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Where the Sun Should Not Shine:
How the Perceptions of Victims Shape Victim Redaction Policies in Idaho

by

Jill Kirkham

A dissertation
submitted in partial fulfillment
of the requirements for the degree of
Doctor of Arts in the Department of Political Science
Idaho State University
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Committee Approval

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Sincerely,

Ralph Baergen, PhD, MPH, CIP
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Sincerely,

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Where the Sun Should Not Shine:

How the Perceptions of Victims Shape Victim Redaction Policies in Idaho

Dissertation Abstract--Idaho State University (2021)

Sunshine Laws are meant to cast light on the government's actions by giving the public easy access to government records. The public, in turn, can use the government's records to evaluate the efficiency and performance of the government. However, since government records, also contain information that most people consider private, this right to government documents can also shine a light on the most vulnerable members of society. Privacy interests are implicated every time a government record is requested. In Idaho, government agents may redact private information from a government record when "its release would be an unwarranted invasion of privacy." Since the Idaho Legislature has never defined what constitutes an unwarranted invasion of privacy, the release of these sensitive records is largely up to the discretion of the record custodian. Due to this discretion, differing governmental agencies (and sometimes individuals within the same agency) have differing policies.

The focus of this project is to understand how perceptions of victims shape victim protection policies in Idaho public records laws. This analysis will seek to understand the viewpoints of three different groups of people—the public, record custodians, and state legislators, and untangle how the triad of these perspectives influences victim record redaction policy in Idaho. This project includes original research from surveyed students at Idaho State University about their views of redactions, a survey of record custodians in Idaho, and a narrative analysis of state legislators as they discuss an amendment concerning victims.

The findings suggest that for all three groups knowledge on this issue is low. The public's value on what ought to remain private and what ought to be released do not align with the state's

policy. This ambiguity results in record custodians weighing their redaction decisions on their perceptions of victims and the rights of the press. Finally, using a narrative policy framework analysis, the analysis shows that legislator's views on victims, including negative stereotyping of a victim's contribution to their own victimization, result in policy decisions that do not completely protect victims.

Keywords: public records, privacy, victims, stigma, press, record custodians, Idaho

Chapter 1

Introduction

In the summer of 2014, the City of Idaho Falls began an investigation of one of their own employees for accusations of statutory rape. Raymond “Joe” Probert, age 56, had worked for the City of Idaho Falls for 18 years as the big cat zookeeper. During the summer months, high school age teenagers volunteer at the zoo in a program called the Junior Zoo Crew. The City’s initial investigation found that Probert groomed high school students by trading privileges and experiences with the big cats in exchange for sexual favors. One particular victim, now 20, was very hesitant working with the police and providing a statement about the abuse they experienced. The victim and their family were embarrassed and felt ashamed. The Idaho Falls police assured the victim that they would do all they could to protect their identity because the events happened while they were minors. The county sheriff conducted the criminal case because the City police could not investigate another city department for criminal conduct.

Reporters use public record requests extensively to write their news stories. When a reporter made a request to the City for information regarding this case, the City took great lengths to redact the names and personal information of the women involved in the investigation. Despite these efforts, the names of the victims were published in the newspaper. Reporters had obtained the victims’ private information from a similar request made to the county. This document released from the county not only included the names of the victims, but their home phone numbers and addresses too.

This case brings up a number of concerns about the rights of victims in Idaho and how their personal information is kept and made public. In this example, two public agencies

(overlapping the same geographical jurisdiction) stored similar information about the victims. Both public agencies received record requests made by reporters, but using the same law interpreted what should be redacted differently. The lack of legislative guidance on this issue means that street level bureaucrats are given significant leeway in determining what privacy rights victims have. It is a poor public policy to have the law be administered differently depending on where a person lives, or even which bureaucrat handled sensitive information that day. Even within the same office, different staff members may approach the law differently. The focus of this project is to understand how perceptions of victims shape victim protection policies in Idaho public records laws.

The Importance of this Research: When Values Collide

Governmental public records pit two important American values against each other; rights to privacy and government scrutiny. Americans value their individual liberties that preserve their freedoms from government intrusion. At the same time, Americans also have a high value on government transparency. These values are fundamental and enshrined in the First Amendment with freedom of speech and the press. While these two values usually coexist without problem, victim privacy in public records creates conflict.

Victim Stigmatization

Rape and domestic violence carry with it a particular connotation that follows that can stigmatize them for the rest of their life. A stigma is a spoiled identity. Stigma originally meant a literal, physical mark on a person such as a scar or disability. Today it is more metaphorical. To understand stigmatization, there must first be an understanding of what is considered normal. Stigmatized people are judged negatively in comparison to what is considered normal or socially acceptable behavior.

In early academic research on stigma, there were two ideas on where stigma may be located (Goffman 1963). The first is that stigma can exist within a person. Meaning, what makes a person different from what would be considered “normal” is something about themselves that is not easily seen unless it is disclosed. For example, someone who has committed a crime and served time in prison. Once reentered into society, a former prisoner does not necessarily bear obvious markings. However, once others know they have been to prison, the former prisoner will be stigmatized and viewed as different from the norm. The second location of stigma is in the observer(s). In the previous example, the stigma would be held by all those who have not been to prison and view those that have been as less than normal.

The sociologist Erving Goffman, who contributed greatly to the study of stigma, argues that stigma’s location is neither one of these. He argues that stigma exists in the relationship between an attribute and an audience (1963). For example, the color of one’s skin on its own is not stigmatizing. A person with very dark skin is not stigmatized in Nigeria where the overall population also has dark skin, but that same person may be stigmatized in Idaho where the majority of the population has much lighter skin. In this example, the stigma is not residing in the person, but in the relationship to different audience groups.

Goffman defines three broad categories of stigma. First, are abominations of the body. These would include scars, loss of hair, amputations, etc. The second is character defects. This category includes characteristics such as being dishonest, disloyal, an addict, being unfaithful, sexual promiscuity, etc. Goffman also includes attributes of unemployment, homelessness, and homosexuality as character defects, but is not implying that people with these attributes are bad or defective but are negatively perceived by audiences without these differences. The third is

tribal stigma. Goffman uses a broad definition for tribal to include aspects such as race, religion, and national origin.

Victims of sexual crimes can carry stigma from all three categories. There can be physical bodily changes such as a loss of virginity, scars, and deformity. The victim's character can come into question by being considered sexually active/promiscuous, a bad judge of character, unaware of their surroundings, etc. Sexual victims can also be made different by their tribe. For example, a victim of rape who is a part of a religious group that has a strong preference for purity culture may be stigmatized by their religious community.

Goffman (1963) asserts that at some level, all people have discreditable characteristics that if found out would mark them against some audiences in their life. For example, a person with a reputation as being very even keeled and sober, might also drink at home alone in excess. People work to hide their stigmas from others that they worry would change their opinion of their outwardly perceived reputation. When a person's stigma is revealed, they then become discredited.

