resolved quickly by law enforcement. According to the Colorado chapter of Families of Homicide Victims and Missing Persons, about 1,500 Colorado murder cases dating back to 1970 remain unsolved.

The family and friends of murder victims are deeply affected by their loss. People who are grieving, no matter how the loss has occurred, will usually try to alleviate their suffering by trying to make sense of what has happened. They look for information that will help them construct their own understanding about why the murder occurred. This “sense-making” appears to be critical to the person’s ability to re-create a sense of self under the vastly changed circumstances of their lives.

While grieving is always a difficult process, the family and friends of murder victims often suffer from what mental health specialists refer to as “complicated grief,” grief made even more difficult by the traumatic nature of the loss. In the case of a murder that goes unsolved for more than a year, the ability of these co-victims to make sense of what has happened is extremely compromised. Unsolved murder cases are characterized by ongoing uncertainty, leaving co-victims with little information and eventually, little hope about ever making sense of what has happened.

In this study, researchers interviewed thirty-seven family members and friends of unsolved murder victims in order to understand how communications with the criminal justice system affected their ability to make sense of the loss.

## Findings:

- Families and friends of victims in unsolved homicide cases typically hold negative views of police and prosecutors, whom they view as having failed to locate information about the murder, and these feelings grow stronger as time goes by.
- In some cases, families and friends viewed the failure of the criminal justice system to resolve the murder to be based on discrimination against the victim or the victim’s behavior.

- In cases where there is strong suspicion about the identity of the murderer but the prosecutor declines to bring charges, families and friends are left with an overwhelming sense of injustice.
- The need for co-victims to make sense of what has happened often leads them to investigate cases on their own.

**Implications for Criminal Justice Professionals:**

- Understand that homicides typically result in complicated grief, and that the criminal justice process, from investigation through prosecution, plays an extremely important role in allowing co-victims to make sense of their loss. Provide training in complicated grief for personnel interacting with family and friends of homicide victims.
- Engage in regular, empathic communication with families and loved ones of unsolved homicides. Always contact families and loved ones when personnel assigned to the case are changed.
- If appropriate, allow families and loved ones to review case files and discuss possible theories with law enforcement personnel and prosecutors.

## SENSE-MAKING AND SECONDARY VICTIMIZATION AMONG FAMILY AND FRIENDS OF UNSOLVED HOMICIDE VICTIMS

### A Review of the Literature

A considerable amount of research has focused on the concept of 'sense-making,' or the notion that victims create a subjective understanding of their loss (Currier, et al. 2006, 2008; Pakenham 2008; Updegraff, et al., 2009). Sense-making is thought to play a central role in bereavement therapy because it aids in the re-creation of the self post-loss (Armour, 2006). In short, sense-making is thought to be restorative.

While the study of sense-making has expanded to include many types of trauma (cancer, suicide, accidents, homicide), the concept has not been studied in the context of unsolved homicide co-victims.<sup>1</sup> Sense-making among these particular co-victims is an important subject of study because it is likely to be extremely difficult to construct any type of post-loss meaning when the circumstances surrounding a murder are unknown, uncertain, and ongoing (Armour, 2006; Bucholz, 2002). More importantly, unsolved homicide co-victims often turn to the criminal justice system for answers to aid them in the bereavement process (Bucholz, 2002:60-61). Unfortunately, research suggests that interactions with the criminal justice system can intensify victimization (see Bucholz, 2002: 60-61 for homicide co-victims; see Karmon 2007 for review).

### Bereavement, Grief, and Traumatic Loss

The idea that grief progresses through "normal" stages is widely accepted in the bereavement literature, and recent empirical evidence suggests a sequence through the following stages: disbelief, separation distress, depression-mourning, and recovery (Maciejewski et al., 2007). However, grief stage theory largely focuses on depressive symptoms, and therefore does not account for more complicated patterns of grief that can often be attributed to traumatic loss (Maciejewski et al., 2007). Traumatic loss is typically defined in terms of a sudden violent death characterized by fatal accident, suicide or homicide (Norris, 1990). Malone (2007:384) also notes that when a loved one is murdered, the emotional and psychological processes of grieving may not follow the "traditional stages of grief." In addition, Weiner (2007:2962) has recently argued that it may be counterproductive and dangerous to apply normal patterns of grief to traumatic loss (see also Silver and Wortman, 2007).

As a result, researchers have developed the notion of complicated grief (or 'traumatic grief,' see Prigerson et al., 1999) to better characterize the typical bereavement associated with horrific events such as murder (Armour 2007; Bucholz 2002). Complicated grief is thought to be a reaction to "stress response syndrome" and associated with long-lasting painful emotions that are severe (Prigerson et al., 1995). Individuals suffering from complicated grief have trouble accepting death and resuming life. Prigerson et al. (1995: 22), for example, report that symptoms of traumatic grief include "searching, yearning, preoccupation with thoughts of the deceased, crying, disbelief regarding the death, feeling stunned by the death, and lack of acceptance of the death."

<sup>1</sup> For purposes of this paper, a "co-victim" is defined as a surviving family member, friend, or other loved one of an unsolved homicide victim. See Hertz et al., 2005, at 289.

In addition to complicated grief, homicide co-victims may also suffer from post-traumatic stress disorder (PTSD). Amick-McMullan et al. (1991:545) discovered that 23.3% of homicide co-victims developed PTSD. The American Psychiatric Association (2000) also reports that homicide co-victims exhibit clinical symptoms that include acute post-traumatic stress and PTSD. PTSD is thought to be associated with feelings of “disbelief, anger, shock, avoidance, numbness, a sense of futility about the future, a fragmented sense of security, trust, and control” (Prigerson et al., 1999:67). Stress among homicide co-victims may also be related to physical illness (see Baliko and Tuck 2008). In short, individual grief as a response to stress is often complicated and can vary tremendously in “duration, intensity, and complexity” (Malone, 2007:384).

