

Memorial Laws: Social and Media Construction of
Personalized Legislation, 1994-2005

by

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ABSTRACT

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This dissertation explores the possibility that certain social, demographic, and political factors have led to the recent adoption by American state legislatures of what are known as Memorial Laws. First enacted in 1994, these laws have become increasingly common. However, there has been little or no formal academic research into them. This investigation aims to provide a preliminary analysis of Memorial Laws and to contribute to a better understanding of the dynamics affecting their passage. Specifically, this study examines a variety of demographic traits of victims and the characteristics of the crimes committed against them in an attempt to determine whether there are predictors of which states are likely to adopt Memorial Laws. These variables include the gender, age, and race of victims, as well as statewide violent crime rates, racial makeup of a state's population, the type of crime involved, the state legislature's ideological leanings, and the dominant political culture in a state. This study analyzes data related to all 43 of the Memorial Laws enacted by state legislatures between 1994 and 2005. It finds that Memorial Law legislation typically arises from the social and media construction of the victim as female, under

the age of 18 years, and Caucasian. Furthermore, Memorial Laws tend to be enacted in states where the legislature skews liberal and the political culture tends to be individualistic rather than traditional or moralistic.

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TABLE OF CONTENTS

ABSTRACT	iv
ACKNOWLEDGMENTS	vi
CHAPTER 1: INTRODUCTION	1
Background	2
Definition of Memorial Laws.....	2
History of Memorial Laws.....	2
A Review of Memorial Laws Enacted Between 1994 and 2005.....	3
Purpose of Memorial Laws	13
Historical Review of Government Initiatives on Behalf of Victims	15
Purpose of the Study	19
Significance of the Study	21
Research Design.....	22
Research Questions.....	23
Conceptual Framework	24
Assumptions and Limitations.....	25
Definition of Terms	25
Summary	27
CHAPTER 2: LITERATURE REVIEW	28
Theories of Social Problems.....	28
Objectivist Theory	29
Objectivist Theory Applied to Memorial Law Passage ...	30
Social Constructionist Theory	32
Social Constructionist Theory Applied to Memorial Law Passage	33
Claims-Making	34
Claims-Making as Essential to Memorial Laws.....	38
Claims-Making and Ownership of Social Problems	41
Media Coverage and Enactment of Memorial Laws	44
Media and Construction of Crime	44
News Media and Victim Characteristics.....	47
Media and Development of Public Policy.....	54
The Present Research.....	57
CHAPTER 3: METHODOLOGY AND DATA SOURCES.....	59
Research Design.....	59
Data	60
CHAPTER 4: ANALYSIS OF MEMORIAL LAW DATA	64
Introduction.. ..	64
Violent Crime Rates and Memorial Law Enactment (Research Question 1).....	66
Presentation of Findings	67
Discussion	68

CHAPTER 4, cont'd

Violent Crime Rates and Cumulative Numbers of Memorial Laws (Research Question 2).....	69
Presentation of Findings	70
Discussion	71
Categories of Incidents Underlying Memorial Laws (Research Question 3).....	72
Presentation of Findings	73
Discussion	75
Racial Makeup of Victims Commemorated by Memorial Laws (Research Question 4).....	78
Presentation of Findings	79
Discussion	82
Gender of Victims Commemorated by Memorial Laws (Research Question 5).....	83
Presentation of Findings	83
Discussion	84
Ages of Victims Commemorated by Memorial Laws (Research Question 6).....	86
Presentation of Findings	86
Discussion	87
States' Political Ideology and Memorial Laws (Research Question 7).....	88
Presentation of Findings	89
Discussion	91
Dominant Statewide Political Culture and Memorial Laws (Research Question 8).....	93
Presentation of Findings	95
Discussion	96
CHAPTER 5: CONCLUSION.....	98
APPENDICES.....	107
Appendix A: Rank Order of Violent Crime Rates, by State.....	107
Appendix B: Annual Average Violent Crimes in Memorial Law States, 1994-2005	108
Appendix C: Memorial Laws by Type of Offender/Offense.....	109
Appendix D: Memorial Laws by Racial Distribution of Victims.....	110
Appendix E: Memorial Laws by Gender Distribution of Victims	111
Appendix F: Memorial Laws by Age Distribution of Victims.....	112
Appendix G: State Legislatures, by Dominant Ideology.....	113
Appendix H: Dominant Political Culture, by State.....	114
Appendix I: Percentage of States With and Without Memorial Laws, According to Dominant Political Ideology	115
Appendix J: Percentage of States, With and Without Memorial Laws, Based on Dominant Political Culture	116
BIBLIOGRAPHY	117

LIST OF TABLES

Table 1.	State Memorial Laws passed between 1994 and 2005	6
Table 2.	Proportion of Caucasians in each state, divided into states with highest, middling, and smallest proportions of Caucasians...	80
Table 3.	States divided into same three categories by proportion of Caucasian population, with races of victims commemorated by Memorial Laws in each state.	81
Table 4.	Percentage of Memorial Law victims by race in the 50 states (separated into three categories according to proportion of Caucasians within state populations).	81

LIST OF FIGURES

Figure 1.	Rate of violent crimes occurring in the U.S. between 1988 and 2007	21
Figure 2.	Percent of states with Memorial Laws, based on violent crime rates between 1994 and 2005	68
Figure 3.	Average violent crime rates for Memorial Law states from 1994 to 2005	71
Figure 4.	Memorial Laws, by circumstances leading to their enactment.....	74
Figure 5.	Percentage of Memorial Laws compared to population based on gender	84
Figure 6.	Percentage of Memorial Laws compared to population based on age	87
Figure 7.	Map of state ideologies (percentage liberal minus percentage conservative)	89
Figure 8.	Percentage of states with Memorial Laws based on dominant state ideology	91
Figure 9.	Percentage of states with and without Memorial Laws based on dominant political culture	95

CHAPTER 1: INTRODUCTION

Studying state sanctions against crimes has enhanced our understanding of the manner in which criminal laws are demanded by the public and the extent to which legislators attempt to appease those requests (Scheingold, Olson, & Pershing, 1994; Vitiello, 1997). Memorial Laws are one such type of criminal law. They differ somewhat from general criminal statutes in a number of ways. Memorial Laws call attention to specific acts, recognize particular victims, and pinpoint a distinctive need to control a precise activity. The origin of these codified bills with names of victims in their titles, or “personalized legislation,” began in state legislatures in 1994. Since the passage of the first state Memorial Laws, there has been little or no academic research into the topic. Consequently, the present work seeks to determine what patterns exist among states that have adopted personalized legislation versus those that have not. This study explores concepts in existing scholarship that could possibly explain the occurrence of this legislation in some jurisdictions and its absence in others. In particular, the study focuses on situational variables (e.g., the strength of advocacy groups backing a particular piece of legislation), political factors (the dominant political ideology within a legislative body), criminological elements (the impact of crime rates on the public), and sociological conceptions (the manner in which individual acts are transformed into social problems).

Background

Definition of Memorial Laws

Memorial Laws, also known as epitaph laws, tombstone laws, or eponymous laws, are codifications of legislative acts. They are named for specific victims of crimes and other acts of harm that have resulted in the suffering or death of residents of the state in which the law is enacted. The laws are labeled “Memorial Laws” because the legislation aims to memorialize a person who was seriously injured or killed by another. While the press has often popularized the names lawmakers have placed on bills introduced in state congresses and senates, most if not all of the names of Memorial Laws passed in the period covered by this study, 1994 to 2005, were suggested by the victims’ families.

History of Memorial Laws

The legal evolution that prefaced the trend toward Memorial Laws began in the late 1970s, commencing with the victims’ rights movement of that era. The movement sought to alter the ways in which crime victims had previously been treated. Victims’ rights activists sought and won a number of protections and privileges between the 1970s and early 1990s. These protections will be described in more detail below, in the section labeled “Historical Review of Government Initiatives on Behalf of Victims.”

Historically, on rare occasions the United States Congress had enacted laws with monikers such as the 1932 Lindbergh Kidnapping Act and the 1994 Brady Bill, but prior to 1994 there were no state-level Memorial Laws. The first such state law,

enacted in New Jersey in 1994, was called Megan's Law. Megan Kanka was kidnapped, sexually assaulted and murdered at age seven by a neighbor who had already been convicted twice of sexual offenses. The community pressured politicians for laws that would prevent such crimes in the future. Lawmakers quickly appeased the demands of the community and enacted the first state Memorial Law on October 31, 1994 (Levy, 1999). Megan's Law paved the way for dozens of other Memorial Laws enacted across the United States.

A Review of Memorial Laws Enacted Between 1994 and 2005

This study compiles, for the first time, a comprehensive list of all Memorial Laws and identifies 43 state Memorial Laws that were passed between 1994 and 2005 (see Table 1). This list was derived from several sources, including the legislative libraries of all 50 states, legal counsel for some state legislatures, and information supplied by various members of the United States Senate and House of Representatives. The Popular Name Indexes and an investigation of state legislative codes provided more material for this study.

The legislative library research merits some comment. Beginning in 2005, the author contacted the legislative libraries in every state, providing each librarian with a short synopsis of the goal of her research (i.e., to compile a list of all Memorial Laws in the particular state with the name of a victim in the title) and explained the basic criterion for defining a Memorial Law, specifically a law named for a victim. To determine whether any such legislation existed in a state, the author gave the law librarian(s) examples of well-known Memorial Laws, such as Megan's Law and Lizzie's Law. The researcher did not limit the information to any particular period,

although all results returned postdated Megan's Law. All answers provided by the librarians were recorded. In situations where the librarian was unsure of a particular statute, he or she generally consulted another librarian or had a colleague speak with the researcher directly. At other times, the librarian requested that the researcher give him or her some time to research the issue and allow them to contact her by phone or e-mail at a later date. Following conversations with legislative librarians in all 50 states, the author researched each piece of legislation to ensure that it met the study's definition of a Memorial Law and to ensure that it had passed in both of the state's legislative chambers (the exception being Nebraska, which is a unicameral state). This process included reference to state legislative codes and, at times, follow-up conversations with attorneys who served as administrators at legislative libraries. On rare occasions, the author was put in touch with the Representative or Senator who sponsored the memorial bill.

Several exclusion criteria were implemented for this review. A Memorial Law was excluded if it was redundant or reproduced identical legislation in another state. Additionally, acts that did not become laws before the end of the study period (i.e., December 31, 2005) or were passed in only one legislative chamber by December 31, 2005, were put aside for later review. Similarly, Memorial Laws named for animals were culled from the comprehensive list (to be saved for possible future research). A compendium of Memorial Laws was then constructed out of the legislation that was successful in both the state House of Representatives (or Assembly) and Senate.

After compiling the comprehensive list of all state Memorial Laws, the author then researched each law to determine the age, race, and gender of the relevant

victim. Newspaper articles, newswires, and a second round of phone calls to legislative libraries aided in discovering victim (and sometimes offender) characteristics. Supplementing this information were at least five, but no more than twenty, articles on each victim and Memorial Law. The use of more than one source per Memorial Law minimized the possibility of simple mistakes or blatant errors. Furthermore, the use of multiple articles ensured that research on an individual Memorial Law was not slanted substantially by any one author's view. The information collected was reviewed, catalogued, and organized into a table format (see Table 1). It was from this descriptive research that the author developed her research questions for the present study.

In general, the review demonstrated that no Memorial Laws were passed in state legislatures prior to 1994. Between 1994 and 2005, eighteen states enacted such laws. Specifically, the trend of Memorial Law enactment began with New Jersey (Megan's Law), with additional states contributing to the trend each year thereafter. In 1995, three more states followed New Jersey's lead, enacting personalized laws for Ashley Estell (Ashley's Laws, Texas), Kari Koskinen (Kari Koskinen Law, Minnesota), and Rebecca Hedman (Becca's Bill, Washington State). In 1996, Rhode Island and New York adopted Jillian's Law and Elysa's Law, respectively. Overall, the trend of adopting Memorial Laws has continued unabated to date. Since their inception in 1994, a total of 43 laws were passed into state legislative codes between 1994 and 2005.

TABLE 1**State Memorial Laws Passed Between 1994 and 2005**

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
CA	Oliver's Law (Oliver Smith)	Requires that every child care facility or resource center notify parents of their rights to review records of complaints against that facility	1999	White	Male	13 mos.
	Brandi's Law (Brandi Jo Mitock)	New car registration for those over 75 yrs. renewing driver's license.	2000	White	Female	15 yrs.
	Laura's Law (Laura Wilcox)	Requires that mentally ill patients attend a structured outpatient treatment program if they are not a danger to themselves or others and do not meet the criteria for arrest or hospitalization	2003	White	Female	19 yrs.
CO	Candace's Law (Candace Newmaker)	Prohibits the therapeutic technique known as "rebirthing," making it illegal to use physical restraints or create the potential for suffocation of a person	2001	White	Female	10 yrs.
CT	Jenny's Law [AKA Nathan's Law]	Increased penalties against individuals convicted of assaulting a pregnant woman	2003	White	Female	24 yrs.
FL	Jimmy Ryce Act	Allows for involuntary commitment of sexual predators after they serve their prison term	1999	White	Male	9 yrs.
	Jessica's Law (Jessica Lunsford)	Requires a mandatory prison sentence of at least 25 years for individuals convicted of certain sex crimes against children 11 and younger. Also mandates lifetime tracking by global positioning satellite after these offenders are released from incarceration	2005	White	Female	9 yrs.

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
IL	Scott's Law (Lt. Scott Gillen)	Increases penalties for drivers who fail to yield to emergency vehicles or drivers who cause accidents or injury to personnel at emergency scenes	2000	White	Male	37 yrs.
MA	Lizzie's Law (Lizzie Thompson)	Mandates that judges may not issue court-ordered visitation of children by a parent who murders the other parent	1997	White	Female	5 yrs.
	Melanie's Law (Melanie Powell)	Criminalizes the act of lending a car to someone who is clearly drunk; criminalizes the act of driving while under the influence of alcohol with a child under the age of 14 years; and increases penalties for motor vehicle manslaughter (from 2 1/2 years to 5 years)	2005	White	Female	13 yrs.
MI	Kevin's Law (Kevin Heisinger)	Allows judges to order outpatient treatment for people with severe mental illnesses who meet specific criteria, including a recent history of hospitalizations, incarceration, or behavior dangerous to themselves or others because of their mental illnesses	2004	White	Male	24 yrs.

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
MI	Lisa's Law (Lisa Putman)	Requires Department of Human Service (DHS) to provide training for children's protective services workers. In addition, mandates that another trained caseworker or a law enforcement officer accompany caseworkers in high-risk situations. This law was adopted following the murder of Lisa Putman, a DHS caseworker who was doing a home visit at the time of her murder	2001	White	Female	28 yrs.
MN	Katie's Law (Katie Poirer)	Tightens sexual predator registration requirements and penalties for sex offenders who do not register	2000	White	Female	19 yrs.
	Kari Koskinen Law	Requires background checks on all apartment managers to determine that they do not have prior convictions	1995	White	Female	33 yrs.
MT	Dane's Law (Dane Heggem)	Prohibits the administration of any medicine to a child in a licensed or unlicensed day-care facility without prior authorization from the child's parent or guardian	2005	White	Male	1 yr.
NV	Sherrice Iverson's Law	Requires a person who knows (or has reason to believe) that an individual has committed a violent or sexually violent act against a child aged 12 years or younger to report the offense to a law enforcement officer	1999	Black	Female	7 yrs.

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
NH	Brooke Blanchard Law	Mandates that anyone under age 17 convicted of a negligent vehicular homicide can be tried as an adult	1999	White	Female	17 yrs.
NJ	Megan's Law (Megan Kanka)	Establishes longer prison sentences for violent sex offenses committed upon children under age 15. Compels convicted sex offenders to register their addresses with police. Mandates lifetime parole supervision for any sex offender. Requires that inmates sentenced to the state treatment center for sex offenders (Avenel) to participate in a psychotherapy program to reduce their prison sentence	1994	White	Female	7 yrs.
	Michael's Law (Michael Albano)	Imposes a mandatory jail sentence for a third conviction for drunken driving or any subsequent conviction for driving while drunk	2003	White	Male	19 yrs.
	Maggie's Law (Maggie McDonnell)	Imposes a fine of \$100,000 and a sentence of up to 10 years in prison for driving while fatigued. "Fatigued" is defined as being without sleep for 24 hours	2003	White	Female	20 yrs.
	Christopher's Law (Christopher Williamson)	Makes it a crime in the third degree to drive without a license. Imposes a penalty of imprisonment of 3-5 years and a fine of up to \$15,000 (or both) for driving without a license and being involved in an accident	2005	White	Male	12 yrs.

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
NM	Marissa's Law (Marissa Mathy-Zvaifler)	Provides for tougher penalties and increased supervision of sex offenders. Requires that sex offenders disclose the conditions of their probation to employers	2003	White	Female	16 yrs.
NY	Elisa's Law (Elisa Izquierdo)	Requires that any "unfounded" child abuse report remain on file, which is sealed until the date that the youngest child in the report reaches age 18	1996	Hispanic	Female	6 yrs.
	Jenna's Law (Jenna Greishaber)	Eliminates parole for first-time violent felons and requires them to serve at least 85% of their prison sentence	1998	White	Female	22 yrs.
	Kiernan's Law (Kiernan Dunne)	Authorizes parents to conduct a criminal background check of caregivers in the home ("nannies") with consent of the caregiver	1998	White	Male	10 mos.
	Kathy's Law	Named for a woman in a coma who was raped by a nurse's aid in 1995 and had a baby while comatose. Creates a new felony-level crime (in the first and second degrees) of endangering the welfare of an elderly or vulnerable person. Expands the definition of the existing crime of endangering the welfare of an incompetent person to include individuals whose incompetence arose from physical disability	1998	White	Female	30 yrs.

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
NY	Jeremy & Julia's Law (Jeremy Fieldelholtz & Julia Haas)	Provides criminal penalties for negligent day-care providers who conceal or misrepresent important information to parents or government regulators	1998	White	Male	3 mos.
				White	Female	3 mos.
	Lee Ann's law (Lee Ann Cruz)	Provides that a court order may not be issued to compel a child to visit a parent who has murdered the other parent	1998	Hispanic	Female	28 yrs.
	Robyn's Law (Robyn Czerwinski)	Mandates that children under age 14 wear protective helmets while horseback riding and requires that horseback riding establishments make helmets available for all riders	1999	White	Female	14 yrs.
	Kendra's Law (Kendra Webdale)	"Enhances the support, supervision, and coordination of community-based services for mentally ill persons who are at risk of relapse, violence, and/or rehospitalization, through court-ordered assisted outpatient treatment and other coordination-of-care measures"	1999	White	Female	32 yrs.
	Alysa's Law (Alysa Orzolick)	Mandates that all family day-care homes install fences with locked gates around all swimming pools or other bodies of water on their property	2001	White	Female	2 yrs.
Sean's Law (Sean Patrick French)	Mandates immediate suspension of a junior license or driver's license of any individual less than age 18 who is charged with an alcohol-related offense	2002	White	Male	17 yrs.	

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
NY	Louis's Law (Louis Acompora)	Mandates that all school facilities maintain an external defibrillator onsite and that at least one person trained in its use be present at any school function	2002	White	Male	14 yrs.
	Penny's Law (Penny Lea Brown)	Places harsher penalties on juvenile offenders convicted of second-degree murder, requiring that they be sentenced to a minimum incarceration of 7 1/2 to 15 years (rather than the previous juvenile sentence of 5-9 years)	2003	White	Female	39 yrs.
	Adam's Law (Adam Barsel)	Mandates that all seat belts in taxicabs and other livery vehicles be clearly visible and in working order and that signs be posted in the vehicles encouraging passengers to use seat belt restraints	2003	White	Male	15 yrs.
	Joan's Law (Joan D'Alessandro)	Mandates life in prison without the possibility of parole for individuals who murder a child during the commission of a sex crime	2004	White	Female	7 yrs.
	Stephanie's Law (Stephanie Fuller)	Calls for criminal penalties for persons who use mechanical, digital or electronic devices to take pictures or create images of another individual where that individual has an expectation of privacy	2004	White	Female	29 yrs.
	VaSean's Law (VaSean Alleyne)	Strengthens New York State drunk-driving laws by permitting prosecution of drunk drivers for vehicular manslaughter	2005	Black	Male	11 yrs.
RI	Jillian's Law (Jillian Charron)	Mandates that anyone convicted of a DWI death must receive a minimum prison sentence of 5 years	1996	White	Female	6 yrs.

continued

State of Law	Name of Law	Type of Law	Date Passed	Victim Characteristics		
				Race	Sex	Age
TN	Lottie's Law (Charlotte "Lottie" Scott)	Allows the death penalty for those who kill persons over age 70	1998	White	Female	72 yrs.
	Haley's Law (Haley Spicer)	Provides stricter penalties for those convicted of abuse, neglect or endangerment that results in bodily harm to a child	2005	White	Female	4 yrs.
TX	Ashley's Laws (Ashley Estell)	Series of related laws that call for an automatic life sentence of 35 years without possibility of parole for anyone convicted of a first-degree felony against a child where the offender has 2 prior felony convictions. Require registration of sex offenders. Require police to publish a notice in the newspaper about convicted sex offenders and their crimes	1995	White	Female	7 yrs.
WA	Becca's Bill (Rebecca Hedman)	Permits parent to have police detain a runaway child in a "secure crisis residential center" for up to 5 days and allows police to detain a runaway child for a period of up to 7 days where the child is being held in contempt of court or if he or she has violated court-ordered conditions	1995	White	Female	14 yrs.