In a study conducted by the United States Department of Justice, forty-two percent (42%) of the "physically forced" victims who did not report the incident to the police said it was because they "did not want anyone to know" (US Department of Justice 2007, 26). Victims, especially those in college, know that reporting rape comes with a social risk, especially when the perpetrator is someone they know. Scott Berkowitz, the founder and president of the Rape Abuse & Incest National Network, reported that in previous years the most common reason victims gave for not reporting was, "I think I won't be believed. I think I will be blamed." Today it is much more common to hear, "I want to keep this private. I don't want people to know. I'm embarrassed (Gray 2014, 1)."

Victims of sexual crimes worry about being stigmatized by others. Goffman explains that the relationship between the stigma and the audience is based on stereotyped beliefs. Without stereotyping, there is no stigma. For example, disease can be stereotyped depending on what the disease is. The common cold is not typically stereotyped because all people get it, the effects are relatively short lived, and there is not much attribution of blame. Contrarily, HIV carries stereotyping of homosexuality and perniciousness. Stigmatization can cause audiences to believe false information and myths.

Despite the prevalence of sexual victimization brought to light with campaigns like #MeToo, victims are still often blamed for the crimes committed against them. Many in society treat, or at least privately think, that rape and domestic violence victims are partly to blame for the crime (Burt 1980). Researchers have been puzzled by the high prevalence of rape around the world and widespread acceptance of myths that victims are sometimes responsible for their victimization. Rape myths are statistically false beliefs people hold about rape victims that are often used to shift blame from the perpetrator to the victim. An example of a rape myth is: “Rape happens only to “certain” types of women.” This statement is false because any person of any gender, age, race, class, religion, occupation, physical ability, sexual identity, or appearance can be raped. Perpetrators do not choose the victims only because they are young, pretty, or provocatively dressed; perpetrators choose the victims who they can subdue (Bohner, Siebler, and Schmelcher 2006).

In an effort to understand belief in rape myths, Burt (1980) created the rape myth acceptance scale to try and identify why rape victims are blamed. The survey results showed that common misconceptions were very widespread (Burt 1980).¹ Lonsway and Fitzgerald (2006)

¹ Over half of the sampled individuals agreed with statements such as “A women who goes to the home or apartment of a man on the first date implies she is willing to have sex,” “In the majority of rapes, the victim was

built upon Burt's work and wrote a literature review of current rape myths scales over the past 30 years. They found that the literature shows that many people have different opinions on what rape is. People are more likely to blame the victim than the assailant because they think the victim should have had more common sense. Survey participants cited that those victims should be more aware of their surroundings, not be by themselves, carry protection, and better monitor their own and others' alcohol consumption. These limited assumptions illustrate that many people still imagine rape as an encounter between young strangers capable of consent, rather than the broader context that sexual victimization can occur in other scenarios such as, but not limited to; domestic situations such as a child and family member, disabled persons, same gender, and between a married couple.

Stigma is important because those that have one are in many cases actually discriminated against. This is referred to as an enacted stigma. Discrimination can occur in various forms. 1) Individual discrimination takes place when a person with a stigma is revealed to another person who believes negative stereotypes about that stigma and then proceeds to engage in overt discrimination such as rejecting a job application or refusing to rent an apartment, and so on. 2) Structural discrimination is when there are accumulated institutional practices that work to the disadvantage of a minority group even in the absence of individual prejudice or discrimination (Hamilton and Carmichael 1967). For example, the majority of legislators in Idaho are men and the majority of victims of sexual crimes are women. It may not necessarily be that men elected to office dislike women, but they may not think about how their policies could affect women because women's voices are not as represented in the legislature and they lack the experience of

promiscuous or had a bad reputation," and "fifty percent (50%) or more of reported rapes are reported as rape only because the woman was trying to get back at a man she was angry with or was trying to cover up an illegitimate pregnancy (Burt 1980, 229)."

being a woman themselves. 3) Status loss is when a person loses the status they held in a community. The loss of status can have effects of its own on a person's life options. Having a lower status may make a person less attractive to socialize with, include in a business venture, and involve in community activities (Link and Phelan 2001).

Even in cases where discrimination is not explicitly happening, stigmas still can affect the stigmatized individual because within themselves they can feel the stigma that they are less than normal. This cognitive burden can affect their behavior. Worries about people finding out your stigma can weigh on a person. Goffman (1963) called this a felt stigma. Expecting and fearing rejection, people who are victims of a crime may act less confidently and more defensively, or they may simply avoid a potentially threatening contact altogether. The result may be strained and uncomfortable social interactions with potential stigmatizers (Farina et al. 1968), more constricted social networks (Link et al. 1989), a compromised quality of life (Rosenfield 1997), low self-esteem (Wright et al. 2000), depressive symptoms (Link et al. 1997), unemployment and income loss (Link 1982; 1987).

Aside from social stigmatization, simply reporting a sexual or domestic assault can be its own trauma for victims. Laxminarayan (2012) identified that for many victims interacting with the criminal justice system can result in a "secondary victimization." Secondary victimization can frustrate and alienate victims as law enforcement officers, defense attorneys, prosecutors, and judges test and examine a victim's recollection of a traumatic assault. While officers and prosecutors may be well meaning and simply preparing the case for a successful trial, many victims report increased posttraumatic stress and other physical distress symptoms as they interact with the criminal justice system.

Victims have heightened concerns about preserving their private information, especially during the criminal justice adjudication. Records and information about the victim are often sought by defendants or prosecution leading up to a trial and afterwards during post-conviction proceedings (*State v. Munoz* Wis. 1996). Failing to prepare or protect victims from these privacy intrusions can significantly damage the relationship between the law enforcement team and the victim, resulting in secondary victimization. Unfortunately, secondary victimization can diminish a victim's trust in the legal system at the very time the legal system needs the victim's cooperation and testimony the most.

Victims have an added layer of stereotyping compared to other groups of stigmatized persons. When scholars seek to articulate the real constraints that stigma creates in a victim's life, in doing so they end up portraying victims as helpless (Fine and Asch 1988). Ironically, this produces more lines in the list of undesirable attributes that form the stereotypes about the stigmatized group. The public can believe victims to be additionally "passive," "helpless," or "acquiescent."

When victims try to change this perception by being a more active challenger, they can run into two problems. First, by letting others know their needs or experiences, people can flippantly say that they are playing the "victim card" or trying to milk the situation for more sympathy. Second, if they come across as too competent or capable, then people call into question if the negative impacts of the crimes committed against them are really that bad. Victims must fit within the paradoxical role of being dependent enough for people to care about their situation, but also strong enough to not be seen as taking advantage of their circumstances. The effort to cope with one's own stigma may result in consequences seemingly unrelated. For example, social epidemiologist Sherman James puts forward the concept of what he calls "John

Henryism”—the tendency for some African Americans to work extremely hard and with great pressure to disprove the stereotype of laziness and inability. According to James et al. (1984), under some conditions, this coping effort bears costs in the form of hypertension. Victims could fall into the same predicament that they have to choose what burdens they let others see because they do not want to be accused of “crying wolf.”