## Sense-Making and Criminal Justice

When people suffer from a loss they use different mechanisms to help adjust to their new life. One mechanism that has attracted a good deal of attention is sense-making (see Currier et al. 2006, 2008; see also Frankl, 1963). For the purposes of this research we define sense-making as a form of meaning-making that focuses on understanding the murder, and thus contributes to post loss identity reconstruction. According to Armour (2006:102), the “search for meaning after stressful events is a common and essential task.” Currier, et al. (2006:407) define sense-making as the “capacity to develop a subjective sense of understanding of the loss.” Research suggests that sense-making may alleviate some of the anguish associated with death of a loved one (Park and Folkman, 1997). Currier, et al., (2008:122) argue that sense-making focuses on combining one’s pre-loss identity with a post-loss world. This process is important in bereavement as it is thought to reduce symptoms associated with complicated grief (see Currier et al., 2008).

Unfortunately, individuals who report a violent loss such as murder are also likely to be the least successful at making sense of that loss (Armour, 2006). Recently, Updegraff, et al. (2008) have suggested that in the case of severe trauma people are less likely to find meaning but also more likely to search for meaning. The study of the role that others, such as criminal justice actors, can have on the process of sense-making among unsolved homicide co-victims is largely neglected.

This paper argues that communications and dealings with actors in the criminal justice system are one type of social interaction that has an important impact on a co-victim’s sense-making (see Armour 2006; Bucholz 2002). By showing disapproval and distancing themselves from victims and co-victims, criminal justice personnel can cause additional harm (Ryan 1971). This occurs because interactions (or a lack of interactions) between police, prosecutors, and co-victims can themselves be traumatic and therefore complicate grief by causing additional stress among co-victims (Bucholz 2002). This phenomenon, known as secondary victimization, is often reported by homicide co-victims (Rock 1998). Unfortunately, few studies have linked sense-making to secondary victimization by examining co-victims’ perceptions of their interactions with law enforcement.

Co-victims report facing many challenges with respect to the criminal justice system and often describe their interactions with the system as extremely frustrating (Bucholz 2002, Baliko and Tuck 2008). Bucholz (2002) argues that for these co-victims, justice can be perceived as being “minimized, delayed, or denied,” leading to feelings of outrage and powerlessness. Rock (1998:76) argues that a co-victim’s alienation from the justice process “constitutes one of the most potent symbolic assaults suffered by families in the wake of murder.”

Recently, Baliko and Tuck (2008) reported that homicide co-victims reported feelings of anger and dissatisfaction due to the criminal justice process. These feelings may impede sense-making by co-victims—especially unsolved homicide co-victims. Updegraff et al. (2008:710) suggest that “in the context of negative events, having an explanation [of the event] should lessen the emotional impact and facilitate long-term adaptation.” In the case of unsolved homicides, then, there is considerable reason to suspect that sense-making is especially difficult because many aspects of the crime are not known and because the offender is still at large. Thus, interactions with criminal justice officials about the murder and possible events leading up to the crime may be critical to the sense-making process because these agencies have access to information and are responsible for gaining information about their loved one’s murder. It is for this reason that we examine unsolved homicide co-victims’ experiences with the criminal justice system as it relates to their perceptions of sense-making.

## Methods Used in This Study

This research focused on the perceptions of co-victims about the impact of law enforcement officials on their ability to make sense of their losses. The 37 co-victims interviewed for this study represent 29 separate cold case murders that occurred in ten different law enforcement jurisdictions throughout Colorado, including rural, urban, and suburban jurisdictions. Sixty percent of the co-victims in this study were white, and 76 percent were female. The mean age of co-victims interviewed was 57. The cold case murders covered in this research occurred, on average, 15 years prior to the study. The oldest murder took place 40 years prior to the interview and the most recent murder occurred one year prior to the interview. Twenty co-victims were the parents and nine co-victims were the siblings of the murder victim. The remaining co-victims represent spouses, children, aunts, uncles, grandparents and friends of murder victim. The interviewees were recruited through a series of statewide forums held by a victim advocacy group on the problem of unsolved homicide and through word of mouth.

Researchers conducted face-to-face interviews with the co-victims, asking a series of general open-ended questions about each co-victim’s experiences and interactions with police, prosecutors, and victim advocates. Interview questions were designed to focus on the level, quality, and intensity of the co-victims’ communications and interactions with the criminal justice system, rather than on the features of the unsolved case. The interviews lasted from one to four hours and were conducted in the co-victim’s home, office, or other private place. The resulting interviews, while clearly emotional for co-victims, also provided them with an opportunity to explain their interactions with law enforcement in an atmosphere where their accounts were received by the researcher.<sup>2</sup>

Interview responses were then coded to identify general themes and statements about relationships among categories of observations. The ensuing analysis revealed sense-making as a major issue, and thus the observations and perceptions of co-victims’ experiences with the criminal justice system as impacting sense-making directed the empirical generalizations and themes described below.

## Findings

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<sup>2</sup> Any names of co-victims used in this paper are pseudonyms.

Findings are organized according to four major themes that emerged from our interviews and relate to sense-making. These themes focused on: (1) perceptions about the lack of communication in the investigation; (2) perceptions about law enforcement's reaction to the victim's status; (3) perceptions about prosecutors' unwillingness to charge strongly suspected murderers with a crime, and (4) co-victims' responses to perceptions of police inactivity. The first three themes demonstrate how law enforcement inhibits sense-making among unsolved homicide co-victims and the last theme addresses the victim's response to this perceived inactivity.