Purpose of Memorial Laws

Memorial Laws were introduced into state legislatures for a number of reasons, chief among them deterring crime and memorializing victims. At their root we might locate Americans' fear of and anger at a rising violent crime rate (or the perception of it), repetitive crimes by parolees, and random acts of violence. The

fervor for Memorial Laws seems to have been fanned by several high-profile cases, including the 1991 William Kennedy-Smith rape case and the 1992 killing of Kimber Reynolds. Following a rise in violent crime in 1992 and 1993, the years directly prior to the enactment of the first Memorial Law, and crimes by repeat offenders (as in the case of Polly Klaas), emotions were at a fever pitch, and thus the public and lawmakers sought new ways to deal with criminal threats to their communities through legislation that could be passed the fastest, with little discussion and minimal controversy. But Memorial Laws are about more than punishment and deterrence; they do more than address Americans' fear, anger, disbelief, and disappointment regarding the treatment of criminals. They also serve a social purpose: to transform personal loss into communal recognition. Such statutes have a symbolic significance for both the families of victims and for the neighborhoods in which the victims lived. These additions to state criminal codes put a public face on private anguish and serve as a legacy to victims who have died at the hands of strangers, acquaintances, childcare workers and therapists (Martinez, 1999; Haberman, 2005). They are a means of lessening fear among the public that a predator will harm others in the community and a means of empowerment (Cox and Baker, 1998; Wood, 2005). Thus, in an indirect way, Memorial Laws help contain moral panic over incidents that have the potential to produce sudden unreasonable reactions among the populace (Zgoba, 2004).

Memorial Laws arguably have subsidiary effects that are not openly recognized. John Robert Greene suggests that Memorial Laws offer "people who might not have an entrée to a legislative system an entrée they deserve" (*Post Standard*, 2006, p. A2). Furthermore, politicians sponsoring Memorial Laws are

afforded their own “name recognition [which] is a key factor in any campaign” (Gonzalez, 2002, p. B2). Moreover, lawmakers sponsoring bills with names of victims in their titles can capitalize on public opinion, and many state-level politicians advertise their own introduction of Memorial Laws on their Web sites and in their campaign literature. State representatives often use their involvement in the Memorial Law process to cultivate voter confidence in their policy-making abilities. The introduction of Memorial Laws into state senates and houses of representatives demonstrates commitment on the part of elected representatives to their constituents. They are responding, if unknowingly, to the words of a Democratic Massachusetts representative, Jim Brett, who said some years before the first Memorial Law was enacted, “They [constituents] come in here and tell us horrific stories. How can we not listen?” (McNamara, 1992, p. 12). Brett was referring to the way the members of Mothers Against Drunk Driving would make legislatures listen to their stories by humanizing the victims of drunk drivers. By carrying pictures of their dead children into Congressional offices, the mothers of MADD showed their understanding of the power of associating child victims with the crimes that killed them and thus helped to secure the passage of drunk-driving laws. It is clear that the strategies of organizations like MADD foreshadowed the tactics of the advocates of Memorial Laws.

Historical Review of Government Initiatives on Behalf of Victims

The trend toward the enactment of Memorial Laws began in the late 1970s. It commenced with the victims’ rights movement, which sought to improve the ways in which victims were treated. Traditionally, criminal courts focused on offenders and their crimes, and victims were marginalized in the process. There was a systemic

neglect of victims' demands in the judicial system. Making the victim whole was less important than punishing the offender, and victims were often little more than adjuncts to successful prosecution, testifying in court so as to strengthen the state's case rather than bearing witness to their own victimization. After trial, victims were typically not informed when an offender was released from prison.

Victim's rights activists sought and won a number of protections and privileges between the late 1970s and early 1990s. Activists for victims' rights prompted the Federal government to consider a new vision of victims beginning in the 1970s. Accordingly, the Federal government began to develop research panels of experts to oversee "this explosion of interest." Ultimately, the Federal legislature offered a number of schemes that assisted victims. Those most relevant to Memorial Laws include the 1982 President's Task Force on Victims of Crime and Violence, the 1984 Attorney General's Task Force on Family, and the Final Report of the President's Task Force on Victims of Crime (Office of Justice Programs, 1988).

The movement to statutory penalty and government liability is reflected through a number of provisions established to assist victims. Key benefits initiated to aid victims included: (1) Victim impact statements that were to be included in pre-sentence reports prepared for federal judges and given to them prior to decisions on sentences meted out to defendants who had committed federal crimes; (2) protection of victims and witnesses from intimidation by imposing sanctions on those who harassed either group; (3) payment of restitution to victims, independent of any other sentence prescribed by the court; (4) government liability for the escape or release of criminals whose acts resulted in physical injury or property loss to victims; (5) guidelines issued for a victims' bill of rights that provided minimal rules for the

treatment of victims and witnesses in the criminal process; and (6) statutory provisions that forbid criminals from receiving financial remuneration as a result of a crime he or she was involved in, including money from publishers of books and movie directors.

The Final Report of the President's Task Force on Victims of Crime (1984), along with the conclusions of other related research, propelled the passage of the Victims of Crime Act in 1984. As part of this Act, governmental officials established the Federal Office for Victims of Crime in the U.S. Department of Justice. In addition, 1984 saw the initiation of a new fund to compensate victims of crime, known as the Crime Victims Fund, as well as the Justice Assistance Act, which established financial assistance programs for victims on both state and local government levels. Other developments in victim-oriented bills included the creation of the National Center for Missing and Exploited Children (NCMEC) in 1984, as well as the passage of the Missing Children's Assistance Act, which provided a Congressional mandate for the NCMEC.

Congress spotlighted the Federal government's interest in victims, particularly those who had been injured in attacks of domestic violence, via the passage of the Family Violence and Prevention Act (1984). This act earmarked Federal funding for programs serving those harmed by acts of domestic abuse. Two other events in 1984 highlighted the plight of victims of rape, sexual assault, and child molestation. These activities included the first National Symposium on Sexual Assault (co-sponsored by the Office of Justice Programs [OJP] and the Federal Bureau of Investigation [FBI]). Additionally, child victims were recognized at a National Symposium on Child Molestation sponsored by the Office for Victims of Crime.

The years between 1987 and 1990 conveyed an increasing interest in the plight of particular crime victims during that period. The Victims' Constitutional Amendment Network (VCAN) was formed, as well as the group entitled Security on Campus, Inc. The latter was due to the efforts of Howard and Connie Clery subsequent to the robbery, rape, and murder of their daughter, Jeanne, at Lehigh University. Its purpose was to increase awareness of violence hidden on college campuses. The labors of the Clery's resulted in the 1996 passage of the Federal Student Right-to-Know and Campus Security Act that was signed into law by President Bush. This act required institutions of higher education to publish crimes that had occurred on campus to the public, particularly crimes associated with the death of Jeanne Clery, which included robbery, rape, and murder.

The Victims of Abuse Act of 1990 and the Victim's Rights and Restitution Act of 1990 followed the victims' rights legislation discussed above. The former featured reforms to minimize trauma to child victims and witnesses of crime who were required to testify in criminal proceedings. The latter incorporated a Bill of Rights for Federal crime victims and codified victim compensation and assistance. In 1990, the first governmental publication on child victims entitled, "National Incidence Study on Missing, Abducted, Runaway, and Thrownaway Children in America" (NISMA) was published, leading the way to the National Child Search Assistance Act. This measure required law enforcement officers to submit reports regarding children and unidentified victims into the National Crime Information Center computer system.

The needs of victims were further recognized in 1991 when the United States Attorney General's Office issued comprehensive guidelines for dealing with victims of crime. These directives integrated a number of prior protections for victims that

included the Federal Crime Victims Bill of Rights, the Victims of Child Abuse, and the Victim and Witness Protection Act of 1982.

In 1992, Congress passed both the Campus Sexual Assault Victims Bill of Rights, as well as the Battered Women's Testimony Act. The latter Act, signed into law by President Bush, encouraged states to accept expert testimony in criminal cases that involved battered women. The Federal Legislature continued to offer aid to the plight of victims in 1993 by passing a law that established a national repository for information related to sex offenders who victimized children. The Act, entitled the Child Sexual Abuse Registry Act, sought to provide law enforcement agents with a central locator of offenders previously convicted of sexual abuse/molestation of children.

The stages of victims' rights legislation and the movement toward protecting especially innocent victims prepared the scene for a new type of victims' rights laws that would emerge as Memorial Laws. The groundwork in social movement, public awareness, and accrual of political capital was set; public outrage in the form of collective action and calls for social order were beginning to take recognizable form.

Purpose of the Study

The overall goal of the present study was to explore the phenomenon of Memorial Laws as a natural extension of the victims' rights movement. It was hoped that this research would uncover some links with variables other than those normally associated with victims' rights. Included amongst these factors were socio-cultural traits of victims, relationships between media and criminal justice matters (e.g., publicity given to victims and impact of media on criminal justice policy) and politico-

cultural issues (e.g., the dominant political ideology within a state). Further, other research questions focused on the extent to which crime rates and population size are associated with state governmental enactment of Memorial Laws. Relational patterns between Memorial Laws and certain types of crime committed against the public were explored to assess how representative Memorial Laws are of distinct crimes and other acts resulting in death or severe injury to victims. This study proposed to delineate some potential political characteristics that may be associated with a greater likelihood that a Memorial Law will be enacted. For example, this study hypothesizes that a thematic connection may exist between the passage of Memorial Laws and a state's dominant political culture (in terms of moralistic, traditionalistic or individualistic) or its ideology (in terms of liberalism vs. conservatism).

Another question this research raises is: What is the effect of Memorial Laws on violent crimes addressed by the laws? In the years directly prior to the introduction of Memorial Laws, the violent crime rate was at its highest level in a decade, according to data from the U.S. Department of Justice, Federal Bureau of Investigation (see Figure 1). Figure 1 shows the violent crime rate by year from 1988 to 2007. Between 1988 and 1991, the violent crime per capita was rising, peaking in 1992. Following 1992, however, the violent crime rate in the United States dropped continuously until 2000, when it leveled off and remained consistent through 2007.

Observations of Memorial Law passage trends and violent crime rate trends reveal that as Memorial Laws were increasingly enacted, rates of violent crime were decreasing. This finding suggests that Memorial Laws were accomplishing one of the goals for which they were seemingly intended: minimizing the occurrence of

certain types of crimes that communities felt were particularly harmful. To determine whether this in fact was the case, this study analyzes the relationship between the conditions that sparked societal anxieties and the passage of Memorial Laws.

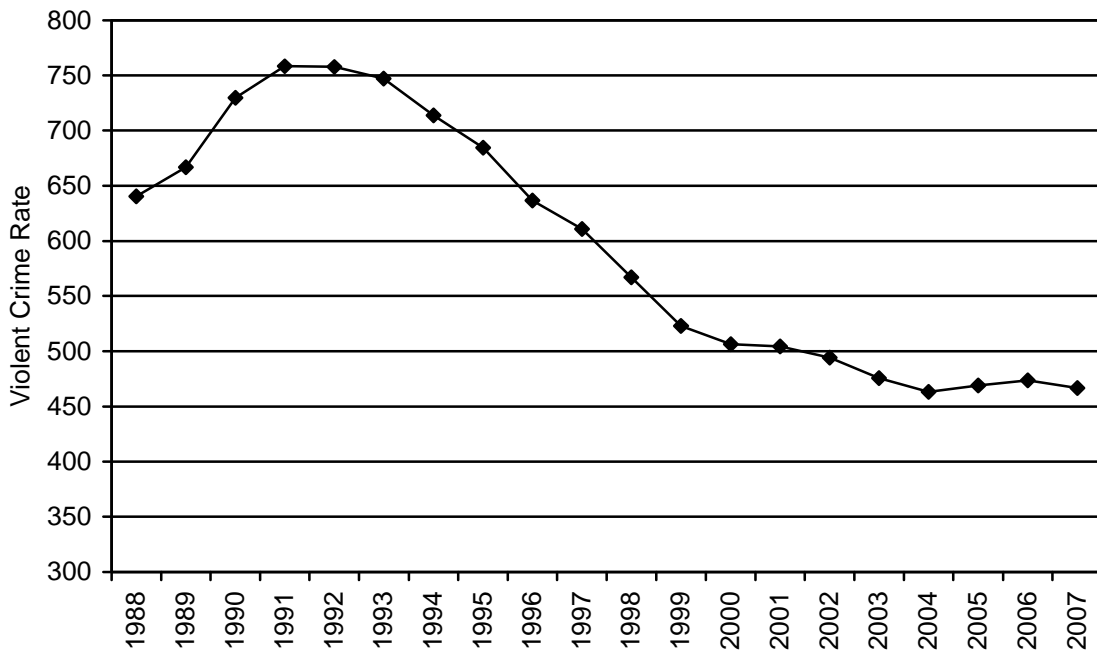


Figure 1. Rate of violent crimes occurring in the U.S. between years 1988 and 2007 (U.S. Department of Justice, 2009).

Significance of the Study

The present study proposes to increase our understanding of the factors associated with the passing of Memorial Laws. Study findings may offer useful knowledge to experts in the criminal justice field tasked with analyzing laws primarily drafted to memorialize specific victims of crime. Results may contribute to a

perspective that views Memorial Laws as not only a result of ideological changes in the way society chooses to deal with lawbreakers or punish offenders, but also as a motivation to develop new types of state laws. The study may also contribute to an understanding of the procedural aspects of developing these laws. Further, findings may be helpful to criminal justice scholars by enhancing their understanding of an intricate and involved phenomenon that has had an impact on a diverse body of individuals (e.g., victims' families, the public, offenders, and lawmakers) and continues to affect the society at large. In addition, given the lack of research on Memorial Laws, this study may provide criminologists and other experts in various disciplines (e.g., political science, law, sociology, and psychology) a foundation on which to base future criminal justice, political and legal policy.

Research Design

This dissertation delves into the social, demographic, and political dynamics that it hypothesizes are associated with the trend of naming laws for victims of crime in various state legislatures. Specifically, the present study explores the following variables as they relate to the enactment of Memorial Laws in various states: violent crime rates; state population; types of crimes or harmful acts; victims' age, race, and gender; and the dominant political ideology and political culture in each state. The data used in this study consisted of all Memorial Laws enacted in state legislatures during the years of 1994 to 2005.

The basic orientation of this dissertation will be one of static group analysis. This type of qualitative research permits an examination of observable data that cannot be expressed in numerical fashion. The static group comparison design is

one that provides important advantages over other types of research in this kind of study. It provides "information on a large number of potentially relevant factors [that] can be assessed which is useful in exploring which factors are likely to be the most influential. And...these factors can be studied in the natural, everyday context in which they occur" (Kramer, 1997, p. 11). In particular, this type of qualitative research design assists the scholarly examination of the sociological traits of victims and the crime variables that appeared to be associated in some manner with the adoption of tombstone laws in various states.

Research Questions

1. Was there a relationship between the violent crime rate in a particular state from 1994 to 2005 and the enactment of Memorial Laws in that state?
2. Was there a relationship between rates of violent crime in all Memorial Law states combined and the cumulative number of such laws between 1994 and 2005?
3. Was there a relationship between the types of incidents at the foundation of Memorial Laws and the number of Memorial Laws enacted?
4. Was there a relationship between the race of victims and the racial demographics of the states enacting Memorial Laws?
5. Was there a relationship between the gender of victims and the enactment of Memorial Laws?
6. Was there a relationship between the age of victims and the enactment of Memorial Laws?

7. Was there a relationship between the percentage of states with Memorial Laws and the dominant political ideology in each state?
8. Was there a relationship between the percentage of states that adopted Memorial Laws and the dominant political culture in a state?

Conceptual Framework

The use of existing literature in a variety of academic fields is crucial to understanding the passage of Memorial Laws. Social theories will be applied to determine which of them most closely fits the sociological view of various acts that were the basis for Memorial Laws. In particular, social constructionism will be evaluated to see how the theory may be applied to crimes that were the foundation for Memorial Laws.

In this study, social problem theory will be employed to identify the public concerns that were the basis of Memorial Laws. These include, but are not limited to, emotional abuse of children (e.g., Lizzie's Law), negligent care of children while in daycare centers (e.g., Jeremy & Julia's Law), and increased penalties for individuals convicted of assaulting pregnant women (e.g., Jenny's Law).

Media studies are another arena that may explain the thrust towards Memorial Laws. Accordingly, a review of the literature relating to the impact of publicity on public sentiment will be examined. Given that media accounts may be influential in framing or pinpointing events for the public, this study makes use of individual articles on Memorial Law victims, editorials in newspapers, and statements by lawmakers in the news or in press releases. These will aid in illustrating how specific

wording, the focus on particular crimes, and an emphasis on victim characteristics serve to influence both the public and policymakers.

Assumptions and Limitations

One potential limitation of the present study is that only a select number of factors were chosen for examination. Given that the present study was the first to evaluate the associations between various demographic, social, and political factors and Memorial Law enactment, it was difficult to identify all potential macro and micro factors that may have contributed to the trend. Another limitation involves making conclusions about causal connections between certain factors and the enactment of Memorial Laws. The current research did not involve experimental manipulation, and thus only conclusions regarding associations were drawn.

Definition of Terms

1. *Memorial Laws* are laws that have short titles, as part of their codification, that recall the name of a crime victim who was victimized in a situation that the law seeks to redress. Memorial Laws, as utilized in this research, include only legislation passed in the original state where the act of harm or crime occurred.

2. *Violence* is defined as the “threatened or actual use of physical force or power against another person, against oneself, or against a group or community that either results in, or has a high likelihood of resulting in, injury, death, or deprivation” (Jackman, 2002, p. 391).

3. *Crime* is defined as “an offense against public law, either the commission of an act that is forbidden or the omission of a duty that is commanded by public law” (Ross, 1990, p. 129).

4. *Violent crime rates* are the rates per capita of criminal acts that researchers consider violent (including all violent crime classifications used by the Uniform Crime Reports). These crimes comprise murder and non-negligent manslaughter, forcible rape, robbery and aggravated assault. Since many of the violent crimes that are the focus of this research occurred concurrently with each other, the Hierarchy Rule used by the Federal Bureau of Investigation was employed herein as well. The Hierarchy Rule requires that only the most serious offense, in a multitude-offense criminal incident, will be counted (UCR, 2003, p. 387).

5. *Vulnerable victims* refer to individuals who are generally conceived of in the public imagination as persons who are weak, helpless, easily victimized, or susceptible to attack (i.e., women, young children, the elderly, and the handicapped).

6. *Memorial Law victim* refers to an individual for whom a Memorial Law was passed that contains his or her name in the title of the legislation.

7. *Victim characteristics* refer to the age, race, gender, and socioeconomic bracket of the victim.

8. *News* refers to reports, through a variety of media, of events that are new or uncommon.

Summary

The purpose of the present study is to conduct an in-depth qualitative evaluation of the sociological traits of victims and the crime variables that appeared to be associated in some manner with the adoption of Memorial Laws in various states. The present research represents a first attempt to investigate Memorial Laws as a phenomenon. The study presents several important factors that it hypothesizes to be related to Memorial Law passage. These factors include socio-cultural conditions (e.g., fear of crime, publicity about victims and attention given by the media to victim attributes) and political activities (e.g., the dominant political ideology statewide, the political culture of a state), among others. The data used in this study consists of all Memorial Laws enacted in state legislatures between 1994 and 2005.

By examining a number of social, demographic, and political factors associated with Memorial Law enactment, this study seeks to increase our understanding of the phenomenon of Memorial Laws. Chapter 2 presents a review of the relevant literature on Memorial Laws and proposes the way that this study will add to the scholarship. Chapter 3 specifies the study's methodology. Chapter 4 presents the findings in the study, and is followed by Chapter 5, the conclusion, which discusses and synthesizes the findings.

CHAPTER 2: LITERATURE REVIEW

The purpose of the present research is to examine the interface of a specific type of legislation and any social theories that may explain its introduction into state legislatures. Given the history of Memorial Laws, it seems clear that there was some nexus between the types of crimes and the characteristics of the victims that drove these legislatures to enact Memorial Laws. It is not obviously clear, however, whether distinctive characteristics of victims alone or the types of violent crime that caused the death of victims were at the root of the trend toward Memorial Laws that began in 1994. The logical point to begin research into the origins of Memorial Laws would be to review the existing literature on theories of social problems, which would provide insights into both criminals and victims. The second part of the literature review will discuss the scholarship on the ways the media typically covers crime and victims.

Theories of Social Problems

Social problems theories may provide a useful foundation from which to understand the passage of Memorial Laws. The two most utilized models in social problem theory are the objectivist and the subjectivist (e.g., social constructionist theory) approaches. This part of the literature review will outline the two approaches as they have been discussed in the literature and then demonstrate how they might be applied to the enactment of Memorial Laws.

Objectivist Theory

Objectivism is a sociological approach that claims that there is an objective definition of what a social problem is (Best, 1995, p. 3). From the objectivist perspective, there is an objective way to approach a social condition: either it is a social problem or it is not, based on objective criteria. These objective sociologists approach social problems by considering conditions that violate social norms or rules as being intrinsically harmful to a healthy society (Blumer, 1971, pp. 298, 300). Their approach has been summarized well by L. K. Frank, who in 1925 defined a social problem as that which “appears to be any difficulty or misbehavior of a fairly large number of persons which we wish to remove or correct” (Frank, 1925, p. 463).