Of the above listed impacts of stigma, it should be understood that stigma has multiple outcomes, not just one or two. The extent of each of the problems is different from person to person and evolves and changes over time. Because the negative consequences are complex and numerous, it is difficult for a stigmatized person to avoid or counteract them. One can exert great effort to avoid one stigma related outcome, like discrimination in medical insurance or injury to self-esteem, but doing so can carry costs. For instance, the coping effort can be stressful, as in the case of John Henryism and hypertension levels among African Americans. In that example, the effort to eliminate one bad outcome ironically produces strain that leads to another.

Stigma exists as a matter of degree. The labeling of human differences can be more or less prominent. A label can connect a person to many stereotypes, to just a few or to none at all. Moreover, the strength of the connection between labels and undesirable attributes can be relatively strong or relatively weak. The degree of separation into groups of “us” and “them” can be more or less complete, and finally, the extent of status loss and discrimination can vary. This means that some groups are more stigmatized than others and that some of the components that have been described can be used analytically to think about why differences in the extent of stigma experienced vary from group to group (Link and Phelan 2001). For example, not all victims of the same crime are treated equally when allocating blame. A college student who was raped after they had been drinking at a party will be stigmatized differently than a young child

who was raped by a family member. The difference between stigmas is widened when talking about victims of different crimes like domestic violence and identity theft.

Research on the attribution of fault has documented that individuals tend to condemn victims for the crimes committed against them. One of the most common explanations for this held belief is that individuals need and want to believe in a just world. They want to feel like people get what they deserve (Lerner 1980). Unusual incidents such as violence might challenge this idea, but individuals may still ascribe at least some blame to the victim to keep a sense of predictability and order in the world (Walster 1966). Many factors related to the actors' behavior as well as to the social context influence the amount of blame attributable to individuals involved in violence and harassment (Lyons 2006). Furthermore, research suggests that a victim's social status may influence stigmatization and blame. Social status can be signaled by individuals specific characteristics, such as job skills or level of educational attainment, or by diffuse characteristics that transcend situations, such as race or sex (Berger et al. 1977; Howard and Hollander 1997).

Social characteristics can become associated with stigma when people relate categorizations to stereotypical beliefs (Link and Phelan 2001). Negative stereotypes and prejudicial attitudes are linked to certain negative labels or “attributes” of the individual that are “deeply discrediting,” reducing the individual “from a whole and usual person to a tainted, discounted one” (Goffman 1963, 3). Stigma is not distributed equally among all individuals and social categorizations: less powerful minority groups have access to fewer resources with which to counter the effects of stigma. For example, in the case of domestic violence, the public may be more judging of a woman who lives in an undesirable neighborhood and is economically unstable, than a stay-at-home mother in a wealthy gated community. By associating a victim

with a geographic location, people can draw separate conclusions about the victim and their blameworthiness. The women in the undesirable area may be thought to be poorly educated, taking drugs, and making poor life choices.

Increased blame is generally conceptualized as a function of stereotypical beliefs about the victim's or offender's minority social status, especially when other information about the victim's prior behavior or character is not available. Sex and race-related stereotypes may be particularly influential in social reactions to victims and their assailants. Howard (1984a; 1984b) and Howard and Pike (1986), for instance, found that female rape and robbery victims received more general and characterological blame than male victims. Research has shown that blame given to victims and offenders are influenced by the victim's actions, specifically, the extent to which the victim is perceived to exercise control over his or her actions (Pepitone 1975; Rodin et al. 1989). Ingroup victims and offenders may be evaluated more sympathetically, whereas outgroup victims and offenders may be stigmatized (Howard and Pike 1986).

Stigma is entirely dependent on social, economic, and political power—it takes power to stigmatize (Lyons 2006). In some cases, the role power plays is easy to observe, however, it can easily be overlooked or seem unproblematic. When thinking about victims, people tend to think about the characteristics of someone being a victim rather than the power dynamic between those who are and who are not. Victims who worry about their stigma being exposed to others, have to consider if that audience has the power to reveal their condition to others. For example, telling a therapist something in confidence might be easier for a victim compared to a friend or family member because theoretically, the therapist has an ethical obligation to not share their stigma with others.

When thinking about how wide of an audience the media is, victims know that their reported names have the power to separate them from others, give them a new stigma, and for the designation to stick. In the early example of the Junior Zoo Crew, the victims were very concerned about media coverage because they were embarrassed by the circumstances of statutory rape. They worried that society would not see them as children manipulated by a much older man who was in a position of authority over them, but as “silly girls” willing to trade their “virtue” to pet a tiger.

Victims have every right to be distrustful of how their information will be used by the media in general. It seems like the media in particular takes great pleasure in discrediting individuals, especially those who have high reputations. The media often uses lurid information to engage readership and sell information and advertisements (Yalof and Dautrich 2002).

Given how much of a potential cost there is in becoming discredited, people spend a significant amount of time and effort in managing their identities and information to make sure their discreditable information does not come to light. Managing our own information becomes impossible when it becomes part of a public record. Even people who are considered normal within the group, still spend time carefully cultivating their image around others to only project the information we wish about our identities to others.

Changing stigmatization for victims is very difficult, even within the narrow context of just trying to change public record laws. Victims are not well organized. This is due to the fact that what makes someone a victim is very broad. It is easier to narrow an interest group’s focus on activating victims that share some commonality like those that have been victimized by car accidents caused by drunk drivers in the case of Candy Lightner and the creation of Mothers Against Drunk Driving. But, in the case of victims’ rights in public record laws, there is not the

same comradery to pull and organize victims together. Victims are also not equally burdened by stigmatized outcomes and some do not feel encumbered that their information could be gathered in a public record request. The lack of organization means that there is significantly less funding for any lobbying movement to change the law. Victims that do try to band together, run into the problem that they are already viewed as a societal burden. While legislators would probably not explicitly say this out loud, handling crime is expensive.² When crimes are reported by victims, there is a significant cost to the public in paying police, those in the legal system, and incarceration. Victims asking for more privileges, like name redactions, cost municipalities more in the time it takes for record custodians to comb through documents before release. One might argue that the cost is not that high, but it is still more work than the current status quo of redactions being optional.