## Lack of Communication

The nature and frequency of communication with co-victims was important to sense making among co-victims. All but one of the co-victims reported that they were dissatisfied with the current level of communication with law enforcement. Thirty-four of those co-victims believed that the police were no longer actively investigating their unsolved homicide. Over time all co-victims reported a decrease in communication. This decrease is symbolic to co-victims and suggests that their loved ones' murders, and their lives by extension, are not important. Thus, co-victims negative perceptions about police communication and competence increase over time. Once communication with law enforcement stopped, most co-victims lost hope in the criminal justice system, which impacted sense-making by (1) complicating their post-loss understanding of justice and (2) limiting information about the case. This lack of communication, then, appears to prevent sense-making and may lead to secondary victimization through the promotion of complicated grief.

Hallie, whose son was murdered approximately one year prior to the interview, emphasizes the importance of police communication with her family. She believes that the police were taking the murder seriously because they kept in constant contact and had a favorable impression of the detective assigned to her son's case.

**Hallie:** *He was a very good investigator. He kept in communication very well. [Detective] would return my phone call, if not the same day, the next day or so.*

**Interviewer:** *So when you called, he called back and gave you an update?*

**Hallie:** *Yeah, I think he did a good job, actually, knowing and finding out things. I have no problem with [Detective]. He's really good. He communicated with me and he's working hard.*

Hallie underscores the importance between communication and information. She held out hope that her son's murder could be solved because the detective was still responsive to her requests for information. She also emphasized that finding out what happened and who killed her son will help with post-loss resolution:

*Every day I do hurt. I hurt every day. Every day I do. My whole life has changed. I'm just existing. I am not living. I think once they find out who hurt my son, maybe I can start living again. I just get up and I just go. I'm not living right now. I'm just goin' through the motions, really, to be honest with you. You know, once they find who hurt my son, maybe I can start living again.*

For Hallie, and many other co-victims, catching the killer should aid in sense-making because it implies that justice does exist and that information about the case will help with resolution. Unlike nearly all other homicide co-victims, however, Hallie felt that the detective was forthcoming about the murder and potential killer. Thus, the attention to communication by law enforcement appears to send a critical and symbolic signal to Hallie



that she may eventually be able to “live again” because the murder is important and information is forthcoming.

Mark and Molly’s comments are more reflective of co-victims whose cases remain unsolved. Their teenage daughter was murdered nearly 20 years prior to the interview and, like Hallie, they agree the police did a good job communicating during the initial investigative stages. Mark and Molly both felt that subsequent communication with the police dropped off significantly. Thus, they suggest they will never make sense of the murder or receive justice. They suggest that police no longer communicate or worry about solving their daughter’s murder:

**Interviewer:** *How often did they follow up with your daughter’s case?*

**Mark:** *At first it was pretty often.*

**Molly:** *Probably at least once a week.*

**Mark:** *Maybe even twice, but as time went by, they just didn’t have any information, the clues dried up or whatever. It just started to get cold, so they didn’t—they used to call us up, but now, they don’t seem to have anything new.*

**Interviewer:** *But in the beginning they did a pretty good job?*

**Molly:** *I thought so.*

**Interviewer:** *But as it gets colder it’s been dropped?*

**Mark:** *That’s true....there’s no updates. It’s kind of like the same thing over and over: no money, no time.*

These feelings of despair about the lack of information led Mark and Molly to the police department to examine their daughter’s case file. Both Mark and Molly indicated that it was important for them to look at the file, but without any additional information their ability to discover why this happened is clearly diminished. The couple continues to ask the same questions they did a right after the murder.

**Mark:** *Now, after all these years, I’ve mellowed out a lot and I don’t feel that much hate. It’s still there. I don’t think I’ll ever lose it...I don’t know, it’s like that until you find the person who did it. Maybe you’ll have some closure after that, but until then, everybody you look at, the same thing crosses your mind. Is that the person? ... Who would want her dead?*

Thus, for Mark, the uncertainty about the murder was clearly associated with a lack of information about who may be responsible. It could be anybody. Mark and Molly also believe that law enforcement has given up on the case and views the family’s inquiries concerning the status of the murder investigation as bothersome. This perception of law enforcement has intensified Mark’s sense of injustice and his feelings of hate and fear.

Co-victims report that the lack of communication by the police department was especially apparent and harmful when detective reassignments occurred without notification. Seventeen co-victims told the interviewer that a change in the primary detective assigned to their murder case signaled that the case was no longer a police priority. Thus, reassignments were painful because they signaled that law enforcement had given up the quest for justice. These co-victims believed they would never have the important details they

needed to understand the world post-loss. Seventeen homicide co-victims reported that they had endured several of these “reassignments.” Most co-victims could not identify the detective currently assigned to their cold case. Such admissions to the interviewer were emotionally distressful to the co-victim and signaled potential secondary victimization. This was clearly the case with Quinton, who was a teenager at the time his father was murdered.

**Quinton:** *The families are not notified when the detective changes. I mean, I even asked [the Department] “Is he [the detective who initially investigated my father’s murder] still here?” “Yeah, he still works here.” So that part I think is more hurtful than anything else, to feel like, OK, this person has literally taken control of a murder investigation that has impacted our family in more ways than most people can ever comprehend, and then for us to just kind of become a project that goes by the wayside.*

The fact that the detective was reassigned led Quinton to question the veracity of the detective’s commitment. For Quinton, the detectives assigned to the case played a central role in helping the family make sense of the crime. In short, most co-victims believed that a change in the primary detective assigned to the case signaled a decrease in departmental commitment to their investigation because, they argued, the detectives probably believed that the cases were not solvable. This left co-victims with a feeling of hopelessness that they would never discover what had actually happened.