Best (1995) argues that several flaws exist in the application of objectivist reasoning to social problems. Chief among them are, first, that there is no objective way to determine what is and what is not a social problem and, second, that conditions identified as social problems are too diverse for there to be a single way to define (and thus talk about) a “social problem” (p. 5). Rodolpho (2001) demonstrates the impossibility of discussing “objective” definitions of and solutions to social problems when he writes that a condition or behavior present in society does not take on the definition of a social problem unless “a sufficiently powerful population becomes collectively aware of conditions it considers threatening to its well being and, consequently, sets out to alter those conditions so as to reduce the perceived threat” (Rodolpho, 2001, p. 5).

An example illustrating Best’s critique of objectivism is the change in how the American public has perceived the act of spanking or paddling children. Historically, the proverb “spare the rod and spoil the child” was considered a model for use with

children. Those who misbehaved were regularly punished by parents and teachers who used slapping or a wooden instrument to punish them. In an objectivist perspective, this act was necessary to correct a social problem, children's misbehavior. Moreover, this act was not considered damaging to children psychologically. However, a change in philosophy (i.e., a more subjective approach) occurred as society began to consider some of the damage corporal punishment caused to children. Social protest against the use of physical force as discipline led to the consideration of this act as "child abuse." This example illustrates how similar behavior—spanking or paddling—can be construed in two very different fashions, depending on changes in contemporary social attitudes. An objectivist position today might assert, for example, that spanking is reasonable under some circumstances. Alternatively, another perspective (e.g., social constructionist theory, to be discussed below) may suggest that striking a child is always abusive.

Objectivist Theory Applied to Memorial Law Passage

Regardless of Best's and others' criticisms of objectivist theory, we might conceivably apply objectivist theory to explain the trend of Memorial Law passage, in that a Memorial Law typically arises from the identification of a social problem that needs corrective action. The Memorial Law could be posited as the corrective action, and thus could be seen, as in Frank's 1925 construction, as the way to "remove or correct" the social "difficulty" or the "misbehavior of a fairly large number of persons."

While objectivist theory may at first glance explain why Memorial Laws have been enacted, there are several reasons that objectivism does not offer the best

means to explain the Memorial Law trend. Objectivists would view only some of the events (both criminal and non-criminal) underlying many Memorial Laws as objectively damaging conditions necessitating ameliorative action. Other behaviors at the core of personalized legislation would not necessarily be viewed as objectively deviant, aberrant, or harmful. Therefore, it is difficult to apply objectivist theory uniformly to all Memorial Laws. Moreover, since the individual acts that brought about Memorial Laws are wildly different, objectivists would not be able to categorize them in a way that would lead to the development of a given corrective action. There is no one social problem that demands the enactment of a Memorial Law to correct it, because Memorial Laws identify many different problems: rape, child abuse, murder of a child, murder of a person over age 70, failure to provide helmets at a riding stable, etc. There is very little overlap among the reasons for the enactment of all 43 Memorial Laws that came into being during the period of this study. Another flaw in using the objectivist philosophy to explain how particular acts or events resulted in Memorial Laws is that many of the behaviors underlying Memorial Laws were present at previous times in history but were not always regarded as “social problems.” But in the 1990s, when the first Memorial Laws came into being, these acts were judged to be problematic *then*. This view conflicts with the ideology of the objectivist perspective, which claims that certain acts and conditions are intrinsically harmful to society. The objectivist position fails to explicate how and why similarly harmful conditions may be dangerous at some points in time but not at others. This is one of the main rationales why the objectivist conception of social problems has fallen into disfavor in the past 30 years. It is also one of the reasons that objectivism does not provide the best theoretical foundation to understand the trend of Memorial

Law passage. Accordingly, we now turn to a second theory of social problems in an attempt to justify how the conditions that led to Memorial Laws came to be widely regarded as harmful acts.

Social Constructionist Theory

The social constructionist view conceives social problems as conditions that society characterizes as problematic. According to social constructionists, these conditions mutate over time according to shifts in social mores. Their approach differs from the objectivist approach because it argues that no conditions are inherently bad or harmful for society. Situations or behaviors only become social problems when they are so constituted by society. Becker (1966) suggested that social problems are the consequence of a process whereby a group of individuals perceive certain behavior as a threat to their values and therefore define the behavior as inappropriate or even dangerous to society's value system. Northcutt (1992) has described the social construction of reality in terms of "individuals, groups and societies [who] tend to place interpretations upon reality—interpretations that may or may not be true in an absolute sense. These definitions, explanations, and assertions are constructed to help us make sense of those things and events that we experience and to help us decide how to respond to those experiences. In the face of uncertainty and ambiguity, these social constructions themselves are frequently based on 'fashionable' and therefore changeable assumptions and value systems" (pp. 1-2).

Social Constructionist Theory Applied to Memorial Law Passage

Social constructionist theory has been used to explain a number of criminal justice issues, including the abduction of children (Gentry, 1988), elder abuse (Baumann, 1989), child abuse (Johnson, 1989), missing children (Best, 1987), sexual assault (LaFree, 1989), rape (Walby, Hay & Soothill, 1991), child molestation by sexual predators (Davis, 2005), and serial homicide (Jenkins, 1994). These incidents and acts would seem to be objectively harmful to society and thus it is not particularly controversial to view them negatively. But Memorial Laws complicate matters, because many other acts that caused injury or death to victims were infused with a similar negative quality even where they were not obviously or objectively problematic. Examples of seemingly neutral behaviors that caused injury or death to victims that nonetheless resulted in epitaph legislation include “drowsy driving” (Maggie’s Law), “lack of defibrillators in schools” (Louis’s Law), “ordering a child to visit a parent in prison” (Lizzie’s Law), “rebirthing therapy” (Candace’s Law), and “lack of locked gates around swimming pools at home daycare centers” (Alysa’s Law). Others eponymous statutes came into being as a result of incidents that had at other times in history been deemed not particularly damaging to society, but now were considered harmful. Examples of these acts include drunk driving (e.g., VaSean’s Law, Jillian’s Law, and Christopher’s Law), child abuse (e.g., Haley’s Law), and granting liberty to mentally ill individuals to travel outside of mental institutions at will, regardless of their present state of mental health (e.g., Kendra’s Law, Laura’s Law, and Kevin’s Law).

A number of circumstances leading to Memorial Laws have illustrated how certain problems have come to be socially constructed as problems correctable by

legislation. For example, the New York Health Department began to examine “shaken-baby syndrome” as a social problem needing a remedy in 1988. It was not until 2000, however, after the death of eight-month-old Cynthia Gibbs, that stringent laws came into effect to prevent brain injury or death to young children by shaking. The public uproar generated by Cynthia Gibbs’s victimization caused the state of New York to enact a comprehensive law in 2006 (Cynthia’s Law) that offered highly punitive consequences to those who caused severe physical injury to a child by shaking. Similarly, the failure to notify drivers that seatbelt “buckle ups” were required in livery vehicles became a social problem only after the death of 15-year-old Adam Barstel in 2000. Adam’s relatives protested to politicians regarding the lack of legislation related to visible seatbelts in a vehicle for hire. The lack of visible seat belts in livery vehicles was then constructed as a social problem, resulting in the passage of Adam’s Law in 2003. In yet another example, “force-feeding medicine” to children at daycare centers to help them sleep was not considered a social harm in the years preceding the death of one-year-old Dane Heggem. However, in 2003, this circumstance became a significant source of social anxiety when Dane’s parents, Calista and Travis Heggem, publicized the reason for Dane’s death. In successfully thrusting the issue of forced drugging of children at daycare centers, the Heggems were able to convince the Montana state legislature to enact a statute (Dane’s Law) to protect other toddlers from a similar fate.

Claims-Making

Central to the idea of social constructionism is the concept of claims-making, whereby “social problems” come into existence only after a particular situation is

collectively identified as a problem. Social constructionists often use the resource of claims-making as a means to call attention to the importance of particular issues. Spector and Kitsuse (1987) contend that claims-making is necessary to bring social problems to public attention. Claims-making activity extends the notoriety of one traumatic incident from the individual victim so as to encompass the world at large. Claims-making activities can include protest (Goode & Ben-Yehuda, 1994), marches, campaigns, media publicity (Holstein & Miller, 1993), pressure on legislators (Holian, 2004), and other types of activism (McVeigh, 2006).

Typically, according to Joel Best (1999), claims-makers hope to persuade others that “X is a problem, that Y offers a solution to that problem, or that a policy of Z should be adopted to bring that solution to bear” (p. 24). Claims-makers bring visibility to issues and attract attention to social problems that might otherwise go unnoticed by anyone other than the immediate family and friends of the victim. The benefit to claims-makers is that they are able to effect change and to ensure that the government acknowledges their interests.

The actions of claims-makers are exemplified in the national crusade for missing children (Best, 1987). Claims-makers were able to mobilize public support both for runaway children and for children who were taken by noncustodial parents. These activists called for the involvement of social institutions and the Federal government (Best, 1987). Their efforts resulted in public support for a variety of studies conducted by the Federal government throughout the 1970s and 1980s (on children as victims) and ultimately led to recommendations for social policies to prevent harm to children. By publicizing threats to children, claims-makers were also responsible at least in part for laws related to child welfare (such as safety measures

in the form of accreditation of daycare centers and background checks of childcare workers) and to child abuse (laws governing the physical and sexual assault of children) (Pfohl, 1977).

Temperance organizations in the late nineteenth and early twentieth centuries offer an early model for claims-making activities that resulted in new laws. The Prohibition Party, founded in 1869, and the Women's Christian Temperance Union, founded in 1873, were particular examples. The women of the WCTU, for instance, banded together over ideological agreement about the ills of intoxicating beverages. The ills of alcohol, as constructed by the WCTU, were not restricted to its effects on the drinker; rather, they included the harm that adult alcohol use would visit on children, both through physical harm and through setting a poor moral example for them. The women mobilized in meetings at churches, held prayer groups, and protested at saloons. By the early twentieth century, the Anti-Saloon League had replaced the Prohibition Party and the WCTU as the major proponent of anti-alcohol legislation, but the overall goal was the same, and the decades-long lobbying for changes in laws resulted in the institution of Prohibition in 1919. The Eighteenth Amendment to the U. S. Constitution was enacted as an outcome of their collective action. Until its repeal in 1933, this legislation banned the importing, exporting, transporting, selling, and manufacturing of alcoholic beverages. Prohibition demonstrates an instance in American history where alcohol was constructed as being harmful, but it was certainly not the last. Its ineffectiveness suggested that other approaches to protecting children from the ills of alcohol, rather than an out-and-out ban on alcohol, might be more effective.

An evolution in claims-making activity geared toward protecting children from the dangers of alcohol was clearly evident in May 1980, when Candy Lightner of California, whose daughter Cari was hit and killed by a drunk driver, coordinated Mothers Against Drunk Driving. This organization went on to raise the country's emotional awareness of drunk driving. By publicizing her 13-year-old daughter's homicide as an exemplar, Lightner succeeded in motivating legislators to rein in drunk driving, rather than to ban alcohol altogether. The result was a change in Federal legislation. In 1984, President Ronald Reagan signed legislation to force states to mandate a legal drinking age of 21 or risk the loss of considerable Federal funding for highways.

This example of the social construction of alcohol use as harmful in two different centuries captures the essence of social constructionism. Actions may be seen in a different light at varying times in a country's history, and claims-making activity may take two quite different forms, but the ultimate result is the same, according to the constructionist paradigm. The repeal of Prohibition revealed that the complete restriction of alcohol use was neither viable nor acceptable to wide swaths of society, but the later public embrace of Mothers Against Drunk Driving suggests that the same goal—saving children by restricting alcohol use—can be achieved through different means, this time by regulating alcohol use by drivers.

Innumerable other behaviors fit the same social constructionist mold. For example, abortion may be viewed at one time as illegal and at another time as perfectly acceptable (Linders, 1998). Spanking a child at school can be viewed as an appropriate means of punishment or as physical abuse of a child. Sex between

adults and children can be seen as a not particularly great problem during some historical periods (Finklehor, 1979) but of serious consequence during others.

Claims-Making as Essential to Memorial Laws

This point—that attitudes toward behaviors change over time—must be kept in mind as we delve into case examples of Memorial Laws. There is an element of chance or fate that no one speaks of when theories of social construction are discussed. Unquestionably, many children and adults suffered the same fate as Memorial Law victims at varying times in the history of the United States, but they never were personally acknowledged in a statute. For example, in 1978 15-year-old Mary Vincent was the victim of a kidnapping, rape, and axe-mutilation outside Modesto, California. Her assailant, Larry Singleton, had severed both her arms and committed what was then considered the most vicious assault in California history, but was paroled after a mere eight years despite a sentence of fourteen years plus eight months. The axe mutilation of Vincent was gruesome enough to warrant publicity for legislation in her name to change the law of determinate sentencing in California, yet no claims-makers advocated a statute in her name despite widespread fear that Singleton would be released from prison (“New Laws Would Have Kept Rapist in Jail,” 1997). Nor were there claims-makers to pressure the legislature in Florida for a law after Singleton killed his next victim, Roxanne Hayes, in 1997, some years after his release for the crime against Mary Vincent (Allard, 1999). Clearly, claims-making related to crimes similar to those against Mary Vincent and Roxanne Hayes helped to put many Memorial Laws on a fast track in state legislatures, and one might argue that if there had been more claims-making

concerning Singleton's previous acts of violence (on his wife and daughter) before his attack on Vincent or Hayes, one or both of them might have been personalized in a statute. The element of chance in claims-making is evident in this case, in that claims-making did not apply to Mary Vincent because she was considered troubled and was estranged from her family in Nevada, living on her own in California at the time of her attack by Larry Singleton. Similarly, Roxanne Hayes was a 32-year-old prostitute in Florida who did not have the strong support of family members to assert the need for legislation such as a "Roxanne's Law." Both Vincent and Hayes had the misfortune to be considered, in 1978, too problematic as victims to stand in for all victims of similar crimes. Furthermore, Memorial Laws did not take off for another 15 years, and when they did, they tended to be attached to victims with similar injuries but whose plight could be protested more vigorously with claims-making activities such as marches and demonstrations.

As Memorial Laws became commonplace in claims-making activities for epitaph legislation, they expanded to include persons injured emotionally (absent any physical harm). By 2003, Memorial bills no longer required a physical injury or death to a victim to be ushered into legislative chambers. In June 2003, Stephanie's Law was signed by the Governor of New York. The legislation was based on the surreptitious surveillance of Stephanie Fuller by her landlord who spied on her by using a small video camera hidden in a smoke detector above her bed. Her own personal outrage and claims-making produced legislation named for her. Any type of emotional harm to an individual could suffice for a congressperson or senator to support a Memorial bill. For example, in Leslie's Law, a taxpayer's bill of rights for divorced people proposed in New York sought to "offer stronger protections to

estranged spouses like Leslie Selkirk who find themselves dunned for the tax liabilities of ex-husbands” (Hill, 1998, p. C5).

Regardless of whether a Memorial Law is crafted to redress a physical or an emotional injury, it does require some type of claims-making on behalf of a victim. The theoretical underpinnings of Memorial Laws necessitate that for such a legacy to be crafted, there must be prompting by a victim’s family and friends (i.e., claims-making) to attract support to his or her cause. Essentially, when a person or group of individuals with a particularly resonant story tell a victim’s story to the public and to state representatives and/or senators, the Memorial Law process seems to begin. The necessity of a socially supported claim for Memorial Law enactment was provided by Attorney General Patrick C. Lynch in a statement made to the press in 2007. In his remarks, he noted specifically that two Rhode Island Memorial Laws were passed in 2007 due to claims-making activities. According to one report, “Lynch credits the advocacy of the families of Lindsay Ann Burke and Justine Nunes for ensuring the passage of laws named in memory of these two young victims” (“Attorney General Lynch Bills Enhance Rhode Islanders’ Civil, Criminal Protections,” 2007 July 11). Alternatively, as noted in the Vincent and Hayes cases, where there was a lack of activism on the part of the family of the victims and the media (i.e., there was no attempt at claims-making) epitaph legislation was not endorsed by the legislature.

An in-depth review of news articles and newswires that reported claims-making activities by family of victims revealed an interesting pattern. In cases where Memorial Laws were passed, strong collective protest and pressure on legislature members were evident. In one case, Monique Dixon, mother of victim VaSean

Alleyne, took 10,000 handwritten signatures to her senators' office in 2004 in an effort to toughen laws against drunk drivers. In another example, Megan Kanka's family was able to generate 30,000 signatures for legislation in her name within a mere four weeks of her death. In another case, even stronger group efforts to pass a Memorial Law were involved when an entire union pressured Michigan Representative Alan Sanburn (R-Richmond) to sponsor Lisa's Law. Similar claims-making activity was noted in New York state when Governor Pataki signed Penny's Law on July 22, 2003. As reported by Rosenberg, "Pataki credited the families for telling their stories publicly and building support for the law." (2003, p. 1). Penny Brown's family lobbied legislators and gathered letters of support through an e-mail campaign and Web site (Rosenberg, 2003, p. 01). Claims-making activities such as these often determine whether a Memorial Law becomes a reality or not.

Claims-Making and Ownership of Social Problems

A key to claims-making may necessitate another important factor according to Best: that of ownership (1989). Ownership involves "the ability to create and influence the public definition of a problem" (Best, 1989, p. 12). Ownership plays a strong role in the way in which a social problem or crime is handled. For example, in the latest rage over sexual exploitation of children by priests, a number of experts competed to seek ownership of the problem. Ownership of the clergy sex scandal meant that the individuals would have "the right to have their interpretation accepted as correct and authoritative, and these were without exception strongly critical of the ecclesiastical authorities tendency to cover-up or 'stonewall' in the face of a scandal" (Jenkins, 1995, p. 108). Jason Berry, who studied a number of cases involving

sexual abuse of children by priests, was one writer who sought to own the problem of sexual abuse of young people by Catholic priests. Marie Fortune, a feminist ordained minister and religious writer, was another. Catholic clergymen such as Andrew Greeley and Thomas Doyle and ex-priest A.W. Richard Sipe (2003) all of whom had their own insider views of the issue sought ownership of the child-abuse-by-clergy issue. Ownership is also an important concept for the process that involves enactment of Memorial Laws. In essence, someone must “own” the “problem” that caused the injury or death of a child or adult before it becomes important to others. Absent this feature of ownership, Memorial Laws are unlikely to be enacted. Alternatively, victims whose families are insular, who are marginal in society, who do not have the resources or time to put into publicizing their loss, organizing support groups, or campaigning for new laws often receive so little attention that legislators are not likely to take up their cause.

Formal advocacy is another significant aid for those who desire to see legislation passed that contains the name of their family member in the title. Grassroots organizations, advocacy groups and foundations have the ability collectively to accomplish things that individuals cannot. For example, a grassroots organization formed by parents Karen and John Acompora led to the formation of the Louis J. Acompora Foundation. Louis Acompora died from a blow to the chest while playing lacrosse at his high school in Northport, New York. Initially Louis's death did not garner much attention from the media, despite his family members' public outrage at the lack of defibrillators in the school. When the family formed the foundation, however, they were able to campaign as a larger body of activists and were able to successfully lobby for Louis's Law (requiring defibrillators in schools),

claiming that defibrillators in schools were vital to the welfare of all students. Louis's Law won votes in both the New York House of Representatives and Senate through efforts of supporters and was signed into law by Governor Pataki on May 7, 2002.

A number of the groups, which formed the basis for protesting certain social conditions, have achieved a level of "special interest groups" once reserved for business conglomerates and major corporations.¹ For example, as journalist Lara Jakes aptly noted, the efforts of the parents of victim Jenna Greishaber, after whom "Jenna's Law" was named, "have been held in awe by professional lobbyists, who spend hundreds of thousands of dollars each legislative session to get their clients' bill passed" (Jakes, 1999, p. A1). By accumulating resources for social change, including the recruiting of activists, raising of funds, attraction of media attention, and enlistment of high-profile individuals (to serve as figureheads), small groups of family members of victims can garner adequate political strength to persuade state legislators to sponsor a law personalizing a family member who has been the victim of crime or injury.

Overall, the constructionist view of social problems is one in which popular conceptions of crime and other types of victimization are interpreted, shaped and illuminated by society. In particular, constructionist theory provides the basis for proposed changes in longstanding public policy (e.g., Memorial Laws) in an effort to provide social control over crimes and other acts of harm associated with contemporary social problems.

¹ Examples include Mothers Against Drunk Driving (MADD); the National Center for Missing & Exploited Children (NCMEC), founded by victim Adam Walsh's father, John Walsh; and the American Association of Retired Persons.

According to Henry and Lanier (2001), “For crimes and the definitions of them, the social construction of reality process is...crucial, and the media are crucial for the process. The shared meaning of what social acts are considered normal, deviant or criminal is social constructed, constantly contesting and evolving. The mass media is a key player in the social construction of societal harms and crime definition” (p. 148). State statutes governing child molestation are a case in point. For example, in 1949 in California child molesting was a misdemeanor (Rasmussen, 2004) but later became a felony following the 1950 molestation, stabbing and strangulation of six-year-old Linda Joyce Glucoft. In 1994, as discussed previously, similar acts committed against seven-year-old Megan Kanka in New Jersey were not only considered felonies but also resulted in the identification of new legislation in the name of the victim. By presenting a new social harm, or redefining a previous one, the media play a necessary role in the claims-making process that could influence the passage of Memorial Laws.