Role of the Press in Democracy

Freedom of the press and freedom of speech are long held values since America's founding. President Thomas Jefferson is famously quoted, "Our liberty depends on the freedom of the press, and that cannot be limited without being lost" (Jefferson 1786). His sentiment may be in part because the colonists used the press as means to criticize the British government and gain colonial support for the revolution. Scholars have agreed with Jefferson's praise of freedom of the press. Hohenberg (1971) argued that the freest societies allow a free press that can criticize its government. What makes a country free is the ability of the people to engage in open dialog. Governments that limit the press and hide information create distrust amongst their populations. A free press is the safeguard to democracy and Hohenberg went as far to advocate that the press should have full immunity from the government. Following that same vein, contemporary

² In 2017, Idaho spent \$252 million of its general fund on correction. Idaho's general fund corrections spending grew seven hundred fifty-four percent (754%) between 1985 and 2017 (Mendez-Mota and Bramwell 2019).

independent watchdog organizations, such as Freedom House, work to promote freedom globally by indexing and ranking civil liberties and rights available in each country including how free the press is. Their ranked data is used to strengthen the argument that a free press is an important tenet of democracy.

If scholars generally agree on the important role the press plays in maintaining democracy and freedom, it would be safe to assume that the American public would think highly of the press. However, that assumption would be misguided. Yalof and Dautrich (2002) found that trust in the overall media is declining in the United States. Respondents to their surveys reported that they only trust newspapers slightly more than politicians and lawyers. Yalof and Dautrich's (2002) findings are supported by other longitudinal studies that indicate that trust in the press has declined precipitously in recent years (Gronke and Cook 2007; Ladd 2010). In the 1970s and 1980s, news media enjoyed general public approval and confidence, when compared to other societal institutions. However, today the news media's position of trust has essentially been flipped on its head as the public disregards reports as "fake news." The public's apparent hostility has been documented with the General Social Survey's results stating that by 2008 the public's confidence in the national press was lower than its confidence in most other institutions (Gronke and Cook 2007).

However, the public trust (or distrust) isn't broadly applied to every media story, but rather the public's perception of the messages' bias. The single strongest determinant of whether an individual preserves a news story as biased or untrustworthy is the extent that the coverage is seen as being disagreeable to one's own political views (Pronin et al. 2004). Public concern that national news is tainted with political bias is present on both sides of the political spectrum, although it is especially notable among Republicans (Eveland and Shah 2003). With the

proliferation of national media outlets that take a clear stand on political issues while delivering news stories, such as Fox News and MSNBC, the distrust in the national media may be only a reflection of the public's distaste for messaging with a political position contrary to their own.

On the other hand, when a news story is perceived to be "non-political," the public's perception of bias dissipates. For example, members of the public report that the press perceived as "local" as opposed to "national" media is more trustworthy precisely because local press is perceived as non-political or, at worst, politically moderate (Knight Foundation and Gallup 2019). Local news media, such as hometown newspapers and television stations, likely enjoy the perception of non-political position because they are generally focused on issues and events that concern only a single locality, as opposed to stories that are national or international in scope. These stories often focus on regional politics, neighborhood business news, and human-interest stories featuring persons in the targeted locality. When people are considering what is, and isn't political, typical local news fare simply does not make the cut. While there is a great deal of personal idiosyncrasies in what topics specific individuals perceive as "political," the boundaries that people place around the political arena are predictable. Several academics have observed the "political topics" as those that have a connection to a governmental function that also contain a controversy component that emphasizes conflict (Conover et al. 2002; Walsh 2004). While a person might have strong preferences in the results of a high school football match, the results of the match do not have strong governmental connections that would transform a local newscast's report into the "political."

Most Americans believe that their local media, as opposed to their national news counterparts, are doing a good job and trust local news media more than national newsgroups (Knight Foundation and Gallup 2019). Forty-five percent (45%) of Americans report to Gallup

that they trust their local news “a great deal” or “quite a lot,” while only fifteen percent (15%) report that they have very little to no trust in their local media. National news media, on the other hand, received almost the reversed sentiment; only thirty-one percent (31%) of Americans report a “great deal” or “quite a lot” of trust in national media. Thirty-eight percent (38%) of Americans report they have very little or no trust in national news. Local news media may enjoy more trust because of the fact that local persons may have met or even know the reporters who appear in the by-lines and newscasts. Americans who report that they have had repeated contacts with members of their local media also express more trust in those organizations (Sands 2019). People who report that they are strongly attached to their community or that they follow local news closely, rate their trust of local news higher (Knight Foundation and Gallup 2019). Unsurprisingly, local news media’s distribution is usually only available in the locality the local news media reports on and this local connection may be enough to put aside suspicion of a political agenda or bias.

In fact, simply identifying a news story as being from a local newspaper results in the public perceiving the story to be more trustworthy. Respondents to Gallup’s 2019 survey were asked to read an article. One group was told that the article had been produced by a local newspaper while the other group was told it was from a national newspaper. Respondents who believed the story was local rated the article more accurate than those who believed the exact same article was produced by a national media source. Both sides of the political spectrum assess local news as being more trustworthy than national media. Although mirroring partisan attitudes towards national news media, Republicans report more distrust of local media than do Democrats. But even media-skeptical Republicans rate local media as more trustworthy than national news.

While the public's trust in local news media over national media is significant, it should not be overstated. Just under half of Americans (45%) report they trust the news they receive from their local reporters (Knight Foundation and Gallup 2019). Less than a third of Americans (31%) report they trust the national media. When discussing these statistics in the abstract, the picture painted seems to suggest that the public would not value the protection or freedom of the press over other freedoms. Paradoxically, that does not seem to be the case. Even with the finding of reduced trust in media and press that Yalof and Dautrich (2008) found, they explain that they also found that the public strongly values the freedom of the press. Yalof and Dautrich argue that the public sentiment towards the press is less fragile than some might estimate.

Though people may not agree with the press (or believe what the press reports), the public strongly supports the press' rights in the first amendment. The vast majority (81%) of Americans report that the press is critical or important to the preservation and promotion of democracy (Knight Foundation and Gallup 2020). The disconnect between the value of the press as a democratic institution and the actual trust Americans place in what the press reports is less related to the press's role as a government watchdog, but more related to its increased coverage of sex, violence, and private information displayed openly in the media at large through the use of billboards, radio, and television and the public's perception of improper political manipulation (Eveland and Shah 2003; Yalof and Dautrich 2002). This means that if the press argues that public records are important in order to fulfill its role in keeping the government accountable, the public is more likely to support the press as a manifestation to promote and preserve democracy.

Yet, the press as whole is not solely interested in their role as a government watchdog. The press is, after all, a collection of private businesses dependent on subscriptions and ad sales. For example, the press has competing interests in reporting crime to the public. Concededly, the

press wants to make sure that the government is following correct procedures concerning criminal investigations, but they also want to sell stories. The public's curiosity for the macabre makes sexual crimes particularly alluring for reporters and readers (Yalof and Dautrich 2002). In the interest of creating interesting content, members of the press often make public records requests after they hear a crime has been committed. As the public records given to reporters contain private information, this is problematic for victims who want to remain anonymous and left alone after reporting a crime.