While perceptions about changes in detectives were common, they were not universal. Two co-victims noted that the initial interactions with the primary detective in charge of their cases were so negative and the detectives so unresponsive that they welcomed the change. In both cases the new detectives assigned to the case appeared more willing to share more information, which appeared to be associated with sense-making and notions of justice. Gwen, whose son was murdered twelve years prior to the study interview, notes that information increased with the reassignment of the first lead detective:

*About three years after my son was murdered [detective] started workin’ on the case. And he gave me more information than I’ve ever had in the years that it happened. He brought other people in and started interviewing them again. He talked to both my twin boys and myself, and he was trying to get in touch with the girl that he was livin’ with at the time, but she would never go down there. And the person that was with him when he got shot, he would never go. It’s just like, I think they know who did it, but they won’t tell who did it, it’s a situation like that. All the years that this case has been here, [detective] was the one that gave me more information than anybody.*

Notions of post-loss sense of justice also emerged alongside the lack of information. For example, eleven co-victims believed that the police perceived their calls as bothersome and problematic. In these eleven instances, co-victims reported that the police were trying to cover up the fact that they had no leads or did not (at the time) believe the case was a murder. For example, Winnie’s daughter was murdered nearly fifteen years ago and she still calls the police department every year for an update. Winnie reports that the police are not willing to talk to her because they believe the case is unsolvable. Winnie notes that she may never get resolution and justice:

**Interviewer:** *So you’ve had no update over the past few years?*

**Winnie:** *None. Because whenever you call, you get the same thing. “We just had a forest fire or whatever, don’t you know? And you’re worried about your dead daughter? We’ve got a forest*

*fire.” So unless I have the mental fortitude to deal with it, it just backlashes too much into my current existence now, just tryin’ to meet everyday needs and stuff like that. So I try not to deal with that too much for right now.*

Winnie was able to get some information about her daughter’s murder from another source and noted the importance of that information to the interviewer. She clearly believes that God played a role in bringing her the information about her daughter so she could make sense of life post-loss and become a better Christian. The feeling that co-victims were bothering law enforcement when they asked for information to help make sense of the unsolved crime, then, is not uncommon. Many co-victims called the police to find out that even the detective assigned to their unsolved homicide reported that they had very little (if any) knowledge about the circumstances of the murder. These feelings about law enforcement leave co-victims angry and pessimistic about coming to resolution about the case. Most co-victims reported that these experiences left them feeling like they had been victimized a second time and they reported that this intensified their struggle to make sense of justice and the police role in that process during pre- and post-loss while at the same time dealing with their stress of their traumatic and ongoing loss (e.g., the unsolved murder of their loved one).

## Victim Characteristics

Sixteen co-victims reported that they believed the murder of their loved one was not being adequately investigated because the police believed the case was less worthy of investigative resources because the victim was somehow “unconventional” (i.e., the victim was black, Hispanic, poor, and/or was involved in drugs or prostitution). These co-victims appear to have made sense of the fact that the case was unsolved by drawing on larger prejudices in society to help explain the perceived police response. Several co-victims even argued that the case was solvable and information about the murderer and murder exists.

A total of four homicide co-victims in this sample perceived that their family member’s case was not adequately investigated because of their race. Unlike black co-victims, Hispanic co-victims argued that factors such as drug use, domestic violence, or gang membership also affected the investigation into their family member’s murder because it is the perception of most police that Hispanics engage in these illegal activities.

Orlando emphasizes that his murdered brother was not in a gang, but that the police treated the case as a gangland murder. Orlando and his mother Olivia clearly believed that the detectives assigned to the case did not investigate the case vigorously because they believed the victim was in a gang. Orlando and Olivia report that the police told them that the victim’s gang activity and membership caused his death. Thus, Orlando and Olivia became extremely angry at the police because they were presented with an account of the murder that was not compatible with their sense-making. In short, they knew their loved one was not in a gang and believed that the case would not be solved because the police believed the victim was a gang member simply because he was Hispanic:

**Orlando:** *There’s nobody working on the case right now. We know they’re very, very busy. It’s not like my brother is the only murder case. There are a lot of other cases. It’s not like somebody else’s case is more important or my brother’s case is more important than somebody else’s. It doesn’t matter who the person is or what they’ve done, they’ve still been murdered. It’s not like, “This person’s a very bad guy so we’re just gonna push his case over here.” That should be a priority, but not put anybody’s case to the side just because they feel that it’s gang-related or this person’s a drug dealer or anything like that. Anybody should have the right for their case to be solved and worked on.*

Victor also talks about the importance of race in his daughter's three-year-old murder investigation. He argues that race is the reason his daughter's murderer was still at large. He expressed anguish that the murder would never be solved and that he had no information about the case, and also reported feeling both helpless and depressed. Victor's lack of agency caused him to view the police as an obstacle to catching his daughter's killer(s).