Media Coverage and Enactment of Memorial Laws

Media and Construction of Crime

Media coverage and its association with the construction of crime also serve a place in the enactment process of Memorial Laws. The media help foster the perception of growing social problems in a way that declarative statements from family members of victims alone do not. Media construction of crime has helped identify and define it for society (Sacco, 1995; Dowler, Flemming, & Mazzuti, 2006). In particular, the media have helped shaped social reactions to rape (Gittler, 1984), child victims (Fass, 1997), battered spouses, and the elderly (Fishman, 1978), as

well as sex crimes in general (Greer, 2003). Similarly, media construction of the events forming the basis for Memorial Laws has facilitated their enactment. For example, a Detroit *Free Press* article on the lack of mental health treatment in Michigan helped “spotlight the fault lines in Michigan’s Health System—a system where some of the sickest people walk the streets with no place to go—until they commit a crime serious enough to land in jail (“Social worker beaten to death,” 1998, p. 1K). Publicity about the lack of social services for the mentally ill helped pave the way for the passage of Kevin’s Law, named for 24-year-old Kevin Heisinger, who was killed by a mentally ill graduate student. The law changed the way mental health treatment is provided in the state of Michigan.

Another example of the media’s extensive publicity surrounding the construction of a phenomenon that previously generated little public concern was that of “drowsy drivers.” Twenty-year-old Maggie McDonnell of New Jersey was killed by Michael E. Coleman, who swerved across three lanes and collided with McDonnell’s car in July 1997. Coleman had apparently not slept in 30 hours. Media publicity effectively labeled “driving while sleep deprived” as a social harm. It provided intense news coverage of McDonnell’s death at the hands of a fatigued driver, who had been awake but who had been drinking alcohol for the previous 30 hours. The sensationalism with which the media reported the story of McDonnell’s death led to an increase in demands for criminal justice reforms and legislation. The New Jersey legislature addressed those demands for a change in public policy by passing Maggie’s Law. Yet another example of media-constructed harm was that of “upskirting,” defined as “the lewd practice of a camera operator offering peeks under a woman’s skirt” (Martinez, 2003, p. 24). Similarly, the 2003 case noted earlier, that

of 29-year-old Stephanie Fuller, was publicized in news articles and contributed to the passing of Stephanie's Law in New York. Fuller's landlord had spied on her in her apartment via a tiny video camera inconspicuously hidden in a smoke detector above her bed—a story that the media publicized mercilessly. The media are essential to the enactment of Memorial Laws, in that they are integral to getting victims' faces and names before legislators and the public. Legislators often work in partnership with the media. New York Assemblyman Robert Prentiss, in support of the earlier-mentioned Leslie's Law, made this connection explicit when he stated, "You probably don't know Leslie Selkirk. But Assemblyman Robert Prentiss wants you to know her law. What we need to do is put some faces on what are statistics and legalese.... Each bill competes for attention with thousands more introduced in the Legislature annually" (Hill, 1998, p. C5).

The media are key to describing and detailing individual crimes or acts of harm to victims, typically portraying the victims as innocent and the crimes or acts of harm as substantial social problems. As is often the case, media stimulus results in irate feelings among readers and viewers, and the media continue to present these emotions as part of their ongoing narrative concerning stories of victims who are seriously injured or killed. As Surette has noted, "Criminal justice system personnel sometimes determine their policy course based on the local public and media opinion they expect to encounter" (Surette, 1998, p. 220). Media response could lead lawmakers to introduce preventative or punitive criminal laws into state legislatures. In the 1990s, this appeared to become a real possibility in the case of enactment of Memorial Laws, as policy makers increasingly identified "their crime-related legislative proposals with people who have been killed, maimed, or otherwise

victimized...realizing the political and public-relations benefits of linking proposed laws to crime victims” (Cox and Baker, 1998, p. 86).

News Media and Victim Characteristics

A number of factors contribute to why some crimes are covered as news while others are not. One factor is that of victim attributes, which are often selected for special attention by news reporters and television hosts. Studies of content analysis of written media and television dramas suggest that sex distribution, gender of victims, and age of victims are all salient factors in news coverage (Cumberbatch and Beardworth, 1976; Garafalo, 1981; Graber, 1980; Roshier, 1973). Additionally, Surette (1998) has noted that, “victim cooperation and quality (photogenic and quotable) can occasionally provide the extra element to make accessibility and involvement become more important in markets that have large pools [of incidents] to choose from” (p. 69). This implies that where victims or their families are available to provide details or statements concerning the victim, crime news will be more likely to provide a forum to publicize a crime.

Weed (1995) contended that the image of the victim is important in bringing about legislative reform. He cited Nils Christie’s (1986) “ideal victim” assignment as providing the conditions necessary to form public impressions regarding victims, criminals, and crimes. Some of these victim attributes include “those who are weak,” those who are “not able to defend themselves,” “good, unsuspecting individuals, doing a respectable act at the time the crime occurred,” and those who are “present at a location where he/she could not be blamed for being at the time of the crime and where the victim was unknown and in no personal relationship with the

villain/criminal.” It is likely that they include the age of the victim as expressive of “innocence” and the gender of the victim to illustrate that the victim is dependent upon or perhaps weaker than the assailant.

How do these factors play out in more substantive accounts of Memorial Law victims? A review of articles suggests that where a crime victim’s story is emotional, the victim is portrayed as “innocent,” and where relatives are amenable to being questioned by reporters, the media are more likely to dramatize their injuries or murders. Some family members not only speak with the media, but also write for it, actively helping to shape the public perception of the victim, as in the case of an editorial written by the sister-in-law of one victim, Penny Brown. The visibility of grief expressed by Penny Brown’s family was more than adequate to ensure coverage of her in the *Buffalo News*. Candy Brown, the author, focused on the emotional bona fides of her sister-in-law, who was killed while jogging with her dogs on Mother’s Day in 1999. She was reported to have left a husband and daughter behind, who sadly missed her presence in their lives. Candy Brown spotlighted the fact that Penny Brown’s murder on a recreational trail near her home “was worse than my greatest fear. Life as we knew it had changed in an instant. We were forced into a nightmare that we would never wake up from. We tortured ourselves thinking of the pain and the fear that Penny endured during the last moments of her life” (Brown, 2003, p. H1).

The vulnerability of a victim is evident in accounts of Megan Kanka, who was described in the local newspaper, the *Star Ledger*, as “a pretty, innocent, blond haired little girl” and “an innocent child with sparkling eyes and a beautiful smile” (Mendez, 1995). In contrast, her killer was described as “a pervert,” “a beast,” and a

“monster.” Similarly, in the murder case of Jillian Charron, the newspapers referred to her as a six-year-old with a “winsome smile” (“Victims’ Families,” 2000, p.1B) who “had light brown hair and loved animals” (Patinkin, 1995, p.1B). The man who killed her was called “a drunk” and repeat offender “driving on a suspended license” (“Victims’ Families,” 2000, B1). Kendra Webdale, the victim memorialized in Kendra’s Law, was “a 32-year-old aspiring screenwriter [who] was killed after being pushed into the path of a New York subway train. Her assailant was Andrew Goldstein, a schizophrenic who had a long history of non-compliance with his treatment programs” (“Kendra’s Law,” *Bangor Daily News* 1999, Sept. 8). Victim Laura Wilcox of California was described as, “a popular young woman known for her environmental activism.... She was a beautiful girl, really bright and smart like a diamond” (Fagan and Zamora, 2001, p. A3). A nine-year-old victim, Jimmy Ryce of Florida, was sympathetically characterized by the media as “a flower just starting to open...a 70-pound boy with blue eyes and a shy smile” (“Florida Boy’s Remains Found,” 1995, p. A3). Lisa Putnam was described by a witness as “a beautiful young woman, just an outstanding worker who was well-respected” and “one of the bright people that her peers really enjoyed and liked” (“Social Worker Beaten to Death,” *Detroit Free Press*, 1998, May 23).

It has been suggested that victims receive greater attention from the news media particularly if they are women, very young, very old or of high status (Surette, 1998, p. 69). For example, in the case of Memorial Law victims, many were portrayed in the media as vulnerable women. These included a pregnant woman (Jenny’s Law), a woman who moved into an apartment where the apartment manager was, unknown to her, a registered sex offender (Kari Koskinen’s Law), and

a woman working at a mental health clinic (Laura's Law). Others victims whose names were memorialized in laws were depicted as very young, including Oliver Smith (age 11 months), Dane Heggem (age 1 year), and Kiernan Dunne (age 10 months). Lottie's Law represented the elderly as a victim of homicide. It was named for 72-year-old Charlotte "Lottie" Scott, who was beaten, run over by a vehicle and mutilated (by having her breast cut off) before being buried under a pile of trash. Intense publicity followed her violent death along with demands from her friends and families for laws geared specifically to protect the elderly, leading to the enactment of Lottie's Law. Victims with some stature in the community who received particular media emphasis included a Department of Human Services employee, Lisa Putnam (Lisa's Law); a nursing student, Jenna Greishaber (Jenna's Law); and a University of Michigan graduate student Kevin Heisinger (Kevin's Law).

Weed (1995) suggests that media portrayal of the victim in a certain light of moral innocence is a significant factor in activism by the public and politicians. To that end, he cited the fact that "the rhetorical style of crime stories as presented in testimonials by victims in the media often emphasizes criminals as protagonists and focuses on their evil motives, the gory details of their act, and the hopelessness of the victim's situation...all of which lead to activism on the part of victims including strong appeals to government officials and politicians for action to avoid repetition of similar crimes" (Weed, 1995, p. 39). An example of this concept related to a Memorial Law victim was that involving four-year-old "tiny abuse survivor Haley Spicer" (Mansfield, 2005), who received a brief personal description in most news articles. The recitation of the violent criminal acts visited on her, however, was substantive, relating details that cast a clear picture of the perpetrator of those acts.

Haley's father, Tommy Joe Owens, was reported to have been a methamphetamine addict who "was present in his mobile home in Campbell County in June 2004" (Mansfield, 2005) when Haley was found by authorities. Haley "had been burned with cigarettes, scalded with hot water in a bathtub, and beaten" (Mansfield, 2005, p. 4). This piling on of details of the crime was integral to the enactment of Haley's Law.

The descriptions noted above, along with newspaper articles relating to victims of other sexual assaults and violent crimes, were made primarily for marketing the news. However, the same details also had the effect of igniting flashes of volcanic proportion in victims, their families and the communities that shared in the heartache of another story of a mutilated child, a thoughtful teenager helping his parents out with family responsibilities and a human service worker attempting to save high-risk children from those trying to bring harm to them. The emotionally riveting story of innocent victims and details about the nature of the crimes caused constituents to put pressure on their legislators to do something about the issue of violence in the community (Surette, 1998).

For example, in the case of 10-year-old homicide victim Jimmy Ryce, the news media used heavily emotion-laden terminology to describe what brought about his death at the hands of a stranger: "Five blocks. That's how far Jimmy Ryce was from his Dade home on Sept. 11 after he got off the school bus. Even a 9-year boy could walk it in five minutes. But somewhere along those five blocks, police say, a man took Jimmy, then did unspeakable things to him, then killed him, then mutilated his body, then buried the parts. Five blocks" (*The Palm Beach Post*, 1995, p.14A).

Vivid media descriptions of the events that led to the death of 12-year-old Christopher Williamson helped bring about Christopher's Law. Christopher, a sixth grader, was killed by a motorist while riding his bike home from school. One news article about this tragedy relates that Christopher had only traveled a few blocks before a van driven by Tomas Pineda hit him. The child and his bicycle were dragged by the van for a block before Pineda stopped his vehicle to see what had transpired. According to one poignant report, "Hours after the accident, onlookers could still see the bike wedged under the gray van's front left tire, the youngster's sneakers in the street, a grim reminder of the events that transpired....It was a heart-wrenching scene for many. A visibly distraught member of the rescue quad sat on the back bumper of the emergency rig, staring at the ground, holding his head, and covering his eyes" (Gluck & Cosgrove, 2004, p. 45).

Phyllis Kaniss (1991), speaking about the impact of news sensationalism and its effect on society, noted that "while little media attention is given to the fact that thousands of children die or are injured in automobile accidents because they are not strapped into car seats, the plight of 18-month-old Jessica McClure trapped in a well in 1987 received tremendous media attention, seemingly because it made a more dramatic and entertaining story" (Kaniss, 1991, p. 47). Herbert Gans (1980) concluded that reporters often "select the highlights about an actor or activity, deleting the routine or expected, whatever is not sufficiently important, novel, dramatic or distinctive" (Gans, 1980, p. 92). While Gans's comments predate Memorial Laws, the media construction process he identified is relevant to the development of eponymous statutes. Thus, the media's magnification of the

importance of some events over others offers a partial explanation of the link between news construction of events and Memorial Laws.

Pictorial displays, both on television and in the halls of the legislature (McNamara, 1992, p.12), are also important forces in marshalling community anger and pressuring politicians to compel them to pass laws against acts that have traditionally been legal. For instance, in the case of 10-year-old Candace Newmaker (who died during “rebirthing therapy,” resulting in Candace’s Law), her grandparents showed pictures to the local newspaper of Candace growing up in their home. In turn, the press publicized these family photos. The newspaper went on to offer a heart-rendering statement by Candace’s grandparents. By personalizing victims and the stories of their murders, and by showing their pictures to the public, families of victims were successfully able to ensure passage of Memorial Laws just as they had with drunk driving laws in 1984, when “across the nation, relatives of drunk-driving victims organized, carrying photographs of their dead children to the corridors of power” (McNamara, 1992, p. 12).

Pictures of victims, in instances noted above, were successful elements in gaining the attention of politicians to introduce bills into state legislatures that had a name and a face to go with the statutes demanded. The effect of providing lawmakers with the unique circumstances and identities of particular victims provided additional pressure to lawmakers to pass legislation. For example, in the case of Nixzmary Brown, murdered by her mother and stepfather in 2006, the child was memorialized at great length by five New York state senators and the Brooklyn district attorney one month later in the State Senate. The senators’ statements on the passage of Nixzmary’s Law allowed them to memorialize the child, condemn the

crime against her, and reveal themselves as being firmly for good parenting and severe punishment of child abusers. The detailed news coverage of her death and the individualization of Nixzmary led to the enactment of this law, which, one senator noted, closed the loophole in New York law that allowed murderers of children to receive parole after 15 years, as long as they did not commit a sex crime in the commission of the murder. According to Senator Martin Golden, who spoke in favor of the law, “The tragic death of Nixzmary Brown highlights the need to ensure that the villains who commit these most heinous crimes against our children face nothing less than life without parole. . . . There is no place in society for individuals who have no value for human life, and so, we must act quickly and enact this legislation that will serve as both a deterrent and as fair punishment.” Other senators invoked “the innocence” of child victims and “our most precious investment—our children” (New York State Senate, 2007, February 27).

Media and Development of Public Policy

The media can exert enormous power on audiences and on those charged with the responsibility of protecting the public. Government officials, those making decisions on policy issues, also rely on the news media to uncover current attitudes about the law enforcement system, crime control and punishment. These attitudes are then part of the basis for decisive votes in the chambers of the legislature.

Surette (1998) has presented a triad of paradigms through which policy reforms and new legislation develop. The first media model is the “direct media effect” that flows in a straightforward manner from media coverage to changes in the criminal justice system. This approach occurs, for example, when there is no law in place to control

or deter acts of violence (e.g., sudden terrorist attacks, random and aggressive attacks on individuals by means that have been addressed in prior criminal justice policy).

An exemplar of the way in which media input can be activism in itself is when it processes comments by lawmakers in an attempt to sway other legislators. This activism was well illustrated during the political process in Massachusetts to effectuate Melanie's Law, which added harsh punishments to existing penalties for drunk driving in the state. The press, in support of the act, published a commentary by Representative Lewis Evangelidis, a Worcester County Republican and a sponsor of Melanie's Law. In his opinion piece for the *Worcester Telegram and Gazette*, Evangelidis joined forces with the media to construct the image of an innocent victim and the crime that brought about her death. "Melanie Powell, 13 years old, was a Girl Scout, a soccer player and a cheerleader," he wrote. "In July 2003, while walking home on the sidewalk from a birthday party, she was struck and killed by a repeat drunken driver—a woman who had had a few too many glasses of wine before getting behind the wheel of her 2,000-pound automobile" (Evangelidis, 2005, October 7, p. A11). More than constructing a story about a child and the tragedy that befell her, Evangelidis idealized Melanie as an emblematic victim of drunk driving in Massachusetts and directed the public toward ways that their elected officials, himself included, intended to express concern for "their" Memorial Law victim(s), the paradigmatic victim who requires government intervention. "As a member of the Judiciary Committee," Evangelidis continued, "I had the opportunity to meet personally with Melanie's mom and dad, Todd and Nancy Powell....The Judiciary Committee heard from dozens of families, each with their own personal

tragedies at the hands of drunken drivers—in many cases, repeat drunken drivers—and they all supported Melanie's Bill. Todd Powell testified before our committee that his final memory of his daughter was the smell of her blood in the emergency room. I promised Todd and Nancy to do everything I could to make Melanie's Bill a reality here in Massachusetts.” It is significant that the media was utilized to construct a campaign to bolster direct support for Melanie’s Law (“the direct media effect” discussed above) among politicians, in that Evangelidis directed readers of the *Telegram and Gazette* to “[p]lease call your state representatives and state senators and ask them to support the Senate version of Melanie’s Bill. Drunken drivers don’t discriminate; they kill rich, poor, old and young, urban and suburban people” (Evangelidis, 2005, October 7, p. A11).

Another model of media coverage is one where an event occurs and media coverage of the event or crime takes place “simultaneously with the policy change” (Surette, 1998, p. 218). A case in point is the coverage by the *Philadelphia Inquirer* of the August 2006 death by parental neglect of 14-year-old Danieal Kelly. According to *Inquirer* staff writers John Sullivan and Vernon Clark, “In October 2006, the *Inquirer* published a series of articles that detailed the deaths of several children after DHS [Department of Human Services] investigated allegations of abuse and neglect in their families. While preparing to respond to questions from the newspaper’s critical findings, then-Mayor John F. Street was handed photographs of Danieal’s rotting body. He then fired the commissioner and top deputy of DHS²...

² Danieal Kelly, a 14-year-old African American victim of cerebral palsy, was found dead on August 4, 2006, in the home of her mother, Andrea Kelly. Police and paramedics discovered the girl’s 46-pound, maggot-infested body on a dirty mattress surrounded by feces in her bedroom. Caseworkers from the Philadelphia DHS were found to have failed to safeguard Danieal’s welfare for the preceding three years. Her case became, through the news media, a citywide emblem of the failings of DHS.

Street [then] launched a sweeping overhaul of the agency and appointed a panel of experts to scrutinize its operation. The city has since instituted most of the panels suggested changes” (Sullivan and Clark, “Mother sentenced to 40 years in death of Danieal Kelly,” *The Philadelphia Inquirer*, 2009, April 30, p. B6). As changes in policy were being brought about an investigation into the death of Danieal were initiated by the district attorney for the City of Philadelphia.

A third style of media and criminal justice policy development occurs where a highly publicized case is presented by the media to the public with questions regarding the prevention of a crime. Perhaps best exemplified in the media coverage of the Willie Horton incident that derailed Michael Dukakis’s 1988 presidential run,³ the media managed to pressure legislatures into making changes in the sentencing scheme in Massachusetts and the availability of parole or, as Thompson (2008) noted, “The overall media coverage of these events [the Willie Horton incident and the later kidnapping and murder of Polly Klaas by another parolee] managed to silence those who believed that parole served a useful function” (Thompson, p. 136).

The Present Research

This dissertation examines multiple victim-centered laws, mostly at the state level, and analyzes the way in which societal agents have socially constructed two new legal entities: Memorial Laws and Memorial Law victims. Previous works have focused on a variety of socially constructed behaviors centered around victims, including stalking (Lowney & Best, 1995), school shootings such as at Columbine High School (Ogle, Eckman and Leslie, 2003), and highway violence (Best, 1991),

³ In 1988 Willie Horton, a convicted murderer serving a life sentence without parole, was released on a weekend furlough from a prison in Massachusetts and while on the street committed two other crimes, the armed robbery and rape of a woman and the knifing and pistol-whipping of her boyfriend.

but none have addressed the issue of Memorial Laws or Memorial Law victims. This is the first study to collect information concerning Memorial Laws and Memorial Law victims and to analyze these phenomena through a social constructionist lens.

This study also furthers the available research on the social construction of victims and their significance to the news media. Past research has focused on characteristics of victims of crimes generally (Christie, 1986, Chermak, 1998), the victims of specific crimes (Best, 1995; Cook 1997), and the relevance of the details of criminals and victims to media coverage (Surette, 1998). But a gap exists in criminal justice scholarship concerning the characteristics of Memorial Law victims and the importance of those victims to the news media. This dissertation is therefore the first study of the victims for whom Memorial Laws were named.