Idaho record custodians by law are not allowed to consider who is making the information request when they are handling public records.³ In fact, in Idaho, a person does not have to even identify themselves on the request. Since all requesters are to be required by law to be treated equally, any information once released to one person must be released to all others that request the same information. Members of the press do not receive special consideration or privileges under the law. Reporters may assert that their ethical standards prohibit members of the press from publishing victims' names and, as a result, victims who wish to be left alone can trust the press to keep victim identities confidential.⁴ However press ethics cannot not stop other curious people from also requesting the same information the reporter pulled to write their story. Reporters argue that victims' names are needed in order to verify the report's facts so that the press can inform the public about safety. But these objectives can be fulfilled without identifying a victim's identity.

³ Idaho Code section 74-102(5).

⁴ Even with press policies not to disclose victim names, exceptions and mistakes are made. In *Florida Star v. B.J.F.*, 491 U.S. 524 (1989), a victim of sexual assault sued the Florida Star newspaper for publishing her full name in an article and a police department for releasing her name in violation of Florida's public records act. While the police department was found liable, the United States Supreme Court found that the First Amendment prohibited holding the Florida Star liable for publishing her name, even though the paper's internal policy forbade the publishing of sexual assault victim's names. Thus, newspapers do not owe victims any duty to maintain victim privacy. Interestingly, the Supreme Court decided to refer to the victim by her initials only "in order to preserve her privacy interests."

The fine line between information used for the public good, and information used for gain does make some populations nervous about government records. Research shows that people are afraid of how their private information is collected by both the media and the government. Scassa (2014) identifies three broad privacy challenges raised by open government. The first is how to balance privacy with transparency and accountability in the context of “public” personal information. The second is the disruption of traditional approaches to privacy. The third challenge is that of the potential for open government data—even if anonymized—to contribute to the big data environment in which citizens and their activities are increasingly monitored and profiled. Scassa concedes that increased government transparency does promote accountability, enhanced citizen engagement and participation, etc. (Scassa 2014). Scassa’s arguments revolve around open data collection for national security interests. Data mined documentation made by the government could change the public’s habits. If people are afraid of being watched, they will become wary of adding to that paper trail.

Lobbyists representing the press argue that current public record laws are uncontroversial and that privacy concerns are a relatively new phenomenon. But the clash between personal privacy and the free press is an old topic. In most recent years the clash of private information and freedom of the press in the name of the public good has been framed in the context of national security, medical research, and social media. The adversarial nature between personal privacy and freedom of the press has been an issue for debate since the government started keeping meticulous records. In many ways, this debate has only heated up as technology continues to make it easier to broadcast and publish information that used to be difficult to access. For example, in 1966, people debated the use of cameras and television in courtrooms. The media argued it was the public’s right to know how justice was being served.

However, privacy groups retaliated that media coverage of a trial could affect the proceedings and infringed on the privacy of those involved (Gillmor 1966). In recent years, the clash between personal privacy and the press has tended to hand more victories to the press. These policies suggest that the public good is better served when the press's interests outweigh individual privacy. However, some recent legal decisions may suggest that the press-centric trend has its limits. Horwitz (2017) published, "Safeguarding Crime Victims' Private Records Following the *Tennessee v. Metro*" in the *Tennessee Bar Journal* and gave a legal opinion summarizing the Tennessee Supreme Court's decision on the privacy rights of victims and those accused in the criminal system. The Tennessee Supreme Court ruled that during a trial a victim's privacy rights have to bend to other rights, such as the Constitutional right to confront an accuser in a public trial. However, in other limited contexts, a victim's privacy rights may prevail. The rights of a victim should be more highly considered when "the likelihood of intimidation, harassment, abuse, indignity or lack of compassion following the release of a victim's private records to the public." While the Tennessee Supreme Court's decision indicates that victim privacy interests can on occasion outweigh the press's interest to report, Horwitz (2017) argues that this standard is still subjective and places the burden on victims to prove that keeping their information private outweighs the press's right to report.

Even outside of the context of the courtroom, other publications have shown favoritism towards the media in the name of the public good. For example, in 2012, medical researchers used public records requests to study the link between tinnitus and suicide (Pridmore et al. 2012). They reviewed 10 years' worth of records of people who had committed suicide and if their records showed any mention of tinnitus. Newspaper accounts were used to corroborate the public reports. In their paper they identified four men who they believe tinnitus was the root reason for

their suicide. The paper gives a detailed description of each of the men, revealing their age, marital status, children, medical conditions, and where and how they died. The sources given for each man's information came from newspaper articles. While the stated objective the authors of the medial article was to inform medical professionals of the limited, but connected instances of tinnitus and suicide, the article nevertheless pried into personal details many members of the public would consider private information (Pridmore et al. 2012). This begs the question of what is the media's role in society, and when does the needs of the public outweigh the right of private persons to be left alone?

Knowing that people fear being watched by their government, the United States Census Bureau conducted a review to understand why people do not take part in the census or report false information. Their findings admitted that the Census Bureau could do a better job of informing the public that their identifying information is kept confidential (Mayer 2002). Research showed that most people did not understand what confidentiality meant (Ira O. Glick & Associates, Inc. 1978). Members of the public believed that people could still identify them from their answers. The Census Bureau recognized that people either do not respond or misreport data that they fear may cause them harm (Response Analysis Corporation 1978). For example, some people surveyed did not want to accurately report their race because they thought the government would use that information to segregate them (Market Dynamics, Inc. 1985; 1986). People also had a fear that their neighbors would be able to access information about them like their income (Singer 1984). If people worry about their confidential responses to the census about benign issues like salary, then there are people who worry about their unprotected information that is much more stigmatized—like being a rape victim. Victims are aware that once they report a

crime their information will forever be tied to that public record. Victims have to carefully weigh their desire for justice and the long-term labels that could be attached.

Plan for this Project

The guiding research goal for this project is to understand how the perceptions of victims shape victim protection policies, especially those in public records in Idaho. This analysis will seek to understand the viewpoints of three different groups of people: the public, record custodians, and state legislators, and untangle how the triad of these perspectives influences victim record redaction policy in Idaho.

To begin this exploration, Chapter 2 will review the Idaho Public Records Act as found in Chapter 1, Title 74 of the Idaho Code. This chapter will give an overview of the statutory framework of the Act, as well as provide the relevant history and evolution of the Act. As this project examines how the Act is viewed and used, this chapter will also discuss the statutory definitions provided by the Idaho Legislature.

Chapter 3 will address the theoretical approaches used to understand record redactions. This chapter will discuss three bodies of literature including social construction of target populations, implicit bias, and narrative policy framework. These theories will be used as a theoretical framework for developing a set of testable hypotheses.

Chapter 4 will focus on a two-prong survey aimed at measuring public opinions of victims and information redaction of public records. The first study tries to understand what actors influence the public's opinion in redacting a victim's information in a public record request. Respondents were asked what information they think should be redacted, their perceived knowledge of the redaction laws, their views of the press, and victim blaming. The second part

of the chapter seeks to measure the effect of President Trump's approval, implicit racism, and sexism on views of sexual assault victims.