*Here's a black child...probably used drugs. You know she did some prostitution. And that's just the way it is. I don't think that's gonna change for a while. I do not believe the police department's gonna change. Why won't the police department change? Because the power that be is not gonna do anything to institute change within the police department. They will always be able to tell me, 'Well, we just don't know,' and there won't be a thing that I can do about it. I really can't put pressure on these people.*

Thus, Victor believes that the police will not give him information to help him make sense of the case because his daughter is black. Moreover, Victor has given up hope that the police will find the killer and has come to the conclusion that the case is unsolved because of his daughter's race. Police and prosecutors may unintentionally send signals to co-victims that their deceased loved one was at least partially responsible for being murdered and may suggest to co-victims that some cases may be more deserving of investigation than others (see Karmen 2007). It is not possible to know what signals law enforcement sent Victor in this case, but it is clear that he believes that racism has played a direct role in the way his case was handled by law enforcement, and that has prevented him from ever seeing the killer brought to justice or gaining some insight into the mysterious circumstances surrounding the murder of his daughter.

Past deviant or illegal behavior on the part of the murder victim can also impact a co-victim's ability to make sense of the murder and cause them to question the effort police put into an investigation. Sometimes this feeling is perpetuated by the media, who spread what co-victims consider to be lies about the murder victim (see also Armour 2002), and which further prevents sense-making and complicates grief. Thus, at the same time that co-victims seek to convey a conventional image of the murder victim to the public, and to stop any negative public judgments, they also worry about the impact such perceptions may have on the murder investigation and their notion of what happened in the case.

Karla, for instance, felt that her husband's murder was not being investigated because his bad reputation was emphasized in local newspapers when describing his death. As Karla was fighting the newspaper, law enforcement began asking questions about her husband's untoward past. Even though the information about Karla's husband later turned out to be false, and the newspaper retracted the story, she continues to believe that the police are still influenced by those reports and her husband's delinquent past. Thus, even when she was in the initial stages of making some sense of the unsolved murder she perceived the police were undermining her belief in her husband as a good person:

*I believe that they aren't doing anything. I feel that my husband had a lot of run-ins as a juvenile, as a young adult, with law enforcement, a lot of city police knew him and his brother by name. And I believe that it's felt there's one less troublemaker on the streets. If I looked at his past, he was still human. He still deserves the same effort that they would put into anyone else's murder. He's got family. He had two kids. They ask me all the time, "How come So-and-so's in jail for this murder, but nobody's in jail for killing my dad?" He's human. He does have family regardless of what kind of past he had. No one deserves to be shot and killed.*

Paula's perceptions are similar to Karla's. While Paula explains that her brother was an alcoholic and needed help, she also argues that he often went out drinking late at night and was known to carry around a large sum of money. She believes that the police did not take her brother's case seriously because of his risky behavior. She could not make sense of her brother's murder with the accounts that the police had given and was still trying to identify the killer, get justice, and come to some resolution about the murder. The inability of the police to accept or even acknowledge her account of her brother's murder caused Paula great anger and distress:

**Paula:** *In fact, when my son and sister-in-law and I went and kind of walked that whole area after [my brother's] death, I found some items that might have been kicked out of a car that was parked there, and that's where those people said that car was parked. I picked those items up, and I've still got them. It's like, packets of crackers and stuff like that. But the [department] didn't want to hear anything like that. It was like, "No, this was a drunk [that] got hit, and that's the end of the story."*

Moreover, Paula, like other co-victims in this study, is upset that the police refuse to take seriously the evidence she has collected. Such reports appear to be consistent with yet an additional secondary victimization on the part of unsolved homicide co-victims who reported high levels of stress over their perceptions of what evidence may be important to the case.

## No prosecution

Even when co-victims believed that they could identify who killed their loved one and why the murder took place, they were, nevertheless, confronted with the situation that their understanding of the events was not shared by the criminal justice system. Thus, while police may move cases forward to law enforcement for prosecution, prosecutors do not always prosecute. Thus, these co-victims reported feelings of dismissal by prosecutors and report that stress related to that dismissal made them angry and unable to reconcile the role of the criminal justice system in their lives -- especially when they argued that police had identified the murderer. Most responded by stating that they had learned that "criminals have all the rights and victims have no rights."

Eight co-victims reported that police and prosecutors believed they had identified the murder. However, each of these co-victims suggested that the officials felt that there was not enough evidence to prosecute. Without a prosecution, co-victims were left with a sense of needing justice and wanting the account of the murder to be communicated to the public to aid in the process of building meaning. Unfortunately, while information about the case helped co-victims make some sense of the murder, the lack of prosecution left them with a feeling of intense anger because the lack of action was completely incompatible with their sense of the murder. In short, these decisions challenged co-victims' sense-making and appeared unfair, unjust, and hypocritical. Moreover, co-victims reported that the way in which law enforcement communicated these conclusions caused them high levels of anger, grief, and despair.

Most families whose murderer was identified by police wanted and received a meeting where the prosecutor explained the evidence and the exact reason for not filing murder charges. Reactions to these meetings were mixed, but several co-victims did report that the meeting helped them come to some resolution about their case. Alison explains her anger with the prosecutor:

**Interviewer:** *Did you ever talk to the DA?*

**Allison:** *The district attorney, at the time, I went over to talk to him and he told me, "I'll tell you how to shoot somebody and get away with it." That's what the district attorney told me. I didn't like him. We went round and round over it because he wouldn't do nothin' about it. He didn't want to talk with me. But I went over there.*

**Interviewer:** *To convince him to file the charges?*

**Allison:** *Yeah. I wanted to know why they let him [the man who murdered my husband] go.*

Allison was unable to make sense of the prosecutor's version of the murder. Moreover, the murderer was still living in the town where Allison and her daughter lived. Thus the perceived murderer's version of the crime was the publicly accepted version. This clearly complicated Allison's grief and she was still struggling to make sense of her husband's death given the prosecutor's comments in private as contrasted with the public version of events.