The significance of this work lies in the fact that while the trend toward enacting Memorial Laws has escalated, both on the state and Federal levels, there has been no scholarly examination of these laws or the victims for whom they are named. The study examines the various phenomena related to Memorial Law enactment and in the process it tells us much about an evolution in how the American public, its representatives, and its media have viewed particular acts and victims during the 1990s and early 2000s. The desire to have a victim remembered collectively by American society is a new twist in the jurisprudential history of the United States, one that needs to be acknowledged in scholarship. This dissertation aims to provide the groundwork for future research on the subject.

CHAPTER 3: METHODOLOGY AND DATA SOURCES

Research Design

This dissertation focuses on the social, demographic, and political dynamics that it hypothesizes are associated with the trend of naming laws for victims in various state legislatures. Memorial Laws are representative of responses initiated by the public in the face of social and media constructs of violent crimes and other tragic acts resulting in the deaths of victims. While all states have felt the effect of the societal problems that are typically at the heart of Memorial Laws (e.g., deaths by drunk drivers, child abuse, and injury to persons as a result of negligence), not all states have chosen to regulate such behavior through the use of Memorial Laws. Why is this so? Why haven't all states made Memorial Laws an integral part of their state codes? The research questions introduced in Chapter 1 and which will be addressed individually in Chapter 4 will examine whether differences among states in violent crime rates, victim characteristics (such as race, gender, and age), statewide political culture, and other factors may have influenced the willingness of an individual state to pass Memorial Laws.

The basic orientation of this dissertation is one of static group analysis. This type of qualitative research permits an examination of observable data that cannot be expressed in numerical fashion. The static group comparison design is one that provides important advantages over other types of research in this kind of study. It provides "information on a large number of potentially relevant factors [that] can be assessed, which is useful in exploring which factors are likely to be the most influential. And... these factors can be studied in the natural, everyday context in

which they occur” (Kramer, 1997, p. 11). In particular, it is expected that this facilitated inquiry into Memorial Laws may yield insight into features related to the introduction and growth of the trend of Memorial Laws. Included among these elements are associations between the passage of Memorial Laws and violent crime rate, the race, gender, and age of victims for whom statutes were named, as well as the types of crimes or acts that supported the adoption of these laws. This type of qualitative research design assists the scholarly examination of the sociological traits of victims and the crime variables that appeared to be associated in some manner with the adoption of these laws in various states and permits an in-depth evaluation of the following:

1. Exploration of the nature of particular social phenomena
2. Primary use of [relatively] unstructured data... [and]...
3. Data analyses that involve explicit interpretation, mainly in the form of verbal descriptions and explanations (per Dantzler and Hunter, 2006, p. 73; see also Berg, 2004; Creswell, 2002; Flick, 2002; Maxwell, 2005; Patton, 2002; Silverman, 2000).

Data

The data used here consisted of all Memorial Laws enacted in state legislatures between 1994 and 2005. The period chosen for this study marks the time from when Memorial Laws were first introduced into state assemblies and houses of representatives, as well as state senates, to the time when most laws introduced (at the time of this study was undertaken) had already been signed by the

governor in a particular state. A variety of variables frequently associated with legislative sponsorship of new laws, particularly criminal statutes, were studied in order to determine if they played a specific role in the development of legislation in some states and not in others.

Among these factors was the actual rate of violent crime. Violent crime rate was chosen as a possible attribute associated with Memorial Laws in that (as noted earlier in this work) it is frequently shown to be related to the passage of other criminal laws. Violent crime rate specifically encompasses a variety of violent crimes, but particularly the rate of homicide, which is “a crime that clearly occupies the center of the crime universe invoked by the victims rights⁴ movement” (Dubber, 2000, p. 180) and obviously resonates in the language of many Memorial Laws. The rate of violent crime was calculated by taking an average of the rate of violent crime per one hundred thousand inhabitants in each state, and averaging their number over the 12 years encompassed in this study. Similar yearly averages were determined for population. The data for violent crime rate was collected from the Uniform Crime Reports from the year when Memorial Laws were passed up until the time of the present study (i.e., 1994 to 2005). State populations were obtained from the U.S. Census Bureau, Current Population Reports.

To determine whether violent crime rate (or crime per capita) within a state was related to the adoption of Memorial Laws named for residents of that state, the average violent crime rate (for the period between January 1, 1994, and December 31, 2005) was tabulated for all 50 states. The states were then divided into groups of 10 states each. The first group consisted of the 10 states with the lowest average

⁴ “The term *victims’ rights* has been applied to a wide variety of pledges, guarantees, remedies, and opportunities” (Karmen, 1996, p. 338).

violent crime rates. The next set of 10 states included those whose violent crime rates ranked eleventh through twentieth lowest. This process was repeated until quintiles of 10 states each were established based on rates of violent crime for all 50 states. The quintiles were arranged in ascending order from the group of 10 states having the lowest violent crime rates to the group having the highest violent crime rates. Using a static group content analysis, the aggregate of 10 states containing the lowest violent crime rate was designated as the static group. The other four groups, in rank order, were compared to this group in order to determine whether those states differed from the percentages of states that had adopted Memorial Laws.

Other variables, including state ideology, dominant political culture of the state, and type of legislature were hypothesized to have associations with passage of Memorial Laws. In that public policy is often shaped by the ideological foundations of a state, the presence or absence of Memorial Laws in a state were studied in order to determine what impact, if any, a states legislative philosophy may have had on the favored probability that a given jurisdiction adopted a Memorial Law. State ideology, in terms of conservatism versus liberalism of state legislatures, was identified via a study of public opinion by Robert Erickson, Gerald Wright and John McIver (1993). Political culture, in terms of moralistic, traditionalistic, and individualistic categories, was based on *Politics in the American States: A Comparative Analysis* (Gray & Hanson, 2004). Data for determining the type of legislature was acquired from the National Conference of State Legislatures. A comprehensive review by the author was conducted to obtain data regarding the race, gender, and age of victims, as well as the type of crime involved with the

Memorial Laws (see Table 1). The review indicated that forty-three state Memorial Laws were passed between 1994 and 2005. The list of Memorial Laws passed was derived from several sources, including the legislative libraries in all 50 states, legal counsel for some state legislatures, as well as various House of Representative and Senate offices. Reference to the Popular Name Indexes and investigation of state legislative codes were additional data sources. After compiling a comprehensive list of all state Memorial Laws, the author then researched each law to determine the age, race, and gender of the victim. Newspaper articles, newswires, and phone calls to legislative libraries aided in discovering victim characteristics. Supplementing this information was at least five articles on each victim and Memorial Law. The use of more than one source for information minimized the possibility of simple mistake or blatant informational error.

CHAPTER 4: ANALYSIS OF MEMORIAL LAW DATA

Introduction

Support for Memorial Laws has come from an unlikely alliance of victims, families of victims, advocacy groups, the media and public officials. Memorial Laws first made their appearance on the legislative scene in 1994 following the death of seven-year-old Megan Kanka at the hands of a repeat offender who lived in her New Jersey neighborhood. In the years prior to Megan Kanka's murder, sex offenders in New Jersey had served the majority of their sentences in facilities dedicated to treatment rather than to punishment alone. At some point parole followed, whether or not those offenders had changed the behavior that led to their incarceration. This sentencing structure, which for many years followed a rehabilitative model of criminal reform, was criticized by some as too lenient, but it was not until the particular violence of the Kanka kidnapping and murder that the state of New Jersey adopted more stringent laws concerning sex offenders. Chapter 4 of this dissertation examines a number of factors in an effort to test the idea that state-level Memorial Laws have been enacted in response to a perceived rise in violent crime rates. It also asks a series of questions designed to predict the circumstances under which campaigns are mounted to pass Memorial Laws. These questions aim to determine the types of victim typically commemorated in Memorial Laws, the crimes or other acts that tend to lead to the enactment of these laws, and the political circumstances in states that are likely to enact these laws. In total, this chapter addresses the eight research questions outlined in Chapter 2 of this dissertation.

The so-called war on crime, initiated under the administration of Lyndon Johnson in the 1960s, did not hit its stride in dealing with criminals until the 1990s. The escalation of laws governing sentencing, probation, and parole became more extensive as tragic tales of victims became a media obsession. Senseless acts of violence, such as the sexual assault on and murder of Megan Kanka close to home, spurred fears that anyone could become a victim. Random acts of violence seemed to occur in places people once believed to be safe, including their automobiles, their homes and their schools. Among these acts were “car jacking, . . . car ramming, robbery and murder, . . . wilding, . . . smash and grab robberies, . . . drive-by shootings, . . . road rage, . . . kidnapping and murdering children taken from their own bedrooms or from streets in the community, . . . gunning down fellow students in high schools, . . . stalking and murder,” and various forms of workplace violence, “all of which escalated in the decades that followed but principally so in the 1990s” (Mintzer, R. 2004). The press coverage of these acts was intense and unrelenting and often created waves of fear within communities, as the crimes appeared to be pointless events that could happen to anyone at any time. In August 1993, the public woke to headlines about the robbery and murder of basketball star Michael Jordan’s father, found dead of a gunshot wound in his car in Lumberton, North Carolina. On September 23, 1993, the media seized upon the fatal shooting of a German tourist in Miami whose rental car was rammed by would-be robbers. An all-consuming fear grabbed Americans by the throat in October 1993 when twelve-year-old Polly Klaas was kidnapped from her bedroom in Petaluma, California, and murdered by Richard Allen Dean.

Such crimes were the impetus for increased governmental reaction in the form of new and more punitive state and Federal legislation. Community members, weary of repeat offenders, protested light sentences meted out to violent criminals. The seeming inability of law enforcement to prevent sudden and vicious acts of violence primed the public for new legislative policies as the 1980s rolled into the 1990s. Stories of victimization energized the push for victims' rights legislation in all states. Indeed, one cannot speak of crime and offenders without reference to victims whose advocates' lengthy campaign for rights was slowly being recognized. In 1994, Memorial Laws, a type of personalized legislation, became the latest victims' rights legislation on the block. Why they were received so enthusiastically by the American public is obvious. What is less clear is what formed the basis of this type of statute, what types of victims were recognized in this legislation, and why politicians in some states rather than in others were quicker to enact such laws between 1994 and 2005.

This chapter organizes and presents the results of the data analysis by research question. Each of the eight sections includes an overview of the issues leading up to the question, the question itself, a presentation of findings, and a discussion of how those findings help to answer the question.

Violent Crime Rates and Memorial Law Enactment (Research Question 1)

The introduction of Memorial Laws into state legislatures followed a four-year increase in violent crime rates between 1990 and 1994 (Bureau of Justice Statistics, 2005), the year the first Memorial Law was introduced into a state legislative body.

Not only was violent crime rate rising in the years directly before the enactment of the first Memorial Law, but fear of crime was also at a high level. By 1994 news writers were reporting that “crime now tops even the economy on the list of public concerns, pointing up the stark fear across all ages, income groups and political parties” (Yoachum, S. and Epstein, E. 1994, Jan. 23, p. A3). The spate of Memorial Laws introduced since 1994 may have been motivated by just such fears. That said, the fear of crime that may have led to the enactment of Memorial Laws does not necessarily correlate with an actual increase in crime rates over the 11 years of this study. To determine whether violent crime rates were associated with the enactment of Memorial Laws, data was gathered for violent crime rates in the 11 years following the enactment of the first Memorial Law. This leads us to Research Question 1: *Was there a relationship between the violent crime rate in a particular state from 1994 to 2005 and the enactment of Memorial Laws in that state?*

Presentation of Findings

Figure 2 illustrates a positive correlation between the percentage of states with Memorial Laws and the increasing rank order of violent crime rates by state between 1994 and 2005. The x-axis represents increasing rank order of violent crime rates by state. “States 1-10” indicates the 10 states with the lowest violent crime rates, while “States 41-50” groups the 10 states with the highest violent crime rates. The other groupings represent intermediate quintiles based on state-specific violent crime rates. The y-axis represents the percentage of states in each grouping with Memorial Laws enacted during this period.

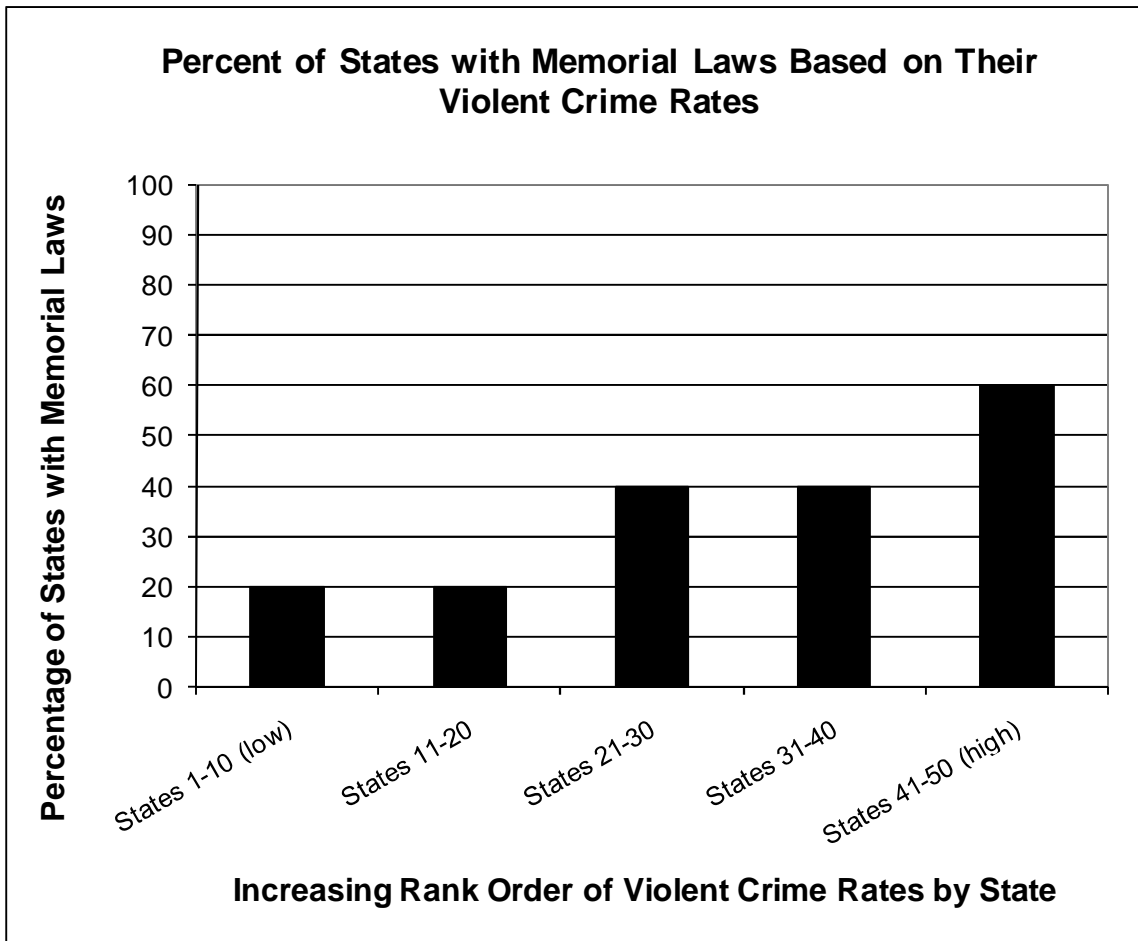


Figure 2. Percentage of states with Memorial Laws, based on their violent crime rates between 1994 and 2005.

Discussion

The findings indicate that states with lower crime rates were less likely to pass Memorial Laws and that those that experienced high violent crime rates were more likely to have enacted Memorial Laws. This finding is consistent with Pasco's (2005) view that Memorial Laws are a political response to widely publicized crimes that involve violence. In cases where significant public support is garnered for bills to reduce violence (such as those resulting in Memorial Laws), policymakers may feel compelled to introduce legislation that addresses specific acts of violence and

specific victims of violent and harmful behaviors. This was the case following the 1993 death of California victim Polly Klaas and the proposed solution of “three strikes and you’re out” legislation providing for mandatory sentences for anyone convicted of a third felony. The kidnapping, sexual assault and murder of Polly Klaas provoked the public to demand new solutions to the problem of violent crime, and soon after there were public demands for Memorial Laws commemorating other acts of violent crime later in the 1990s and 2000s. Lawmakers confronted with fears of crime from their constituents “increasingly identify their crime-related bills with people who have been killed, maimed or otherwise victimized” (Cox and Baker, 1998, May 25, p. A06). See Appendices A and B for further information on rates.

Violent Crime Rates and Cumulative Numbers of Memorial Laws (Research Question 2)

The threat of violent crime loomed large in the early 1990s and shaped public demand for more pervasive and more punitive legislation. The sentiment was reflected in campaign speeches, Federal and state laws and tougher punishments for offenders. Crime victim policies expanded to include all states by the end of the 1990s. In 1994 California enacted a habitual repeat offender statute to address random crimes by repeat offenders, the extension of mass media to the Internet and the willingness of victims’ families to publicly demand action to curtail future violent crimes. This statute followed the murders of Kimber Reynolds in 1992 and Polly Klaas in 1993 by ex-offenders, both of which sparked public furors. Also in 1994, the

Federal government took on a particular target of moral outrage: sex offenders. On September 13, 1994, Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, to commemorate the kidnapping of Jacob Wetterling on October 22, 1989.⁵ Soon after the passage of the Wetterling Act, state-level representatives were called to respond to similar tragedies (e.g., kidnappings, sexual assaults and murders) across the country, resulting in the enactment of many state-level Memorial Laws.

The well-publicized legislation was intended to decrease violent crime. But did these laws achieve their intended effect? To determine if this type of legislation had the desired effect, the cumulative numbers of Memorial Laws enacted between 1994 and 2005 were calculated and compared with changes in rates of violent crime in states that enacted such laws. This brings us to **Research Question 2:** *Was there a relationship between rates of violent crime in all Memorial Law states combined and the cumulative number of such laws between 1994 and 2005?*

Presentation of Findings

Figure 3 graphically illustrates a possible relationship between the number of Memorial Laws passed and their cumulative effect on the average violent crime rate in Memorial Law states between 1994 and 2005. The years are demarcated on the x-axis. The left y-axis measures the average yearly violent crime rate in all Memorial Law states combined. The right y-axis represents the cumulative number of Memorial Laws enacted.

⁵ The presence of halfway houses for sex offenders located close to the scene of the kidnapping was the apparent thrust behind the Act.

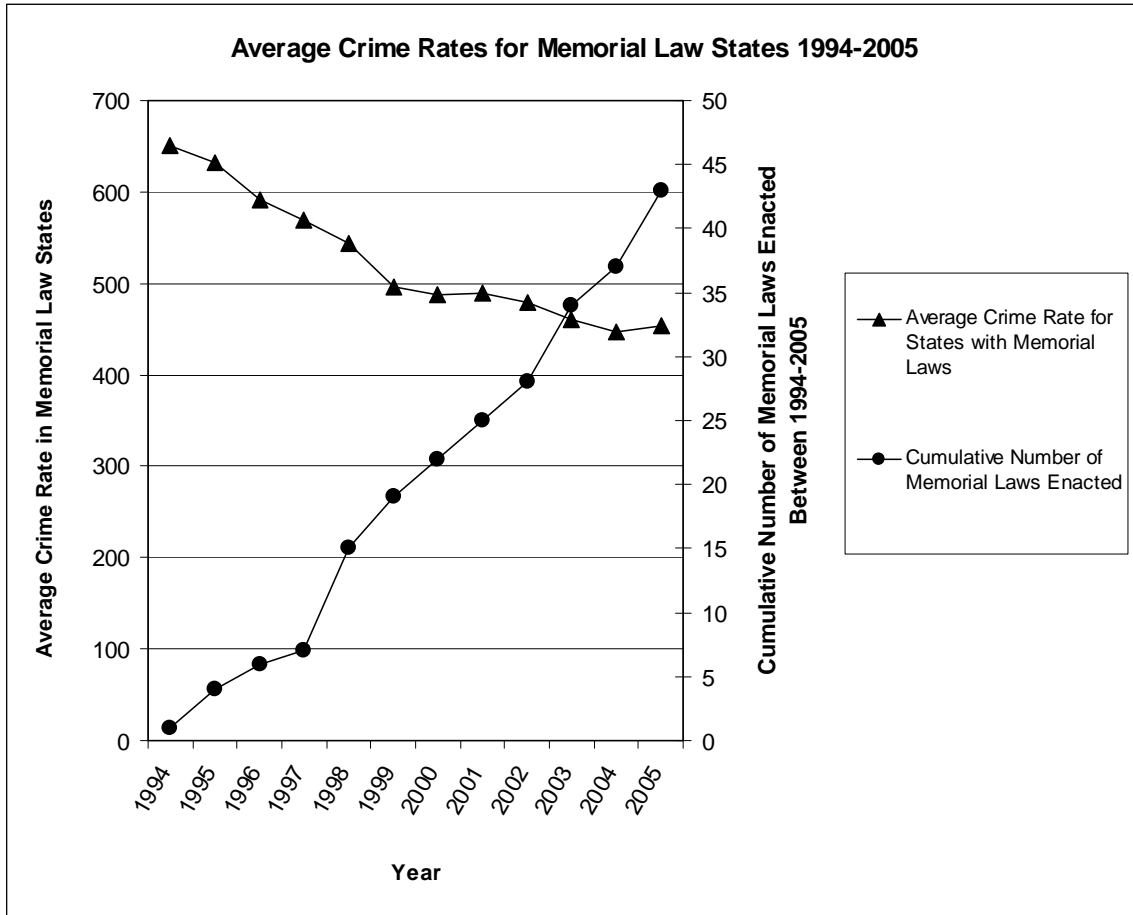


Figure 3. Average violent crime rates for Memorial Law states from 1994 to 2005.