Due to Idaho's ambiguousness of private information regarding victims, record custodian's views are important in understanding how state legislation is administered on the street level. Chapter 5 covers a survey to understand the views that influence record custodian's policy in releasing victims' names in a public record request.

Chapter 6 seeks to understand more broadly how Idaho state legislators may view victims' rights through a case study analysis of the Marcy's Law. Marcy's Law is a proposed amendment to the Idaho Constitution that would guarantee more protections for victims in Idaho. Using a narrative policy framework analysis of several years of committee hearings gives insight to how both adversarial coalitions are messaging and how legislators publicly respond.

The final analysis in Chapter 7 will discuss the overall findings and offer suggestions for future exploration of this policy issue. In its entirety, this project seeks a better understanding of how perceptions of victims shape victim protection policies in Idaho.

Chapter 2

Idaho Public Records Law

Public records are inextricably tied to adopted legislative policy and judicial interpretations of statutes. Neither English common law nor the United States Constitution affords the general public the right to examine or inspect the records held and created by the government. Instead, the modern right to copy and inspect the government's records is the result of the passage of legislation. In order to understand how perception of victims has impacted victim protection policy in Idaho, a brief outline of the current legal framework on the legislatively granted right to receive records is necessary. Certain terms will be used throughout this paper while discussing public records. Table 2.1 includes a glossary of commonly used terms defined by the Idaho Legislature in Section 74 of the Idaho Code.

Table 2.1: Definitions of the Idaho Public Records Act

Term	Definition
Applicant	Any person formally seeking a paid or volunteer position with a public agency. "Applicant" does not include any person seeking appointment to a position normally filled by election.
Copy	Transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.
Custodian	The person or persons having personal custody and control of the public records in question.
Inspect	The right to listen, view and make notes of public records as long as the public record is not altered or damaged.

Investigatory record	Information with respect to an identifiable person, group of persons or entities compiled by a public agency or independent public body corporate and politic pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct over which the public agency or independent public body corporate and politic has regulatory authority or law enforcement authority.
Law enforcement agency	Any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.
Local agency	A county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.
Person	Any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.
Prisoner	A person who has been convicted of a crime and is either incarcerated or on parole for that crime or who is being held in custody for trial or sentencing.
Public agency	Any state or local agency as defined in this section.
Public official	Any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed or hired.
Public record	Includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.
Requester	The person requesting examination and/or copying of public records pursuant to section 74-102, Idaho Code.
State agency	Every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia and the Idaho state historical society library and archives.
Writing	Includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

Virtually all the states and the federal government have adopted public disclosure laws that permit individual members of the public and the press to receive documents and information possessed by the government. The purpose for these “sunshine laws” is typically described as an accountability and transparency measure. In other words, the idea is that the public can review the records of the government and evaluate and determine what the government is doing. Government records include benign information, such as a five-year fiscal forecast for a school district’s capital expenses, and information that is strangely personal, like the individual water meter reports with a municipal water utility.

Idaho’s “Public Records Act,” like other state’s sunshine laws, gives the public a broad right to government records. Pursuant to the Idaho Code section 74-102, “Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.” This broad statement is strengthened by Idaho’s Supreme Court’s precedence reviewing the Act. The Court typically has required explicit exemptions to the government’s duty to disclose and has resolved ambiguities in favor of requesters. Failure to properly disclose typically means a local government will be paying a requester’s legal fees and taking a beating in the press.

Idaho’s public records are classified into numerous subcategories, including public employee personnel records, tax returns, etc., but for the purpose of this project I will solely focus on criminal records. All reports that include the information of crime victims are criminal. Criminal reports created by police often include biographical details about criminal suspects and victims that include their names, birthdates, address, telephone numbers, driver’s license numbers, and social security numbers. Often these reports will also include a physical

description not only of the suspect, but also the victim. These descriptions include a person's height, weight, eye and hair color, racial classification, and prominent tattoos. Criminal reports are not limited to the written page. As per the definitions of the Act, any photograph or video taken are included as part of the report. With the advent of mandatory body cam policies, video records are increasingly a common part of all criminal reports. As police officers are often invited into a victim's home, a report might not only include what a victim looks like, but also where they live, and which bedroom they sleep in.

In 2017, when this project began, the Idaho Public Records Act exempted information in criminal reports in only six circumstances. Five of those exceptions focus on issues that promote law enforcement's objectives, for example, preserving the right to a fair trial, the identity of undercover officers, and keeping details of active criminal investigations confidential. Only one of the exemptions to disclosure has been interpreted to protect victim rights. That exemption is that the government can redact a police report when the information would "constitute an unwarranted invasion of personal privacy."

There is very little guidance on what constitutes an unwarranted invasion of personal privacy. The Idaho Legislature did not define what "unwarranted invasion" meant or create contours to determine the scope of what personal information collected by law enforcement officers ought to be considered private. There are no Idaho Supreme Court opinions that examine what the Idaho Legislature meant. For all practical purposes, the matter has been left up to interpretation by local authorities, usually in the moment that they are weighing whether to disclose a report to a requester and that decision needs to be made quickly.

Public record custodians in Idaho must respond to all record requests within three business days after receiving a response.⁵ If a request is not responded to, the Act deems the request denied, empowering a requester to file a lawsuit. If the reviewing court determines that a request was simply ignored, the public agency is fined and required to pay attorney fees. As a result, public record custodians often find themselves under pressure to fulfill requests, often as quickly as possible.

During the 2020 session, the Idaho legislature amended the Act to exempt some specific items of personal information from disclosure. This new exemption applies to all public records, including criminal reports. The exemptions limit disclosures of initials for minor children's names, providing only the birth year from a birthdate, prohibiting releasing social security numbers, and limiting driver's license numbers to the last four digits. Advocates for public privacy may applaud this new addition, however, the amendment may not effectively address victim privacy concerns. The new additions do not protect the release of a victims' identity, telephone numbers, or their home addresses. In addition, there are structural and practical obstacles that may not apply the 2020 amendment to criminal reports at all.

The Idaho Public Records Act is hardly a paragon of legislative clarity. While there are only twenty-six sections in the Act, the headings to each of the sections are not always descriptive of what the section addresses. For example, Section 74-105 "Records exempt from disclosure--Law enforcement records, investigatory records of agencies, evacuation and emergency response plans, worker's compensation" is not the main section dealing with criminal

⁵ A common response is to inform the requester that the custodian needs additional time to complete the request, but even that response does not buy an official much time. Any request that is not fulfilled within ten business days from the date of the request is "deemed to be denied." Idaho Code section 74-103(2).

report exemptions. As Section 74-105(1) directs, those criminal report exemptions appear in Section 74-124 “Exemptions from Disclosure - Confidentiality.”⁶

The 2020 amendments, which apply to all public records, are buried within section 74-106, titled “Personnel Records, Personal Information, Health Records, Professional Discipline.” It is not difficult to imagine a scenario in which a bureaucrat who was quickly skimming over the exemptions to disclosures could overlook Section 74-106 as they attempted to determine what ought to be withheld out of a criminal report.

