

Based on a True Story: The Ethical and Legal Consequences of the True Crime Entertainment Industry

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“They had a smile that could light up any room!” In nearly every true crime documentary, there is sure to be a glowing remembrance of the victim’s character, often boiled down to a cliched phrase such as this one. Often, true crime enthusiasts scoff at this predictable description, even sharing TikTok and X memes about how the best way to avoid being a victim of homicide is to never “light up a room.” There is a large community of crime enthusiasts to engage with, as thirty-four percent of total podcast listeners regularly tune in to true crime. Additionally, almost half of these listeners are women.¹ While some may chuckle at the community-led teasing of this stereotype, the normalization of publicly poking fun at families of victims often lacks all humor to the families themselves. The normalization of true crime media has led to some of the public viewing victims as synonymous to fictional characters made for their entertainment. This is ultimately harmful to victims of crime, particularly violent crime; this article asserts that the true crime industry and its popularity in contemporary culture serves to flattens the lives of victims.

This disregard for context amongst the true crime entertainment industry and its consumers is far from a rarity—it is a core theme that binds viewers together. Proponents of true crime claim that it raises awareness for victims and promotes relevant justice reforms.² However, the prevalence of this industry presents serious ethical questions surrounding the

¹ Sarah Naseer & Christopher St. Aubin, *True Crime Podcasts Are Popular in the U.S., Particularly Among Women and Those with Less Formal Education*, Pew Rsch. Ctr. (June 2023), <https://www.pewresearch.org/short-reads/2023/06/20/true-crime-podcasts-are-popular-in-the-us-particularly-among-women-and-those-with-less-formal-education/>.

² Kelli S. Boling, *Fundamentally Different Stories That Matter: True Crime Podcasts and the Domestic Violence Survivors in Their Audiences* (2020) (Ph.D. dissertation, University of South Carolina).

commodification of heinous crimes in digital media, particularly on social media platforms. Further, such commodification can erode due process through pretrial publicity, cause rampant misinformation through sensationalized coverage, and exploit and violate the privacy of victims.

True crime cases that become popularized through social media and podcasts can garner cult-like followings, the publicity of which erodes tenets of the legal system. The Sixth Amendment of the U.S. Constitution guarantees those convicted of a crime the “right to a speedy and public trial, by an impartial jury.”³ This right has stood firm as the protection against a tyrannical judicial system, but in the modern day, it leaves some protections explicitly left out. A key violation of due process by the true crime entertainment industry is the biasing of jurors through pretrial publicity.⁴ Pretrial publicity is the media coverage and dissemination of facts of a case to the public before the start of the trial. When sworn in, jurors are expected only to consider the facts brought before them during trial. They are asked to refrain from interacting with all media coverage and are instructed to do no research on the given case during the duration of trial. These barriers are in place to ensure that jurors fairly evaluate the case brought before them in a court of law, not the case shaped by public opinion. The spread of true crime, particularly on social media, can be incredibly harmful to a jury’s impartiality. Even in less noticeable ways, “pre-trial biases appear to affect verdict outcomes in jury decision making.”⁵

Another pervasive form of jury bias is in sensationalized coverage of trials as they occur, primarily because of the legal protection surrounding the filming of court proceedings. The aspect of the Sixth Amendment that is most often referenced in protecting the right to film in a

³ U.S. Const. amend. VI.

⁴ See Christine L. Ruva & Anthony E. Coy, *Your Bias Is Rubbing Off on Me: The Impact of Pretrial Publicity and Jury Type on Guilt Decisions, Trial Evidence Interpretation, and Impression Formation*, 26 Psych., Pub. Pol'y, & L. 22, 32 (2020).

⁵ Lee J Curley et al., *Cognitive and Human Factors in Legal Layperson Decision Making: Sources of Bias in Juror Decision Making*, 62 Med., Sci. L. 206 (2022).

courtroom is the right to a “public trial.”⁶ Though there was deliberation by the Supreme Court on the impact of cameras on due process, *Chandler v. Florida* (1981) upheld the right to use electronic media to record judicial proceedings.⁷ Though proponents of filming in courtrooms argue it increases transparency and accountability for all parties involved, there can be serious consequences for due process, most notably as seen in the recent *Depp v. Heard* trial (2022).

In April 2022, globally recognized and formerly married actors Johnny Depp and Amber Heard testified against each other in a six-week-long trial that covered accusations of domestic violence, defamation, and abuse.⁸ The trial became the center of news cycles, tabloids, and social media, with footage from the proceedings being clipped, edited, and misinterpreted to incite extensive outrage and attention.⁹ Though both parties had at least some tangible evidence supporting their accusations, public opinion quickly devolved into picking sides and demonizing the other.¹⁰ The coverage of the trial proved to be particularly harmful and violent towards Amber Heard, who, despite having documentation of the alleged abuse by Depp, became the target of relentless cyberbullying, ridicule, and verbal violence.¹¹ Millions banded together to protect Johnny Depp, the star of so many beloved movies, against the so-called “evil,” “scorned” woman, berating her with insults when she walked into the courtroom and mocking her abuse profusely on every social media platform. In hindsight, many recognize the harm the media circus caused by biasing perceptions of the trial and demonizing Heard. Still, the damage caused by publicity—largely resulting from the filming of trials—had already been done.