Men who killed their wives or girlfriends were the most commonly identified murderer by co-victims. Thus, victim status also appears to be important to co-victim sense-making. Bill notes that he believed that his daughter's murderer was not going to be prosecuted because there was too much uncertainty about the outcome. At the same time, the police were simultaneously telling Bill that evidence did not exist to help strengthen the case. Bill suggests that his brief meeting with the district attorney signaled that the police were giving up on the case and that he was stuck in a position where he had made sense of the murder but it was not being accepted by prosecutors and by extension the public.

*And one of the references that they kept throwing in our face was the O.J. Simpson case, because they had just completed that case. Everything we talked to them about was, "We don't want this to be like the O.J. Simpson case." I mean, it was ridiculous. It was to the point where it was childish. This was not O.J. Simpson. This was [my family]...well, there wasn't anything more they could come up with at that point. It had been almost four years. And where do you go from there? He had everything that he could possibly come up with, and the [District Attorney] would never take it without a confession, and weapon, and a witness. And that's what [District Attorney] wanted. He wanted that. And there was no way he was gonna get that. My point was, "Well, at least if you took it to the grand jury and made a big stink about it, you've ruined his life, if nothin' else." And they wouldn't do that. "No, no, no, no, because it might end up like O.J. Simpson."*

Thus, for Bill it was important for his sense-making to have the case prosecuted, which would also allow him to communicate a compatible account to the public. Bill badly wanted the case before the grand jury because it would signal the identity of the killer to the community. Instead, he was faced with an account of the case that made sense of the murderer's freedom by favoring the rights of the murderer and/or the need for certainty in winning a conviction over the rights of his daughter. While Bill was clearly angry that the killer could not be brought to justice, he was also distressed that police and prosecutors were distancing themselves from his daughter's murder. Thus, while Bill was clearly able to make some sense of his life without his daughter and was not left with the continued uncertainty about who committed the murder and the events that led up to her death, he was still struggling with the fact that his accounts of his daughter's murder could be questioned by the public and easily dismissed by prosecutors. The failure of the system, along with Bill's fear that the murderer might harm his grandchildren, left him constantly struggling with notions of justice.



## Self-Investigation

An inability to make sense of the murder and to bring the killer to justice appears to complicate co-victims' grief. Most families longed for communication from law enforcement that indicated that the case was still active and that new information about the case would be forthcoming as their questions about the case developed through the process of trying to make sense of the murder. Co-victims' perceptions that police were not investigating the case and providing appropriate levels of information, however, delayed the restorative process. This lack of information pushed many co-victims into action. Sixteen co-victims indicated some sort of self-initiated effort in trying to solve their loved one's murder. Thus, they tried to make sense of the case by solving it themselves. Molly explained that she often wanted to investigate her own case given the response she sometimes gets from law enforcement when she asks if they have any leads on her daughter's killer.

*That's another thing I pick up on when we go over there, they say, "Do you have anything new for us?" It's like— Are we doing the investigating now? I know some people do if they have something like this in their family. They go out and investigate. But that's a special kind of person, I think. Not everybody can do that. You have to give up your life. Follow all the leads you can, whatever. Not everybody can do that. But I kind of feel like they throw it back on us, like they feel like we're accusing them of not doing anything. "Do you have anything for us?"*

This reported reaction is similar to Goffman's (1952) notion of betrayal in 'cooling out the mark' where co-victims report that they have come to realize that that police who are supposed to be on their side throughout the process have really been trying to distance themselves from the murder case because (co-victims believe) it cannot be solved. Co-victims report that these feelings challenged their sense of justice and caused them additional anger and stress, which are counter-productive to the notion of sense-making and represent yet another victimization by the criminal justice system.

In other instances, co-victims actually conducted their own investigations to make sense of the case. Debra, for example, reports that she consulted with her detective prior to conducting an interview for fear of jeopardizing her daughter's case. However, she wanted to know why and how her daughter was murdered. She believed that she could gain information about the reason for her daughter's murder and that would ultimately help the prosecutors gain a conviction:

*Let me tell you right now, I went out on my own and interviewed people I thought I wanted to talk to. I always told [detective] "I'm going to do this." And he would say, "Back off," or like he did with [witness] he'd say, "Wait till after the trial because I don't think he should talk to you before the trial."*

Several co-victims in this sample were working vigorously to solve their loved one's murders. However, these co-victims perceived that the detectives working their cases thought that this investigation was unnecessary and potentially harmful. Self-initiated detective work caused a number of hardships for co-victims, ranging from financial strain to mental instability to threats of harm and violence. However, co-victims persisted in these investigative efforts in order to gain information that would help them identify the murderer and make sense of the murder.

For example, Xandria, who believed she had identified her daughter's killer, reports that the police initially did not take her investigation seriously. She was convinced, despite all the resistance from the police, that her daughter's boyfriend had killed her. In the end, and only after the suspect was convicted of another murder, Xandria reports that the police did use the evidence she collected to build a case against her daughter's murderer. Xandria's investigation consisted of videotapes obtained from the convenience store

where her daughter was last seen and interviews of potential witnesses and informants. She spent a large portion of her time searching for her daughter's body and looking for physical evidence. She believed that she had made sense of the case through her investigation of events. In a matter of a few years, her intense investigation into her daughter's case interfered with nearly every aspect of her life, caused her to lose her business, and she nearly died from poor health exacerbated by extreme stress.