The 2020 changes also lack any consequences for custodians releasing private information. While public records custodians face a potential \$1,000 fine (applied to the custodian personally) and attorney and court costs if they fail to make a disclosure required under the act, there are no consequences for record custodians if they release exempt personal information. A victim of a crime may complain to a custodian that the law was broken when the custodian revealed their private information to the public, but there is no recourse for the victim.

Given the controversial nature of private information and identity theft, the public is starting to worry about the mass amounts of private information the government has attached to public records. It seems odd that a person in one location in a state would have different privacy rights as someone in another location based solely off the preferences of the record custodian. Those rights might also be different for the same government entity if there is no office policy and more than one employee to process requests.

⁶ The reason why criminal report exemptions appear in a completely separate section appears to be due to a quirk of history. The criminal report exemptions to disclosure pre-dated the Idaho Public Records Act. In fact, from 1990 when the Act was adopted, to 2015, section 74-124’s criminal report exemptions appeared before the Act in Idaho Code 9-335. The Act was incorporated into the Idaho Code as Sections 9-337 through 9-352 until 2015, when the Legislature renumbered the Act and other relevant sections, including the criminal report exemptions, into Chapter of a brand-new title, Title 74 “Transparent and Ethical Government.”

Chapter 3

Theoretical Perspectives

No single theoretical approach adequately provides an explanation of policy development of victims' rights. As such, this project will draw upon several bodies of literature to develop a framework for understanding how perceptions play a powerful role in shaping policies for victims in Idaho.

The first theoretical approach discusses the social construction of target populations. Social construction of target populations is the idea that policymakers “construct target populations in positive and negative terms and distribute benefits and burdens so as to reflect and perpetuate constructions” (Ingram, Schneider, and DeLeon 2007, 93). Social construction of target populations theory can help to explain why different populations often receive different treatment in terms of public policy and perhaps highlight the reason for the vast differences we see in the types of policies and judicial outcomes concerning the use of record redactions (Schneider and Ingram 1993).

The second theory explores how implicit biases shape perceptions of different groups and their labeling. This dovetails with social construction of target populations because bias is created through social constructions. Implicit biases are harder to detect, but researchers have found that implicit bias testing can be predictive of attitudes (Greenwald et al. 1998; Kang et al. 2012; Perugini 2005; Rachlinski et al. 2009). Lawmakers, public officials, police officers, medical staff, and custodians are not excluded from being influenced by their own biases and heuristics (Dehon et al. 2017; Musey, et al. 2016; Pezzin, et al. 2007; Richardson and Goff

2013). This impacts how they chose to treat victims' claims and whether to keep their information private (Burgess 2010; Fridell 2017; Johnson, et al. 2016; Papillon 2012).

Narrative policy framework is the third theoretical approach this project will use to explore how policies are formed. In particular, narrative policy framework will be applied to understand an Idaho legislative debate when opposing coalitions are being considered. When legislators are hearing a topic and welcome different parties to present their viewpoints, testimony is presented as narratives. People tell stories and try to appeal to legislators' emotions. Narrative policy framework explains how powerful emotional appeals can be when compared to analytical reports. Narratives use logical fallacies and present characters, plots, and morals.

Alone, each of these theoretical perspectives paints an incomplete picture of record redactions in Idaho. When working in tandem, however, they can construct a more complete narrative of how record redaction policies are administered, why there are such diverse policies among custodians, and how economic forces continue to guide the trajectory of state legislation.

Social Construction of Target Populations

As noted, society has played a role in creating the stigmatizations and perceptions of what a victim is and who is worthy of pity. Society, along with social policies passed by state legislatures have also contributed to the definitions of worthy victims. These sets of social ideals are known as social constructions, and scholars define a social construction as “a cognitive categorization comprising normative judgment, created by actors to make sense of a situation and to communicate this sense through discourse” (Montpetit, Rothmayr, and Varone 2005, 123). These constructions are often enduring and difficult to change (Ingram, Schneider, and DeLeon 2007).

Victimization of a crime comes in many forms. A child versus an adult may be viewed as carrying different weights of responsibility for the crimes committed against them. For example, a woman who is a victim of domestic violence or rape may be seen as somewhat complacent and therefore less deserving of protection. The word victim also carries a socially constructed image of a person that is making a choice to be a victim. For example, the phrase “playing the victim card” is often used to refer to someone that is trying to claim a status or privilege associated with being a victim. The phrase is often used to suggest that the person does not have a moral claim to what they are seeking. These culturally constructed images define the boundaries of who is worthy of protection as a victim, and those who deviate from this prescribed image are viewed negatively or are seen as deviants.

The cultural construction of who is worthy of victimhood has implications for policy outcomes and this appears to be exemplified in the issue of record redactions. Scholarship has found that policy outcomes are affected by social constructions and benefits and burdens of a policy are distributed to different populations based on whether a population has a positive or negative social construction and whether the target population has strong or weak political power (Rochefort and Cobb 1994; Schneider and Ingram 1993; 1997; Soss 1999). Social construction of target populations is the idea that policymakers “construct target populations in positive and negative terms and distribute benefits and burdens so as to reflect and perpetuate constructions” (Ingram, Schneider, and DeLeon 2007, 93). Social construction theory can help explain why different populations are often treated differently in terms of public policy and perhaps why Idaho policymakers have not clearly defined what is private information and how record custodian should redact from public records requests. This vacuum of policy allows each

individual record custodian to rely on their own construction on who is deserving of keeping their information private and who is not.

Schneider and Ingram (1993) further this line of research by developing a typology of target populations based on the dimensions of social construction and political power. Target populations that are positively constructed and have a strong political power are labeled as the advantaged and often receive the benefits of policy outcomes. This group of people are mostly likely to receive policies that strongly favor them with next to no burdens.

Those with negative constructions, but still have strong political power comprise the contenders. This target population will still receive benefits of policy, but these benefits will often not be visible to the public (e.g., tax breaks). Publicly, contenders will appear to have burdens, but the burdens are usually lighter than policymakers would like the public to believe and the burdens of regulation will be small or unenforced. For example, pharmaceutical companies are told that drugs will be regulated, but then ex-pharmaceutical employees and stockholders sit on the administration committees overseeing the review process.

Dependents are described as a target population that has positive social construction, but weak political power. This group is unlikely to receive many benefits due to lack of power, but government action will sometimes take on a protective role. For example, single mothers are positively constructed in their role as “mother” but have very little political power. The government offers benefits to them, but they are limited and usually do not help the underlying problems of single mothers. Politicians use welfare programs to prove that they are helping the disadvantaged. Groups in the dependent category are seen as children that need carrying and are not good decision makers. Hence, this is why so many social programs have multiple hoops and requirements to receive assistance (Schneider and Ingram 1993).