⁶ U.S. Const. amend. VI.

⁷ *Chandler v. Florida*, 449 U.S. 560, 565 (1981).

⁸ Alexis Enderle, ‘*Depp v. Heard*’ is a Blistering Look into a Media-Driven Trial, The Tufts Daily (Sept. 2023), <https://www.tuftsdaily.com/article/2023/09/depp-v-heard-is-a-blistering-look-into-a-media-driven-trial>.

⁹ Matthew Belloni, *Johnny Depp’s Fake News*, Puck (May 2022), https://puck.news/johnny-depps-fake-news/?_cio_id=f6c60600f741f841.

¹⁰ Ali Medina, *How Defamation Is Used to Silence Survivors*, Harv. C.R.-C.L. L. Rev. (Mar. 2024), <https://journals.law.harvard.edu/crcl/how-defamation-is-used-to-silence-survivors/>.

¹¹ Morgan Hart., *Are We Ready to Believe Amber Heard?*, Options Domestic Sexual Violence Servs. Nw. Kan. (May 2024), <https://help4abuse.org/are-we-ready-to-believe-amber-heard/>.

The media publicity around criminal trials also contributes to the rapid spread of misinformation, both about any given case and the legal system itself. True crime is inherently inquisitive and speculative, encouraging viewers to form their own opinions about cases and perpetrators.¹² These speculations can range from who committed a crime to why it was committed, to the likelihood that a similar crime will be committed again, and so forth. While perhaps innocent curiosities made while sitting at home watching television, these speculations and assumptions can have a pervasive, harmful impact on the legal industry.

Beyond the consequences of true crime to the legal system, the exploitation of victims and families remains a prevalent ethical concern for the true crime industry. Because true crime reiterates popular media opinions, some viewers feel entitled to all the gruesome details of a case, even though those details are derived from the suffering of human beings who may prefer confidentiality. In 2022, four college students in Moscow, Idaho—Kaylee Goncalves, Xana Kernodle, Madison Mogen, and Ethan Chapin—were brutally murdered in the middle of the night in their college home.¹³ This case garnered massive national attention. Though the killer was arrested and charged merely a month after committing the crime, intense media attention on the case has continued even now, in 2025. Before sentencing in July of 2025, the majority of the evidence in the case, including most crime scene photos, was kept confidential in accordance with standard criminal trial practice.¹⁴

However, since sentencing concluded, much media attention shifted from coverage on the victims, their families, and the impact of the crime towards the crime scene photographs. Social

¹² See Melissa Rohrer, *'Lamentable and True: ' Remediations of True Crime in Domestic Tragedies*, spec. issue 28 Early Mod. Literary Stud. 1 (2019).

¹³ Emily Shapiro, *Idaho College Murders: Full Timeline of Events*, ABC News (Sept. 2025), <https://abcnews.go.com/us/idaho-college-murders-timeline-events/story?id=93575278>.

¹⁴ Rebecca Boone, *Idaho Judge Bars the Release of Graphic Photos from Crime Scene Where Bryan Kohberger Killed 4*, ABC7 (Oct. 2025), <https://abc7.com/post/idaho-judge-bars-release-graphic-photos-crime-scene-where-bryan-kohberger-killed-4/17923993/>.

media tags about the murders are littered with true crime enthusiasts demanding to have the horrific photographs released.¹⁵ Those who advocate for their release cite the importance of judicial transparency, educational value, and quelling conspiracy theories.¹⁶ However, the families of the victims have shared outrage at the insensitivity and profound trauma that will be inevitably inflicted upon their families if these photos are released to the public.¹⁷ The true crime community often devotes substantial amounts of time to amateur research of cases, so much so that they feel entitled to all the details of the case. The families of these deceased innocent college students should have a right to prevent the gory and graphic photographs of their children's murder from permanently existing on the internet. Both the families and Second District Judge Megan Marshall, in her ruling that effectively blocked the sharing of those "disturbing" photographs, reject this invasion of privacy.¹⁸

The question of how to handle the public dissemination of traumatizing details of criminal cases is constantly wrestled with by both courts and the media in the U.S. Criminal cases and criminal proceedings, which already operate in an imperfect legal system, are negatively influenced by media coverage, online sleuths, and the biases of individual users, all of which erode the institutions intended to protect due process. Crime reporting and the true crime industry often serve to commodify violence, which in turn further brutalizes victims and their families. Families can be retraumatized by invasiveness from true crime fans and their disregard for privacy and through the spread of media biases that degrade the legal system.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*