Discussion

The trends shown in Figure 3 suggest that violent crime rates were at their highest point before any Memorial Laws were enacted. Figure 3 shows a steady decrease in the violent crime rate from 1994 until 1999. Although the two trend lines were inversely related for the period between 1994 and 1999, the rate of decrease in violent crime rates and the rate of growth in numbers of Memorial Laws differed. This difference in the rates strongly suggests that Memorial Laws may not have had a positive effect on violent crime beyond a certain point, since violent crime rates more

or less reached a plateau in 2000 despite a continued increase in the number of Memorial Laws. It is possible that there was an association between the enactment of Memorial Laws and decreases in violent crime rates, but whatever possible deterrent effect the laws may have had had clearly slowed by the year 2000. Moreover, we cannot conclude that the laws themselves had a decisive impact on violent crime without further research into other possible factors leading to decreases in violent crime.

Categories of Incidents Underlying Memorial Laws (Research Question 3)

The trajectory toward enactment that each Memorial Law takes is shaped by victim and circumstance, and in some cases the laws themselves have become synonymous with a particular crime or act of harm. To determine whether common themes underlie the crafting of Memorial Laws, a detailed composite of all Memorial Laws passed between 1994 and 2005 was prepared. This composite pays particular attention to the nature of the crime or act that spurred the enactment of each Memorial Law. It is anticipated that substantial media coverage of sex crimes and accompanying moral panic over them will support a finding that sex crimes featured most prominently in legislation bearing the names of victims. This leads us to **Research Question 3:** *Was there a relationship between the types of incidents at the foundation of Memorial Laws and the number of Memorial Laws enacted?*

Presentation of Findings

The popular assumption is that Memorial Laws are generally named for the victims of sexual offenders. This assumption seems to stem from the extensive publicity in the case of the first Memorial Law enacted by the Federal government, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. But an analysis of crimes leading to the enactment of Memorial Laws suggests that this assumption may not be entirely true.

Figure 4 illustrates five categories of circumstances leading to the enactment of all Memorial Laws between 1994 and 2005. The categories marked on the x-axis represent the types of crimes and harmful acts spurring the enactment of each law. The exception is the category “Mentally Ill,” in which the perpetrator was judged to have been mentally ill at the time of the crime and thus not legally responsible for his or her actions. The y-axis represents the number of Memorial Laws passed per category over the period 1994 to 2005. A breakdown of these laws by category indicates that despite the media attention to crimes of violence against young girls by sexual predators, a fair number of other types of crimes and violent acts have made their way into codified legislation named for victims. In fact, crimes by sexual predators against children have spurred only the second highest number of Memorial Laws. Instead, crimes judged to be child abuse or violation of child welfare laws have received the lion’s share of attention by state legislatures. The most interesting finding in this portion of the study is that state legislatures have devoted much time and attention to hard-to-categorize harmful behaviors, labeled here “Other.” This category includes such acts as the

murder of a pregnant woman, the rape of a comatose woman, and the killing of a police officer who was directing traffic at the site of an emergency.

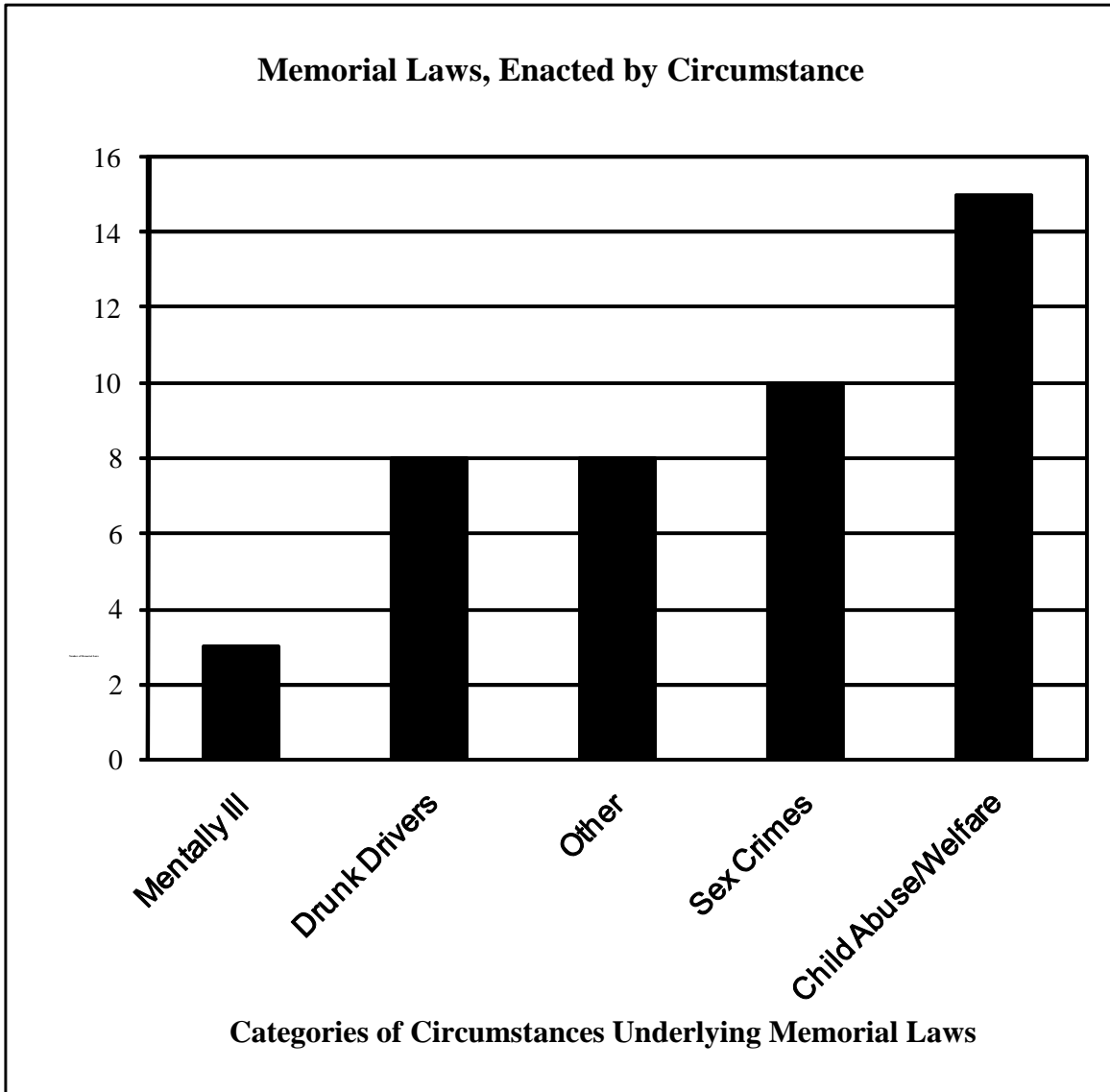


Figure 4. Memorial Laws, by circumstances leading to their enactment.

Discussion

An examination of the crimes and acts of harm that brought about Memorial Laws suggests that states are most inclined to adopt personalized legislation when children have been abused or seriously hurt, since the highest number of Memorial Laws have been enacted to commemorate victims of child abuse or violations of child welfare laws. Those crimes and acts of harm, however, are not necessarily sexual. The most common acts leading to the enactment of Memorial Laws are general acts of abuse and violations of children's welfare.

Victim-oriented laws that favor child beneficiaries in recent years seem to extend from social movements (e.g., the women's movement) that championed the rights of children in the 1960s and 1970s. The foremost child safety issues addressed in those years and continuing to date were those involving sexual and physical abuse of young people as well as child neglect (Karmen, 1996). Some researchers such as Fass (1997) have linked child safety issues of many types in a comprehensive amalgam of child victimization issues. Her research on missing children and their impact on society argues that harm to children through kidnapping (by parents and by strangers) and sexual exploitation by strangers point toward a "loss of innocence [which] suggests the wounding of the social ideal of childhood nurture and care" (p. 255). She also proposes that as women have left their children in the care of others more frequently in recent decades, there is a "lurking (often sexual) suspicion of child-givers and child-care providers" (p. 255). Fass locates these societal fears in a variety of scenarios: kidnapping, physical abuse of children at daycare centers, even emotional harm caused by

mandatory visitation to the parent who has been imprisoned for murdering the other parent. Under the broad definition of child welfare, these scenarios are at the heart of the majority of the state legislation commemorating the injury and death of children.

The second-most common category of crime addressed in Memorial Laws has been sex crimes against both children and adults. Addressing sex crimes has increasingly appeared on the legislative agenda since 1994 in all states and at the Federal level. This is particularly true in cases where a sex crime combined with another crime has resulted in the death of a child or adult. In the late 1980s and 1990s the media, in what seem to be efforts to enfold individual events into crime waves of similar behaviors, have included a number of acts within the definition of “sex act,” including sexual abuse of children by mothers and fathers, foster care parents and other caregivers; the distribution of child pornography; the managing of child sex rings; and indecent exposure of adults to children. The number of Memorial Laws dedicated to issues of unseemly and improper sexual behavior follows that of those dealing with child abuse/child welfare. The fact that the numbers of Memorial Laws in these two categories make up more than half of all legislation bearing the name of a victim tells us how significant these crimes are to the American public.

The third highest number of Memorial Laws have been enacted to address potential criminal victimization and grave injury to victims by what this study classifies as “Other” incidents, including acts that had previously not been considered criminal ones: for example, failing to make riding helmets available to children at stables, or using particular therapeutic techniques. Memorial Laws have also led to requirements that Departments of Human Services mandate that, in high-

risk situations, a second trained caseworker or a law enforcement officer accompany caseworkers in high-risk situations. Since many of these new statutes have been directed at behavior that had traditionally been legal, these Memorial Laws might be the most indicative of changes in social conditions in the 1990s and 2000s. Among these changes were increased control over gun sales to reduce shooting deaths, the raising of the minimum drinking age in many states to curb drunken driving deaths, and the mobilization of law enforcement to deter drug use and drug dealing. In addition, the 1990s saw stricter laws controlling public behaviors, more resources to enforce these laws and more protections afforded victims of crimes. Other social changes were related to widespread media and public attention to sex acts with children (including allegations of sexual molestation of children against child-care workers, Boy Scout leaders, priests and ministers and teachers). The 1990s appears from all sources to have been a period when intense focus on a number of random, senseless, and unprovoked crimes were sensationalized in newspapers, on television, and on the Internet and thrust into public view. The relatively high percentage of Memorial Laws named for victims of noncriminal acts—the “Other” category—may arise from the desire of these victims’ families to receive the same compassion and media attention typically accorded to victims of violent crimes. The desire of a victim’s family to memorialize their loved one in a law offers a means of compelling legislators and the public to recognize their loss, while at the same time channeling their anger toward a socially acceptable purpose: making the world a safer place.

The fewest Memorial Laws have been enacted for incidents that involved drunk drivers and the mentally ill. This may be due to the fact that there are already

many laws on the books that cover driving while impaired, and it is difficult for legislators to find a niche in which to place another criminal law, despite the fact that the ratification of a new law would be to honor a constituent. Memorial Laws related to acts by the mentally ill were also low in number. This is likely due to recent changes in the perception of the mentally ill as disabled individuals rather than as criminals, as well as to Constitutional guarantees of rights to the mentally ill over the past 20 years.

The Racial Makeup of Victims Commemorated by Memorial Laws, by State
(Research Question 4)

Chermak (1995) and Karmen (1996) both write that white victims are more likely to be featured in primary news stories. Rodriguez (1997) suggests that “America’s social ills are seen as more outrageous and less tolerable when they affect whites [as compared to blacks or Hispanics]” (Rodriguez, 1997, June 8, p. 6). Johnstone, Hawkins and Michener (1994) have determined that “the chances of a white murder victim being reported [as a victim of a crime] were much higher than either a black or a Hispanic” (p. 867). Since amplification of stories about victims in the media is often a precursor to Memorial Laws, it would be reasonable to assume that more Memorial Laws would be named after white victims than after minority victims. This section examines this assumption by asking **Research Question 4:** *Was there a relationship between the race of victims and the racial demographics of the states enacting Memorial Laws?*

Presentation of Findings

The three tables in this section work together to compare the proportion of a state's population that is Caucasian with the race of the victims commemorated by Memorial Laws in that state. The first table, Table 2, presents the proportion of Caucasians within the population of each state in the United States. The data is grouped into three columns. The first column includes the 15 states with the highest proportions of Caucasians within their populations. The middle column includes the 20 states that have middling percentages of Caucasians. The third column includes the 15 states with the smallest percentages of Caucasians in their populations. Since not all states have Memorial Laws on the books, the states that do are marked with the designation "ML." The second table, Table 3, divides the states into the same three columns, but adds the race(s) and numbers of victims commemorated by Memorial Laws in each state. The last table, Table 4, presents the percentages of Memorial Laws named after Caucasian, Black, Hispanic, and Asian victims in each of the three columns.

Proportion of Caucasians by State					
Top 15		Middle 20		Lower 15	
Vermont	96.6	Oregon	87.4	Texas (ML)	73.9
Maine	96.3	Kansas	87.1	North Carolina	72.6
New Hampshire (ML)	95.7	Indiana	86.8	Virginia	72.6
West Virginia	95.0	Pennsylvania	84.8	Alabama	71.1
South Dakota	94.0	Missouri	84.8	New Mexico (ML)	70.7
Iowa	93.8	Ohio	84.6	New Jersey (ML)	70.6
Wyoming	92.5	Massachusetts (ML)	84.0	Alaska	69.0
Idaho	92.3	Rhode Island (ML)	83.8	South Carolina	68.0
North Dakota	91.7	Colorado (ML)	83.5	New York (ML)	67.8
Utah	90.8	Washington (ML)	81.0	Louisiana	63.9
Kentucky	90.3	Connecticut (ML)	80.1	Georgia	63.6
Montana (ML)	90.3	Michigan (ML)	80.0	Maryland	63.3
Nebraska	88.8	Tennessee (ML)	80.0	California (ML)	63.0
Minnesota (ML)	88.1	Arkansas	79.4	Mississippi	61.0
Wisconsin	88.1	Nevada (ML)	77.6	Hawaii	25.2
		Florida (ML)	77.5		
		Arizona	77.4		
		Oklahoma	75.3		
		Illinois (ML)	74.8		
		Delaware	74.5		
20.0% of Top 15 States Have Memorial Laws		50% of Middle 20 States Have Memorial Laws		33.3% of Lower 15 States Have Memorial Laws	
*ML refers to Memorial Law States					

Table 2: Proportion of Caucasians in each state, divided into the states with highest, middling, and smallest proportions of Caucasians. The proportion of states with Memorial Laws within each of these categories is marked.

Race of Victims in Memorial Law States					
Top 15 States by Proportion of Caucasians		Middle 20 States by Proportion of Caucasians		Lower 15 States by Proportion of Caucasians	
VT	0	OR	0	TX(ML)	1 Caucasian
ME	0	KS	0	NC	0
NH(ML)	1 Caucasian	IN	0	VA	0
WV	0	PA	0	Alaska	0
SD	0	MO	0	NM(ML)	1 Caucasian
IA	0	OH	0	NJ(ML)	4 Caucasian
WY	0	MA(ML)	2 Caucasian	AK	0
ID	0	RI(ML)	1 Caucasian	SC	0
ND	0	CO(ML)	1 Caucasian	NY(ML)	14 Caucasian
UT	0	WA(ML)	1 Caucasian		1 Black
KY	0	CT(ML)	1 Caucasian		2 Hispanic
MT(ML)	1 Caucasian	MI(ML)	2 Caucasian	LA	0
NE	0	TN(ML)	2 Caucasian	GA	0
MN(ML)	2 Caucasian	AR	0	MD	0
WI	0	NV(ML)	1 Black	CA(ML)	3 Caucasian
		FL(ML)	2 Caucasian	MS	0
		AZ	0	HI	0
		OK	0		
		IL(ML)	1 Caucasian		
		DE	0		

Table 3: States divided into the same three categories by proportion of Caucasian population, with races of the victims commemorated by Memorial Laws in each state.

Percent of Memorial Law Victims by Race		
Top 15 States by Proportion of Caucasians	Middle 20 States by Proportion of Caucasians	Lower 15 States by Proportion of Caucasians
100% Caucasian	92.9% Caucasian	88.5% Caucasian
0% Black	7.1% Black	3.8% Black
0% Hispanic	0% Hispanic	7.7% Hispanic
0% Asian	0% Asian	0% Asian

Table 4: Percentage of Memorial Law victims by race in the 50 states (separated into the three categories according to the proportion of Caucasians within state populations).

Discussion

Nationwide, 90.7% of Memorial Laws (39 out of 43) enacted during the study period were named for Caucasian victims and 9.3% for minority victims, even though by the beginning of the twenty-first century approximately one-third of Americans were African American, Hispanic, or Asian. The 15 states that were most heavily Caucasian enacted legislation memorializing only Caucasian victims, as seen in Table 4. The 20 states with the next highest proportions of Caucasian residents, but with larger populations of minority residents, passed 92.9% of their Memorial Laws to commemorate Caucasian victims, 7.1% to commemorate Black victims, and none for Hispanic or Asian victims. In states where the population included more significant populations of Blacks, Hispanics and Asians (i.e., the 15 states with the lowest proportions of Caucasian residents), Memorial Laws were enacted for Caucasian victims in 88.5% of cases, while Black victims were commemorated in 3.8% of cases, Hispanics in 7.7% of cases, and Asians in none. Although all states have Caucasian majorities, it is still notable that states with the highest percentages of Caucasian inhabitants have a greater percentage of Memorial Laws enacted for them, and states with smaller proportions of Caucasians adopt Memorial Laws for a larger percentage of minorities. We can therefore assume that the ethnic demographics of various states may have some influence on lawmakers to enact Memorial Laws in the names of minorities.

There were substantial imbalances in the trend of naming laws for minority victims. For example, five of the 15 states with the smallest proportions of Caucasian inhabitants have Memorial Laws. In those five states, between 63.0% (California)

and 73.9% (Texas) of residents were Caucasian, yet 88.5% of the Memorial Laws were named for Caucasian victims. Identifying victims suitable for commemoration in Memorial Laws involves a priori the recognition that an individual has been victimized. The policy of recognizing Caucasians in Memorial Laws much more extensively than minorities may be symptomatic of a more troubling issue—that of Americans' attitudes toward what sorts of persons, and of what races, deserve to have their victimization recognized so prominently in Memorial Laws.

Gender of Victims Commemorated by Memorial Laws (Research Question 5)

Traditionally most societies were based on a gender hierarchy with men at the top and women and children at the bottom. This factor has been true both in political circles and in economic contexts. In particular the plight of women and children in violent domestic settings has historically placed them in the lower rungs of the social structure. Though vulnerable to acts of sexual violence and physical abuse by adult males, women and children have traditionally been less than vocal about their victimization, often out of fear of reprisal.

This section aims to determine if there was a connection between the gender of victims and the enactment of Memorial Laws commemorating them between 1994 and 2005. It addresses **Research Question 5: *Was there a relationship between the gender of victims and the enactment of Memorial Laws?***

Presentation of Findings

Figure 5 illustrates the percentage of Memorial Laws compared to population estimates based on gender. The x-axis divides the population of the United States

into male and female genders by percentage and into male and female victims commemorated by Memorial Laws by percentage. The y-axis presents the percentage of Memorial Laws passed for males and females between 1994 and 2005. As shown in the figure, the percentage of males and females with the United States is almost equal (49.3% versus 50.7%). However, far more Memorial Laws have been named for women than for men.

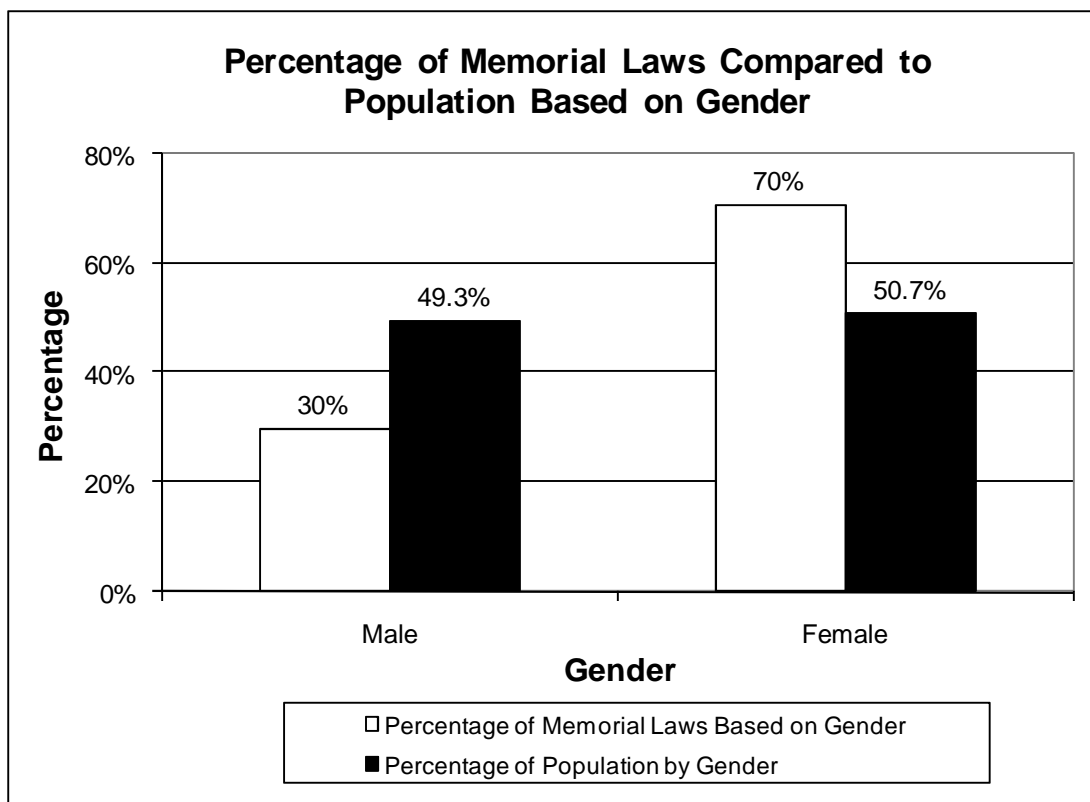


Figure 5. Percentage of Memorial Laws compared to population based on gender.