**Xandria:** *If you look in the police evidence box, 98% of the evidence is from [me]. And they are lucky they even have a case. And you know, people just—I still have family members that I—it's very strained because they say, "You should let the police do their job." And [my ex-husband] and I say, you know, we hope they never know. We hope they never have our experience—they never need to know, if you don't do it, nothing happens.*

In the end Xandria's ability to make sense of the case helped her to find resolution despite the fact that the killer had not yet been brought to justice. The fact that the murderer was still free did present Xandria with some anxiety, but she was again healthy, working, and going about her life.

Caroline also spent years collecting evidence resulting in extreme financial hardship and periods of homelessness. She invested considerable time reconstructing her mother's murder and interviewing people involved in the case and its investigation in order to make sense of her mother's murder and see resolution in her case. Caroline invested an immense amount of time and money into her investigation:

**Caroline:** *I had to pay. I've got thousands of dollars, which is horrible, because I don't make thousands of dollars, in paperwork. But I had to have it in order to first understand and second of all, to make anybody else listen. I had to bring their own paper to them and prove it.*

**Interviewer:** *So once you got [the paperwork], you went back and started reading through it?*

**Caroline:** *I went and I read page for page for page. And then I broke it down into investigators, witnesses, and I got online and I started finding people and people would give me numbers to people and I would contact them and—it wasn't like it was an all-day, every-day thing, but it was consuming, and I wanted to know what happened. And the more questions I had, the more I would get a run-around or the more answers I got, it would lead me to different branches. Some people would open the door and welcome me, and some people [told me to leave].*

After years of investigation Caroline was able to make sense of the murder, and her mother's killer was eventually convicted of the crime. Caroline reported that her investigation provided her with a sense of what happened to her mother and the prosecution provided her with affirmation of that sense-making in a public forum. Importantly, she notes that when she talked with the judge she received affirmation:

*He [the judge] apologized to me because he was on bench when it originally happened. He said, "We let you down, we let your mother down, we let your folks down, and I feel terrible about that. I am very proud of you for all that you've accomplished." It is what it is. I went for the truth and not out here for brownie buttons or anything other than to keep it out there, to get the law enacted, and to hopefully prevent somebody else. I don't think it would prevent somebody else from doing it, although it makes people aware of \_\_\_\_, who he is, he can't fly through life any more.*



Thus, Caroline was able to make sense of her mother's murder and have that resolution affirmed in a public forum. While she reports that she is still suffering because of her mother's murder, she is in the unique position of finding resolution in her case.

Unfortunately most family members did not get as much information about their case as Caroline and Xandria. While most unsolved homicide co-victims worked their loved one's cases with determination, they often report having little understanding of investigative techniques and lacked adequate resources, protection, and support. Paula worked on her brother's unsolved murder case for several years before coming to the conclusion that it would remain unsolved.

**Paula:** *Like I said, after working so hard all those years, I just decided, okay, patience. Let [my brother's case] cool down. Let it take its own course and maybe something will come out of it.*

**Interviewer:** *That must have been hard, to just let it die down. It sounds like those first two years you were working and trying to work on your brother's case. I assume when you say "kids"...*

**Paula:** *I have one, but I had just hurt myself, and I was working in pain every day and trying to work on my brother's case, and everything, and I wasn't getting much rest and everything between the nightmares and pain and everything else, just after a few years, I couldn't do it any more. So I thought, "OK, this is it. I'm not getting anywhere. I'm just going around in circles and pounding my head against the wall. Let it cool down and have patience. Get back into it later.*

Paula was unable to make sense of her brother's murder and, after years of investigation, had to step back because of the toll it was taking on her family and her health. She was forced to choose between trying to make sense of her traumatic loss and losing her husband, job, and health.

In the end, many co-victims' inability to get information about their unsolved murder led them to see the criminal justice system as an under-resourced bureaucratic organization incapable of solving many crimes. As noted, this realization intensified co-victims' feelings of despair and suspicion.

## Implications for Bereavement and Criminal Justice

The Federal Bureau of Investigation (FBI 2008) reports that 38.2 percent (or 6,568) of the 16,929 murders and non-negligent manslaughters that occurred in the United States in 2007 were not immediately solved. Hawkins (2008) observed recently that the clearance rate for homicides dropped from 91 percent in 1963 to 61 percent in 2007. These data suggest many co-victims are faced with conditions that may lead them to complicated and prolonged forms of grief, and that the circumstances of their interactions with law enforcement may cause them to be especially prone to forms of secondary victimization at the hands of the criminal justice system. Co-victims of unsolved homicides report that they are in a position where they are unable to find meaning or to make sense of the murder because of the enormous amount of uncertainty that surrounds the unsolved homicide combined with the fact that their notions of justice are undermined in their interactions with law enforcement. In short, without resolution to a case, sense-making on the part of co-victims is difficult at best. It is clear that co-victims believe that the criminal justice system is often at odds with their capacity to develop a sense of understanding about their loss. Without critical information about the case, many co-victims are never able to construct such an understanding.

Sense-making is a form of meaning-making that focuses on understanding loss which can aid in post-loss identity reconstruction. This research draws upon qualitative interviews of cold case co-victims to examine how criminal justice responses impact sense-making. Results suggest that sense-making can be inhibited by the criminal justice system through (1) a lack of information about the murder and (2) because perceptions of justice are fundamentally altered post-loss. These findings are unique in that they have yet to be examined in the literature, which largely focuses on cancer, suicides, and accidents.

With respect to a lack of information, crime victims often turn to the criminal justice system to get information about the murder (Bucholz, 2002). In that respect, cold case co-victims are no different than most crime victims in wanting information about the crime. Specifically, co-victims clearly asserted that they wanted more information about the murder to help them understand what happened. This notion is compatible with the process of sense-making and suggests that it may be hard to construct post-loss meaning when circumstances surrounding the death are unknown and uncertain. Consistent with the notion of sense-making, co-victims reported that information about the case would help them formulate some type of resolution. Thus, many co-victims became extremely frustrated when the system served to limit the information they obtained about the murder. Co-victims reported that this lack of information extended their bereavement and many were still grieving despite the passage of time.