Discussion

This finding is consistent with the views of Elias (1986), Chermak (1995) and Surette (1998) that female victims receive more attention from the press, society and the criminal justice system than male victims do. The roots of this finding may lie in

the traditional protective response towards female victims of crime and other acts of harm. It may also be the result of the media portrayal of women victims as stereotypically “weak, defenseless, unsuspecting, [and] innocent” (Karmen, 1996, p. 2). The tendency toward naming Memorial Laws after females extends to child victims over the age of 12 as well. A 1996 study of child victimizers indicates that “3 out of 4 child victims of violence were female” (Child Victimization, BJS, 1996, p. 1). The sex difference in the percentage of Memorial Laws named for females over the age of 12 years also seems likely to be related to the fact that many Memorial Laws were adopted as a result of the sexual victimization of females. Because females experience more rapes and sexual assaults than do males (Bureau of Justice Statistics, 1997, p. 1), it is not surprising to find that there are more Memorial Laws passed with the name of a female victim than a male victim upon them. Additionally, as the trend toward passing Memorial Laws increased in the 1990s, more attention was focused on female crime victims, because the rate of female crime victimization also began to rise in the 1990s after remaining unchanged for many years prior (Female Victims of Violent Crime, BJS Selected Findings, 1996; see Figure 7).

The imbalance in the numbers of Memorial Laws named for females versus males seems to stem from two factors. First, many of the high-profile cases have involved young females who have been portrayed in the media as helpless victims who needed societal protection because they were too weak to defend themselves. Cases that fall into this category include those of Joan D’Alessandro, Ashley Estell, Megan Kanka, Samantha Runnion, Ashley Pond, Danielle van Dam, Jessica Lunsford, and Jetseta Gage. Second, traditional gender roles—with women

positioned as the weaker sex and men as their protectors—seem to be acted out by legislatures that are disproportionately male.

Ages of Victims and the Percentage of Memorial Laws (Research Question 6)

Dubber (2002) has noted that “nothing excites the communal punitive reflex of all potential victims (that’s all of us) more than the murder of a child. No victim is more helpless than a homicide victim, except a homicide who is also a child” (p. 180). Because many statutes bearing the name of a victim involved a murder victim, data was gathered to determine whether Dubber’s analysis explained the frequency with which Memorial Laws were adopted when children or young people were the victims of crimes or acts resulting in deaths. Richard Gottfried, a Manhattan assemblyman, noted after the 1997 killing of 22-year-old Jenna Grieshaber that “putting a first name on a bill, particularly that of a child, exaggerates the emotional appeal” of the proposed bill (Haberman, 1998, p. B1). These observations raise the question of whether minors were disproportionately represented in Memorial Laws. Thus we come to **Research Question 6**, *Was there a relationship between the age of victims and the enactment of Memorial Laws?*

Presentation of Findings

Figure 6 illustrates the percentage of Memorial Laws compared to population estimates based on age. The purpose of this comparison is to determine whether states were more likely to adopt Memorial Laws when victims were children (ages 0-7 years), youths (ages 8-17 years), or adults (18 years and older).

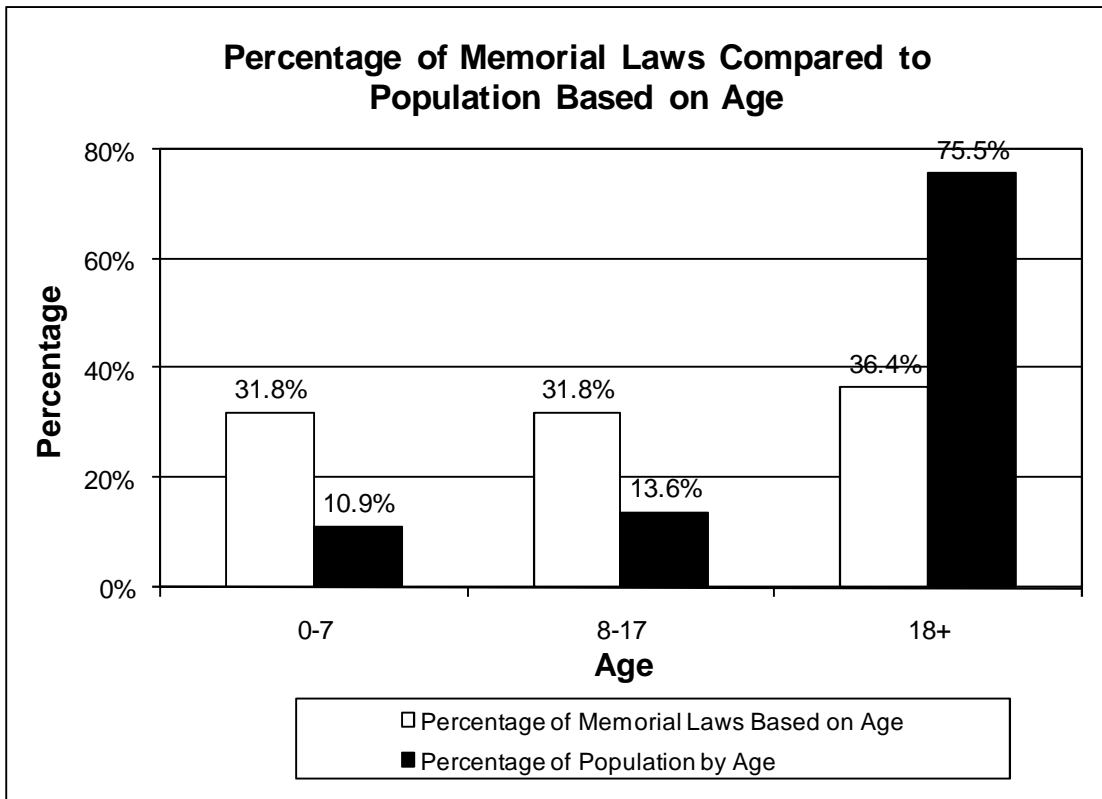


Figure 6. Percentage of Memorial Laws compared to population based on age.

Discussion

The findings in this part of the study show that 31.8% of Memorial Laws are named for children (ages 0 to 7 years), and 31.8% are named for youths (ages 8 to 17 years). While it would appear that an equal percentage of Memorial Laws were named for children and youths when compared to their population in the United States, the statistics tell a different story. Specifically, Memorial Laws reflect more children than youths because children ages 0 to 7 years make up approximately 11% of the population yet are recognized in Memorial Laws almost one-third of the time. Youths are about 14% of the population but are memorialized by statute in 31.8% of the cases. When evaluated in these terms, it

becomes clear that a higher percentage of Memorial Laws bear the names of children than youths. What is more, persons over the age of majority (18 years or older) make up 75% of the population but are represented in Memorial Laws only 36.4 % of the time. This finding offers support for claims in the literature that young people more closely fit the “ideal victim” favored in news media articles and on television.

States’ Political Ideology and Memorial Laws (Research Question 7)

Frequently the political leanings in a given region in the United States determine its public policies. For example, the state of Nevada permits both gambling and prostitution, whereas other states criminalize one or both of these behaviors. The few studies of such kind that exist related to political ideology and state laws have indicated that the political characteristics or climate of a state may impact the legislation that is enacted in that state (Entman, 1983; Clark, 1998; Williams, 2003; Fisher and Pratt, 2006). To determine whether a state’s political climate may affect its inclination to enact Memorial Laws, states were divided by ideology based on Daniel Elazar’s formulation of the states into distinct categories: moralistic, individualistic and traditionalistic. This then permitted an examination of whether political leanings affected which state legislatures adopted Memorial Laws and which did not. This leads us to **Research Question 7: *Was there a relationship between the percentage of states with Memorial Laws and the dominant political ideology in each state?***

Figure 8 divides the 50 states into four categories based on how conservative and liberal these states' legislatures tend to be, then further splits the states into those with and those without Memorial Laws. For the purposes of this study, the determination of liberalism and conservatism within a state legislature follows the work of Erickson, Wright, and McIver (1993). The definitions encompass more than the hot-button issues that typically divide contemporary American liberalism and conservatism, and include the way the legislature *functions* in each state. They include variations in political philosophy in jurisdictions and consist of such factors as the degree of openness of the legislative body, constituent input, the extent of partisan divides, etc. The distinct viewpoints illustrated in Figure 10 include "most conservative" (less than 20%), "partially conservative" (20% to 15.1%; i.e., the equivalent of percent liberal minus percent conservative), "partially liberal" (15% to 10.1%), and "most liberal" (10% and greater).

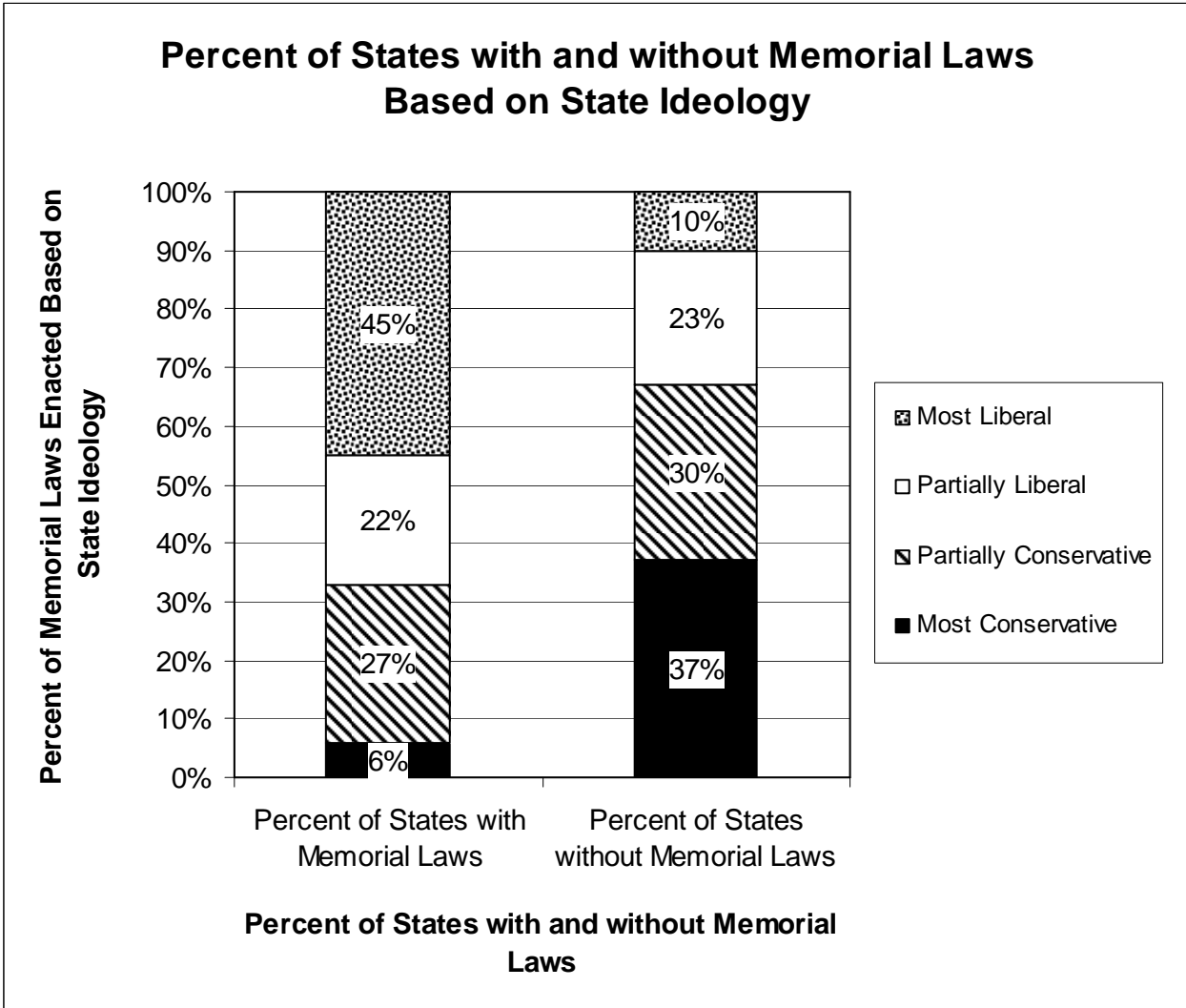


Figure 8. Percentage of states with Memorial Laws based on dominant state ideology.

Discussion

Examination of Memorial Laws by state legislative ideologies shows mixed results concerning which types of state governments are most open to the passage of Memorial Laws. Analysis of the data indicates that the greatest number of Memorial Laws (45%) were likely to pass in states that had the most liberal legislatures. Conversely, the fewest Memorial Laws (6%) passed in states with the most conservative legislatures. States considered partially conservative and those

considered partially liberal had similar percentages of Memorial Laws (28% and 22% respectively; see Appendixes I and L for complete proofs).

Conservative legislatures are generally oriented toward law-and-order policies (including law enforcement and anti-crime laws) and tend to heavily emphasize social values, so it would appear at first glance that they would be most likely to favor passage of Memorial Laws. On the other hand, Memorial Laws have been labeled “knee-jerk” reactions to tragedies. This second factor may be what keeps these conservative legislatures from enacting a large number of Memorial Laws, in that conservative politicians are likely to be more constrained in enacting policy changes that may result in legal challenges in the future. Additionally, many Memorial Laws, particularly those concerning sex crimes, child welfare and the mentally ill, require monetary appropriations to law enforcement personnel or government agencies. Since economic considerations are particularly important to political conservatives, they may be somewhat reserved in enacting Memorial Laws.

The majority of Memorial Laws were enacted in states that were mostly liberal. Liberal ideological perspectives favor individual rights, albeit with a strong commitment to the citizenry as a whole. Memorial Laws offer the public security and aim to ensure the health and welfare of those residing in a state. Liberal legislatures are seemingly most amenable to Memorial Laws because these laws have a duality of functions—one that serves the individual and another that serves the common good—both of which are important to liberal ideology. Through Memorial Laws, the most liberal jurisdictions can assert diverse interests: the protection of all its citizens while ensuring their civil liberties.

Dominant Statewide Political Culture and Memorial Laws (Research Question 8)

The dominant political culture in a state may have substantial impact on policy outcomes. This study examines whether each of three types of political culture, as identified by Daniel Elazar—traditionalistic, moralistic, and individualistic—is related to the passage of Memorial Laws in a state.

Traditionalistic legislatures tend to favor the representation of social elites and to prize incumbents. The first protects the social order, in that power is disseminated among a chosen few. The second is significant in that loyalty is seen as less important to traditional legislators than to those who must rely on past allegiances for reelection. Accountability is important to traditional legislators in that they tend to determine who becomes an office holder in a state and the length of time a politician is in power. The traditionalistic orientation is rooted in a philosophy where public participation is minimal and governmental decisions are reserved for the political elite. Traditionalistic states are relatively closed to citizen input and obfuscate voter initiatives to determine public policy decisions. Traditionalistic patterns of governance support a philosophy where politics is for professionals, and citizens do not play an active role. Consequently, traditionalistic political cultures tend to leave little room for innovation in state policy.

In contrast, moralistic cultures are identified with issue dominance. In particular, moralistic states place great emphasis on themes of social justice. To that end representatives in moralistic legislatures have the task of promoting social change that betters society. A core belief of moralistic cultures is that politicians have an obligation to serve the community even at the expense of personal loyalties or

partisan politics. Legislation is frequently initiated for the purpose of generating policies that promote the general welfare of the community.

Individualistic legislative cultures hold individual initiatives to be important and consider governmental structures to have a limited role in the lives of the citizenry. The individualistic public culture discourages active involvement by the citizenry. Elected representatives are groomed to emphasize private concerns over communal ones. Consequently they operate in such a way that their mobility within the government hierarchy is determined by the extent to which they support government services, with the expectation of being appropriately compensated or rewarded in some manner for doing so. States with individualistic legislative cultures approach social problems by toeing the line as much as possible, by not straying very far from the status quo. Innovative ideas and novel governmental policies are discouraged in individualistic states. Politics in individualistic states follow party norms, are paternalistic, provide the public limited access to government, and exercise “government power for pragmatic ends” (Elazar, 1966, p. 88). Political activity is the province of state representatives who are encouraged to meet obligations to peers and loyalty to other party members. In this type of culture “public officials committed to ‘giving the people what it wants’ are normally not willing to initiate new programs or open up new areas of government on their own recognizance” (p. 89).

With this knowledge in hand, we come to **Research Question 8**: *Was there a relationship between the percentage of states that adopted Memorial Laws and the dominant political culture in a state?*

Presentation of Findings

Figure 9 makes associations between states' dominant political culture and the presence or absence of Memorial Laws in those states. This figure shows the three main political cultures—traditionalistic, moralistic, and individualistic—and their distribution among states. The x-axis divides states into two columns, those with and without Memorial Laws, and the columns are further divided according to dominant political culture. The y-axis measures the percentage of Memorial Laws enacted based on the dominant political cultures of the various state legislatures.

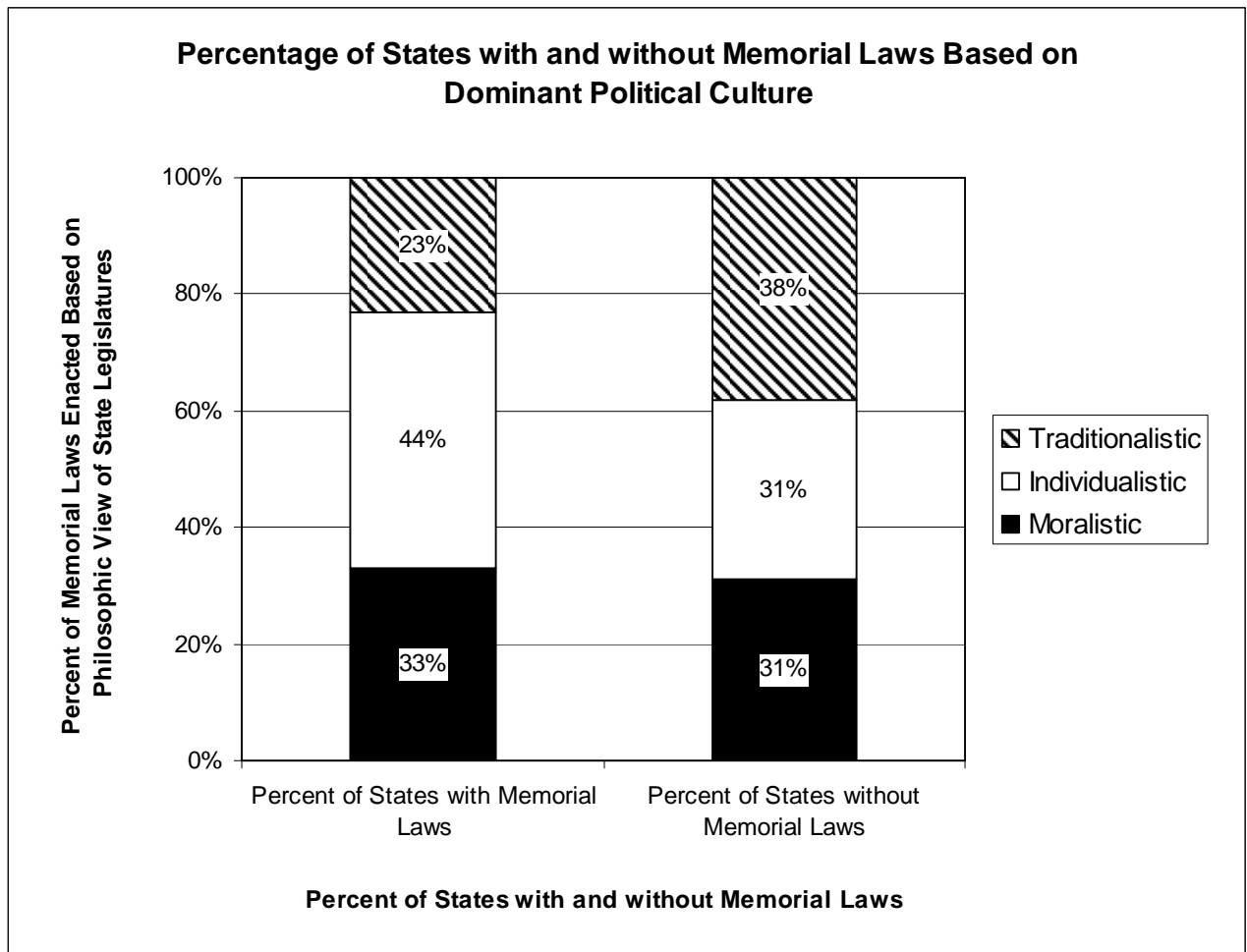


Figure 9. Percentage of states with and without Memorial Laws based on dominant political culture.

Discussion

The results indicate that traditionalistic states are less likely to enact Memorial Laws (23%) than moralistic states (33%) or individualistic states (44%), perhaps because the hallmark of traditionalistic states is the preservation of the status quo. Government control rests generally in the hands of a select few, resulting in a hierarchical structure that is not very open to instituting new policies. Not surprisingly, traditionalistic political culture holds sway in the most states without Memorial Laws (38%). These states tend to be in the South and Southwest areas of the United States.

Individualistic states, which support a practical view of government and are utilitarian in nature, are most likely to enact Memorial Laws; they make up 44% of the states with Memorial Laws. Individualistic states make up a considerably smaller proportion (31%) of the states without Memorial Laws. This finding appears to contradict what one would expect of states with individualistic political cultures, given that legislators in these states tend to be loyal along party lines rather than to constituents. However, this finding may suggest that victims' advocates who manage to get media attention in these states are also more likely to reach legislators who agree to take up their causes, and thus other politicians who support these causes are actually supporting fellow politicians' initiatives rather than constituents' demands. In contrast, victims' advocates in non-individualistic states may be less likely to get politicians' support because legislators are less likely to get other legislators to support their causes. Individualistic states tend to be in the Mid-Atlantic region of the United States.

Moralistic states, which value policies that promote the public good, are as likely to adopt Memorial Laws as not, in that states with moralistic political cultures comprise 33% of states with Memorial Laws and 31% of states without Memorial Laws. (See Appendixes J and M for complete proofs).

CHAPTER 5: CONCLUSION

Memorial Laws in our country result from a confluence of factors beginning with the social construction of an individual as a “victim” and the construction of an act as “harmful” or “dangerous” to society. Memorial Laws bind together an offender, a victim, and the act of harm that injured the victim or brought about his or her death. The combination of the written word, the deep feelings of the victims’ families and friends, and the pictures of the accident, incident, or crime that caused the injury or death of the victim together generate a call to action embodied within the enactment of a Memorial Law. Claire Wardle (2006) explores some of these elements, particularly the use of visual displays in the 1990s, and concludes that the decade was a period when the news media focused intensely on victims and their families and brought home a message to the community that, as Wardle titled her 2006 study on coverage of child murders, “It could happen to you.” By personalizing the unique circumstances of each case—stories of danger, death, disappearance and disaster—families and neighbors of certain victims have, through the enactment of a Memorial Law, succeeded in getting the public to identify with an individual victim and his or her fate. As documented throughout this dissertation, the individualizing of the victim to the public at large has been a necessary step in the process of commemorating a specific victim with a specific piece of legislation.

The number of personalized bills enacted between 1994 and 2005 in state legislatures is instructive in terms of whether some victims were over-represented by race, age or gender. The findings of this research suggest that female victims, children, teenagers, and Caucasians were most likely to be commemorated by

Memorial Laws. This pattern is consistent with Dubber's (2006) conclusion that "the paradigmatic victim of the victims' rights movement is white" (p. 7) and that in particular "nothing excites the communal punitive reflex of all potential victims (that's all of us) more than the murder of a child. No victim is more helpless than a homicide victim, except a homicide victim who is also a child and even more so, a girl" (p. 180). As demonstrated in Chapter 4 of this dissertation, the majority of Memorial Laws were enacted for Caucasian victims, with mostly white advocates pushing for legislation, a finding that suggests that the grassroots base of the victims' rights movement of the 1970s and 1980s still remains white and is more likely to fight for causes that have a Caucasian victim at the helm. This is likely why a Memorial Law is more likely to commemorate a white child like Megan Kanka (the New Jersey victim of a kidnapping, sexual assault, and murder) rather than a Hispanic child like Divina Genao or an African-American child like Latisha Goodman, both of whom were victimized similarly during the same period and were close in age to Megan Kanka. We might reasonably surmise that the reason a higher percentage of Memorial Laws are named for white children is grounded in the same prejudices that have led to greater media publicity given to Caucasian victims than to victims of other races. Downs (1995) provides a representative case of this sort of racially skewed coverage. He analyzed the coverage in the *St. Louis [Missouri] Post-Dispatch* of two similar cases, the disappearance and murder of two girls, one African-American and one Caucasian. He determined that *The Post-Dispatch* devoted only two stories over three weeks in 1993 to the disappearance of nine-year-old Kimbre Young, the African-American girl, but around the same time ran 23 stories over four weeks about the disappearance of Cassidy Senter, the ten-year-old

Caucasian girl from a suburban neighborhood (Downs, pp. 10-11). This dissertation's finding that white, young, and female victims are likely to be memorialized in Memorial Laws is therefore not surprising, given the media coverage typically devoted to young, white, female victims.

That said, the age, gender, and racial skewing of the findings does not explain the timing of the rise of Memorial Law legislation. Criminal and harmful acts have, since time immemorial, taken victims from their families, but have never until recently been memorialized in personalized legislation. Behaviors have caused similar harms to individuals and have attracted public attention throughout American history, yet we are left with a question that begs an answer: Why Memorial Laws now? It would be reasonable to surmise that the victims' rights movement, which gained power during the 1970s in response to a public perception that the rights of criminals were better safeguarded than those of victims, has set the foundation for the publicity necessary for the recognition of individual victims in Memorial Laws. This would suggest that Memorial Laws' personalizing of the events that lead to the injury or demise of individual victims is a natural extension of a fairly recent but ongoing campaign to recognize the needs and demands of victims in general.

Goode and Ben-Yehuda (1994) postulate that "social problems may fruitfully be observed as a constructed phenomenon; that is, what constitutes a problem is the concern that segments of the public feel about a given condition. From the constructionist perspective, that concern need not bear a close relationship with the concrete harm or damage that the condition poses or causes" (Goode and Ben-Yehuda, p. 149). This argument gives us some insight into why Memorial Laws began to flourish even as violent crime rates were decreasing: because the public *perception*

was that crime was increasing. The evidence presented in this dissertation shows that violent crime in the United States peaked in the years directly prior to 1994 (the year of Megan Kanka's murder) and decreased thereafter. The statistics indicate that if Memorial Laws did have any positive, deterrent effect on crime, that positive effect stabilized in 2002, when national violent crime rates reached a plateau after several years of continual decrease. We are therefore left without firm evidence as to whether Memorial Laws deterred criminals or not. It is possible, indeed probable, that widespread public reaction to Megan Kanka's death primed victims' rights activists to pressure lawmakers for more stringent criminal justice policies (in this case, the withholding of parole from sex offenders who had not completed a particular treatment program and the requirement that released sex offenders register their addresses with the local authorities). It is likely that this more punitive legislation related to sex offenders has had a deterrent effect on other potential sex offenders, although this dissertation has not examined the specific effects of Megan's Law.

The American public may come to regard particular social conditions as "social problems" through a variety of means. Typifications of social problems may occur through "expressed attitudes, voting on issues, participation in social movements, rebellion, consuming media stories about certain issues," etc. (Goode and Ben Yehuda, 1994, p. 152). Once a situation is regarded as a social problem, society determines what action to take (if any) to ameliorate it. Memorial Laws serve a threefold purpose: potentially deterring others from similar harmful behavior, providing politicians with a convenient forum for public expression of personal views, and elevating Memorial Law victims into memorable figures in American history and jurisprudence.

This leads us to the aspect of media construction of victims and crimes and acts of harm that were at the forefront of Memorial Laws and continue to be so to date. The media not only identify victims and crimes, but also place their own spin on the narratives they report. On the issue of child kidnapping and killing, Wardle (2006) notes that news articles “took the individual stories of child abduction and murder and made them relevant and significant to the wider society, tackling a number of questions about how society should respond to the crimes, who should respond to the crimes, who they should blame and how similar crimes could be prevented in the culture” (Wardle, p. 520).

We might consider the case of Amber Hagerman (after whom the National Amber Alert Network Act was named) as representative of the way in which construction by the media provides an image of a victim that leads the public to consider that victim “everyone’s child.” For example, the April 26, 1996, edition of the *Arlington [Texas] Morning News* printed an opinion piece by Jane Nelson, then as now a Republican State Senator from Flower Mound, Texas. In this article Nelson made Amber Hagerman the human centerpiece of a proposed anti-crime bill in the Texas Senate, skillfully forging the connection between the particular child victim and the child of every parent. “Like many other parents I’m hugging my children a little tighter these days and watching at the window for a little longer when they leave the house,” she wrote. “Recently, we were all horrified by the abduction and murder of 9-year-old Amber Hagerman in Arlington” (Nelson, 1996, p. 7A). Through the use of the written media Nelson promoted a comprehensive anti-crime program that aimed to reduce crimes against children by convicted sex offenders. Included in this vision to protect female children from sex offenders were “Amber amendments,” or

mandatory sentences without the possibility of parole for first-time sex offenders, and “branding” a sex offender’s license plate with an “S” before the number. After providing the meat of her proposed legislation, Nelson hammered home her argument by returning to the idea that a crime against a single child victim (Amber) is a crime against all children of the community. Illuminating the prevention aspect of laws that exert preemptive social control over potential sex offenders, Nelson stated, “As a society, we must channel our outrage into action and declare that we will not tolerate brutality against our children... We must strengthen the laws that deal with crimes against our children and make sure we are using the laws we already have. We must also recognize that we each have a responsibility to protect our community’s children that goes beyond what the law requires” (Nelson, 1996, April 26, p. 7A). The Texas Amber Alert system became the basis for state-level Amber Alert systems nationwide, which began going into effect in 26 states in 2002. Although a few states (Georgia, for example) chose their own local victim as the face of their Amber Alert legislation, in most states Amber Hagerman became, through media exposure, a national victim representing abducted children across the country.

Memorial Laws, first popularized in 1994 with Megan’s Law, have since become a state-level legislative trend. This dissertation demonstrates that personalized legislation arises from a number of phenomena, including not only the social construction of the victim as female, under the age of 18 years, and Caucasian, but also the fact of a victim’s residence in a state whose legislature skews liberal and individualistic. The media construction of the victim, the event harming the victim, and the impact of the victim’s pain or death on his or her family

members are considered in the social construction design that typically leads to the enactment of Memorial Laws. The communal processes of support for Memorial Laws—enhanced by a state’s tendency toward liberalism and an individualistic political culture—that recognize the plight of specific victims are necessary elements for the development of Memorial Laws from grassroots efforts to statewide legislative endeavors.

During the period covered by this study, many states did not jump on the Memorial Law bandwagon, and some comments are in order regarding the possible reasons for this lack of continuity across state boundaries. As noted above and in Chapter 4, states whose legislatures are more politically liberal and which subscribe most to an individualist political culture tend to be more responsive to pressures from activists and constituents and thus tend to vote for Memorial Laws as solutions to crime issues. This finding is consistent with Elazar’s (1966) view of individualistic political cultures as preserving the utilitarian functions of government by serving the demands of the constituents it serves. Liberal legislatures also tend to vote in favor of Memorial Laws more often than other types of legislatures in what seems to be an effort to synchronize their outlook with that of the general public. Citizens’ views, as made known through letters, petitions, personal appearances in legislative offices, and lobbying, are reflected upon most seriously by liberal legislators who attempt to satisfy a discontented public. The dual purpose of Memorial Laws—hypothetically reducing the likelihood of certain violent crimes and fulfilling constituents’ desires to memorialize an individual victim in a statute—seem to offer liberal politicians a means of easily satisfying their voters with minimal political opposition from influential groups.

In contrast, in states with traditional political cultures, when citizens demand Memorial Laws, the demands tend to center on the improvement of society in general—the reduction of crime, rather than the memorialization of an individual victim—and the government often acquiesces. Politicians listen to requests by their voters as a means of satisfying the obligations to their representative communities, providing them with Memorial Laws that uphold the expectations of their supporters.

Although the role of politics in the Memorial Law process is greatest in state legislatures that are liberal and individualistic, these factors are not solely accountable for the Memorial Law trend. Whatever the political leanings of the legislature may be, it is clear that the social and media construction process that paves the way for a Memorial Law is a necessary component of the process of personalizing legislation.

This dissertation has uncovered trends in media coverage of harmful acts and the types of state political culture that have tended to foster the enactment of Memorial Laws. That said, given the limited number of Memorial Laws in existence, it is nonetheless difficult to determine with any certainty which specific circumstances will spur the enactment of a Memorial Law, and in which states. True rationales, muddied by politics and the unpredictable whims of media coverage, are difficult to discern. Equally difficult to discern is whether Memorial Laws truly have a deterrent effect on the crimes that they are designed to address, or whether their main effect is to ease constituents' fears and to address their desire for the recognition of the victims. Any of these areas of uncertainty would provide a good starting point for future research into the generation of Memorial Laws.

What is obvious, however, is that Memorial Laws have, in such a short period, become a staple feature of contemporary American society. As early as 1999, Mark Fritz, a *Los Angeles Times* reporter, identified a public backlash against the onslaught of individualized legislation brought on by what he calls the “unlimited power of parental grief to attract media and sway lawmakers” (Fritz, 1999). He sees in the exercise of this power “a classic story of contemporary activism, a wounded family’s odyssey endlessly replayed from Megan’s Law to missing children on milk cartons.” He suggests that some, if not most, of these laws result from the public’s irrational emotion running wild. Whether this backlash is deserved or not may be irrelevant. The advent of Memorial Laws, a new form of championing victims’ rights, suggests that the image of the faceless and powerless victim of the early twentieth century has given way to the creation of a new, more memorable and individualized image of the victim for the twenty-first century.

APPENDICES

APPENDIX A: RANK ORDER OF VIOLENT CRIME RATES BY STATE

(LOWEST TO HIGHEST)

States with Lowest Violent Crime Rates (States 1-10)
North Dakota
Vermont
Maine
New Hampshire*
South Dakota
Wisconsin
Montana*
Wyoming
West Virginia
Idaho

States with 2nd Lowest Violent Crime Rates (States 11-20)
Utah
Iowa
Rhode Island*
Virginia
Kentucky
Ohio
Hawaii
Connecticut*
Nebraska
Oregon

States with Mean Violent Crime Rates (States 21-30)
Washington State*
Colorado*
Minnesota*
Mississippi
Kansas
Indiana
Pennsylvania
New Jersey*
Arkansas
Alabama

States with 2nd Highest Violent Crime Rates (States 31-40)
North Carolina
Oklahoma
Georgia
Massachusetts*
Missouri
Texas*
Arizona
Michigan*
Alaska
New York*

States with Highest Violent Crime Rates (States 41-50)
Delaware
Nevada*
California*
Illinois*
Tennessee*
Louisiana
Maryland
New Mexico*
South Carolina
Florida*

* Indicates the presence of one or more Memorial Laws.

APPENDIX B: ANNUAL AVERAGE VIOLENT CRIMES IN MEMORIAL LAW STATES,
1994-2005

Year	Total	Year Aver.	Cumulative Number of Memorial Laws Enacted
1994	11724.5	651.4	1
1995	11388.4	632.7	4
1996	10643.3	591.3	6
1997	10252.3	569.6	7
1998	9771.6	542.9	15
1999	8927.0	495.9	19
2000	8786.8	488.2	22
2001	8808.4	489.4	25
2002	8633.7	479.7	28
2003	8292.2	460.7	34
2004	8045.5	447.0	37
2005	8165.4	453.6	43

APPENDIX C: MEMORIAL LAWS BY TYPE OF OFFENDER/OFFENSE

(FEWEST LAWS TO MOST)

Mentally Ill Perpetrator
California - Laura's Law
Michigan - Kevin's Law
New York - Kendra's Law

Drunk Drivers
Illinois – Scott's Law
Massachusetts - Melanie's Law
New Hampshire - Brooke Blanchard Law
New Jersey - Michael's Law
New Jersey - Christopher's Law
New York - Sean's Law
New York - VaSean's Law
Rhode Island - Jillian's Law

Other
Connecticut - Jenny's Law
Michigan - Lisa's Law
Minnesota - Kari Koskinen's Law
New Jersey - Maggie's Law
New York - Adam's Law
New York - Jenna's Law
New York - Penny's Law
Tennessee - Lottie's Law

Sex Offenders
Florida - Jimmy Ryce Act
Florida - Jessica's Law
Minnesota - Katie's Law
Nevada - Sherrice Iverson's Law
New Jersey - Megan's Law
New Mexico - Marissa's Law
New York - Kathy's Law
New York - Joan's Law
New York -Stephanie's Law
Texas - Ashley's Laws

Child Abuse / Child Welfare
California - Brandi's Law
California - Oliver's Law
Colorado - Candace's Law
Connecticut - Jenny's Law
Massachusetts - Lizzie's Law
Montana - Dane's Law
New York - Alysa's Law
New York - Elisa's Law
New York - Jeremy & Julia's Law
New York - Kiernan's Law
New York - Lee Ann's Law
New York - Louis' Law
New York - Robyn's Law
Tennessee - Haley's Law
Washington State - Becca's Bill

APPENDIX D: MEMORIAL LAWS BY RACIAL DISTRIBUTION OF VICTIMS

Race	Population	Percentage of Memorial Laws by Racial Distribution	Percentage of American Population by Race
White	237,854,954	90%	72%
Black	37,909,341	5%	11%
Hispanic	42,687,224	5%	13%
Asian	11,900,000	0%	4%

APPENDIX E: MEMORIAL LAWS BY GENDER DISTRIBUTION OF VICTIMS

Gender	Population	Percentage of Memorial Laws Based on Gender	Percentage of Population by Gender
Male	138,053,563	30%	49.1%
Female	143,368,343	70%	50.9%
Total	281,421,906	100%	100.0%

Population figures derived from 2000 U.S. Census figures.

Memorial Laws include all laws enacted between 1994 and 2005.

APPENDIX F: MEMORIAL LAWS BY AGE DISTRIBUTION OF VICTIMS

Age	Percentage of Memorial Laws Based on Age of Victim	Percentage of Population by Age of Victim
0-4	15.9%	6.8%
5-9	20.5%	6.6%
10-14	13.6%	6.9%
15-19	18.2%	7.2%
20+	31.8%	72.5%

APPENDIX G: STATE LEGISLATURES, BY DOMINANT IDEOLOGY
(MOST CONSERVATIVE TO MOST LIBERAL)

Most Conservative
Alabama
Delaware
Idaho
Louisiana
Mississippi
North Carolina
North Dakota
Oklahoma
South Carolina
South Dakota
Texas *
Utah

Partially Conservative
Arizona
Arkansas
Florida *
Georgia
Indiana
Kansas
Missouri
Nebraska
Nevada *
New Mexico *
Rhode Island *
Tennessee *
Virginia
Wyoming

Partially Liberal
Illinois *
Iowa
Kentucky
Maine
Minnesota *
Montana *
New Hampshire *
Ohio
Pennsylvania
Vermont
Wisconsin

Most Liberal
California *
Colorado *
Connecticut *
Maryland
Massachusetts *
Michigan *
New Jersey *
New York *
Oregon
Washington State *
West Virginia

* Indicates the presence of one or more Memorial Laws.

APPENDIX H: DOMINANT POLITICAL CULTURE, BY STATE

Moralistic
Colorado *
Idaho
Iowa
Kansas
Maine
Michigan *
Minnesota *
Montana *
New Hampshire *
North Dakota
Oregon
South Dakota
Utah
Vermont
Washington *
Wisconsin

Traditional
Alabama
Arizona
Arkansas
Florida *
Georgia
Kentucky
Louisiana
Mississippi
New Mexico *
North Carolina
Oklahoma
South Carolina
Tennessee *
Texas *
Virginia
West Virginia

Individualistic
Alaska
California *
Connecticut *
Delaware
Hawaii
Illinois *
Indiana
Maryland
Massachusetts *
Missouri
Nebraska
Nevada *
New Jersey *
New York *
Ohio
Pennsylvania
Rhode Island *
Wyoming

*Indicates the presence of one or more Memorial Laws.

APPENDIX I: PERCENTAGE OF STATES WITH AND WITHOUT MEMORIAL LAWS,
ACCORDING TO DOMINANT POLITICAL IDEOLOGY

State Ideology	Percent of States with Memorial Laws	Percent of States without Memorial Laws
Most Conservative	6%	37%
Partially Conservative	27%	30%
Partially Liberal	22%	23%
Most Liberal	45%	10%

APPENDIX J: PERCENTAGE OF STATES WITH AND WITHOUT MEMORIAL LAWS, BASED ON DOMINANT POLITICAL CULTURE

Dominant Political Culture by State	Percent of States with Memorial Laws	Percent of States without Memorial Laws
Moralistic	33%	31%
Individualistic	44%	31%
Traditional	23%	38%
TOTAL	100%	100%

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