The co-victims interviewed for this study were nearly universal in their belief that police stopped actively instigating their case when it turned cold (i.e., after one year). These perceptions are based on co-victims' observations that law enforcement failed to provide regular case updates, return phone calls, or notify co-victims of personnel changes. Co-victims believed that better communication by law enforcement would lead to additional information to help them understand what happened and give them hope that the case was still being investigated. Instead, they lived with large amounts of uncertainty about the facts of the case and what, if anything, the police were doing to catch the killer. The lack of information implied to co-victims that the criminal justice system did not take the murder seriously. Researchers also discovered that several co-victims believed that the lack of contact that signaled the end of the investigation was the result of race, ethnicity, economic status or deviant behavior. In short, the co-victims interviewed for this study indicate that the lack of communication made grieving more difficult because it increased uncertainty about what was being done in the case and because it signaled that victim characteristics might prevent the case from being solved.

A post-loss understanding of criminal justice may also be problematic because several co-victims could not understand why their case was not prosecuted when the system could identify the murderer. As noted, co-victims reported that law enforcement told them they “know who did it” but could not “prove it.” It is clear that these co-victims have little faith in notions of justice and fairness. Again, these co-victims report that they are frustrated by the system and believe that criminals have more rights than the victims. The sense-making literature indicates that it is difficult to construct a post-loss identity under such conditions (Armour, 2006). Frustration with the criminal justice system and a need to find the murderer led several co-victims to actively investigate their own cases. These investigations were usually not successful and sometimes dangerous.

Co-victims continually report that above all, and as one would expect, they would like their cases resolved. For example, a co-victim in Baliko and Tuck’s (2008, p.31) study of the interaction between co-victims and homicide offenders points out, “I don’t hold it as a grudge...no need to live bitter.... as long as you got him in custody, and he’s going to be somewhere.” While solving cases is clearly the priority, there are policies that police and prosecutors can adopt to reduce uncertainty and facilitate notions of justice. These policies should aid in the promotion of sense-making among co-victims.

First, this research clearly suggests that police departments should adopt a policy to contact co-victims when the detectives investigating the cold case change. While two co-victims in this study reported that the police did contact them when a change in the lead detective occurred, such reports of these types of contacts among co-victims were rare. Currently most departments do not notify co-victims when the lead detective changes. A department policy to notify co-victims of detective changes could be easily implemented within jurisdictions. Ideally, detectives handling the cases would make the contact with the co-victims.

An alternative could be to amend a state’s victims’ rights act to include such contact as mandatory. As with other mandatory victims’ rights notifications, co-victims who wished to be notified could simply ask the department to alert them of a change. For example, in some states victims can provide a written request under the state’s victims’ rights acts if they would like to be notified of cold case updates.

Co-victims suggest that updates about who is working on the case would signal that the case is active and important. The policy of notifying cold case co-victims of detective changes may also reduce the belief by many co-victims that cases are not pursued because of victim characteristics (i.e., race, ethnicity, or deviance). This is because co-victims appear to be likely to draw upon notions of race, ethnicity and victim status when there is a lack of communication between co-victims and law enforcement. As noted, many cold case co-victims did not know who was working the case and, by extension, believed that nothing was being done because the victim was black, Hispanic, or lived an unconventional lifestyle.

Second, this research suggests that departments should adopt a policy of allowing co-victims to examine their cold case files when possible. Dannemiller (2002, p. 7) suggests that “deaths are upsetting in proportion to uncertainty that surrounds them.” Thus, law enforcement agencies can also adopt policies that reduce case uncertainty by promoting better communication about the investigation. This is because co-victims of unsolved homicides report that they are unable to find meaning or to make sense of the murder because of the enormous amount of uncertainty that surrounds the unsolved homicide. Co-victims in this study suggested that sharing information, and when possible case files, is helpful. If co-victims’ perceptions about communication with law enforcement were more positive than negative (see for example, follow up with bereaved next of kin of critical care patients in Cuthbertson et al., 2000), this may help attenuate this potential form of secondary victimization by removing impediments to sense-making. Despite law enforcement

arguments to the contrary, the few co-victims interviewed in this research that were allowed to look over police and prosecutor case files report that the information they gained from the process was helpful in bereavement. Thus, this strategy should become standard, when feasible, among law enforcement agencies when charges cannot be filed as it may provide a sense of understanding about what information the police and prosecutors have regarding the murder.

This proposed policy is likely to be controversial because law enforcement culture is not one where information is readily shared with outsiders and because sharing some types of information may jeopardize a case. However, it is important to note here that several co-victims did believe that looking over evidence might also benefit the case because it may help co-victims provide information that is useful to law enforcement. Thus, some co-victims asserted that if they were more involved in the investigation, for example, that might improve the likelihood that a case would be solved. Such a policy of sharing information might also reduce the motivation for some co-victims to engage in their own murder investigations due to a perception that nothing was being done by police.

The information obtained from this study is also useful because it encourages future research on sense-making among cold case co-victims. Especially important in terms of future research are issues of race, ethnicity, and class as indicators of secondary victimization among cold case co-victims. The finding that the status of the victim may inhibit sense-making for co-victims, though unanticipated, has important consequences for social inequality. Thus, any additional research in this area should focus some attention on what can be done to better promote sense-making among traditionally disadvantaged and marginalized populations.

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