The final type of target population is the deviants. This group has a negative social construction and weak political power. Members of this group will often receive overt and punitive burdens of political action (Ingram, Schneider, and DeLeon 2007; Schneider and Ingram 1993; 1997). For example, drug addicts are seen as criminals and are incarcerated. Their rights as free citizens are taken away.

The following, Table 3.1, is a reconstruction from Schneider and Ingram’s 1993 work and gives examples of populations that fall into each target population category.

Table 3.1: Social Constructions and Political Power: Types of Target Populations
Constructions

		Positive	Negative
Power	Strong	Advantaged <i>Elderly</i> <i>Businesses</i> <i>Veterans</i> <i>Scientists</i>	Contenders <i>The Rich</i> <i>Big Unions</i> <i>Minorities</i> <i>Moral Majority</i>
	Weak	Dependents <i>Children</i> <i>Mothers</i> <i>Disabled</i>	Deviants <i>Criminals</i> <i>Drug Addicts</i> <i>Communists</i> <i>Gangs</i>

Source: Recreated from Schneider and Ingram (1993, 336).

This same system of classification can be applied to the target populations of public record redactions regarding victims. This body of literature can help to explain why regulation is inconsistent and privileges some populations while restricting access to others. Table 3.2 provides a 2x2 chart that gives context to how the two pitted populations, the press and victims, are socially constructed by public perceptions and access to political power. The table justifies their placement within the social construction for target populations model. The press has an

interest in keeping the policy nebulous and allowing private information to be released in public records. Crime victims and their advocates would like the policy changed to protect their information from public requests.

Table 3.2: Social Construction of Local Press and Victims

	Local Press	Victims
Perception	Free press is important for society. The press acts as a government watchdog.	Victims should be pitied. Rape and domestic violence victims may be partly to blame for the crime committed.
Power	Legally a record requestor can sue municipal agencies and gain compensation if a judge rules that information was wrongfully withheld.	Individuals have no legal recourse for private information given out through a public record.

Note: This table was created by the author using the conceptual framework established by Ingram, Schneider, and DeLeon (2007, 12).

Expanding further, Table 3.3 takes Schneider and Ingram’s (1993; 1997) classifications and applies it to the target populations of public records.

**Table 3.3: Victims and Press’ Socially Constructed Target Populations
Constructions**

		Positive	Negative
Power	Strong	Advantaged <i>Taxpayers</i> <i>Local News Agencies</i> <i>Police</i>	Contenders <i>Government Agencies</i> <i>State Legislature</i>
	Weak	Dependents <i>Crime Victims</i>	Deviants <i>Convicted Criminals</i> <i>Victims Who Lie</i>

Source: Schneider and Ingram (1993)

Depending on the viewpoint of the group or individual, groups related to victim rights and record redactions may be classified in different sections. The classifications of participatory groups are outlined from the general public's perspectives. These perspectives were formed by using the survey results of the public that will be discussed more fully in Chapter 4. Note that the police are categorized into both advantages and contenders. In the general context of victims, police are seen both negatively and positively by the public. The police are often called on by the victims themselves to address the crimes enacted on them. But the public is also becoming more wary of the police because of evidence of police brutality. The perspective difference on views of the police is largely informed by a person's gender, race, and socioeconomic status (Bell 2017).

Advantaged

The first and foremost most powerful and positively viewed group are the Idaho taxpayers. When legislation is being discussed that would expand victim rights, at the forefront of objections to such action is the cost to the taxpayers. Idaho ranks 8th in the country for lowest state taxes. Low taxes are a part of Idaho's identity and are associated with freedom and liberty. Legislators are wary of increases to taxes. For example, even though many school districts in Idaho are considered severely underfunded, to the point that some school districts are temporarily closing, the State of Idaho issued tax refunds during the year 2021. Idaho's rural composition means that rural representatives consistently hold a majority in the legislature. This majority is able to successfully block spending legislation often supported by urban areas and municipalities. The legislature is aware that even if they are to pass greater protections to victims, they would be faced with extreme opposition to funding those protections. Taxpayer pressures are also put on record custodians. The more time a public custodian works on a task,

the more public funds they are using to do so. This means that municipal entities are more likely to hire as few employees as possible to complete tasks and defend departmental budgets.

Another advantaged group that stands to gain from the status quo of less redactions are state and local news agencies. Reporters are second, only to divorce proceedings, the largest category of people to request police reports. Crime is one of the most popular subgroups of articles in local newspapers. As newspapers struggle to sell subscriptions, the need for reporters to divulge salacious news increases. Even though in recent years the term “media” has become less beloved by the public, people still rely and trust local news sources more than national ones (Knight Foundation and Gallup 2019). People tend to have higher trust for local reporters because they are individuals the public is more likely to have personal contact with.

Local news agencies are generally perceived positively by the public because of their role as a government watchdog. When reporters report on a crime or the actions of government/police, they are maintaining an important component of American democracy. Freedom of the press is expressly mentioned in the first amendment. Scholars have well documented the founding father’s intentions of allowing the press to comment on government action. It is for this express reason why the government provides open public records. Reporters that request the information of victims of a crime do so expressing that they are making sure the government is acting accordingly. In the survey of the Idaho public introduced in the next chapter, over seventy percent (70%) of respondents agreed that freedom of the press is an important trait for democracy.

The higher level of political power local news agencies have in comparison to victims is two-pronged. First, record requesters can sue the municipal entities who wrongfully do not release information. In Idaho, record requestors (the press in most instances) can sue the record

custodian if they believe the record custodian has unjustly withheld information. If a judge rules in favor of the requester, the record custodian must release the information, pay compensation and legal fees to the requestor, and receive negative publicity. Since the legislator has not defined what private information is, the court in a lawsuit has a lot of leeway in deciding what is private.

Their second source of power comes from their ability to speak directly to the public. They have/are the platform for the public to receive information and shape narratives and social constructs. They can wield this power to coerce politicians, the employees of politicians, and elected judges to give them more favorable policies. Especially during an election year, the newspaper can choose to endorse or write more favorable or scathing articles about a politician. For instance, overly negative articles about a city council member might influence the next election so that they are not reelected. Reporters have even called out non-politician record custodians such as city clerks and lawyers for not releasing information that they wanted from public records. Sometimes these articles even call for city council members and the mayor to terminate their employment. See Figure 3.1 of a newspaper article from Idaho Falls accusing the city attorney of not releasing victim names. In the article, the author explains that the newspaper is frustrated that the legal department, and in particular name the attorney, of the City of Idaho Falls because they will not release the names of victims. The author wrote, “The frequent refusal to provide the names of deceased victims has become an issue since Randy Fife was hired as city attorney in 2013.” The article further goes on to say that their new publication does not have this same problem with other geographically close cities such as Rigby and Rexburg.

Figure 3.1: Idaho Falls Newspaper Clipping

IFPD won't ID victims, other agencies will

Posted: February 25, 2017 5:41 p.m.

By TOM HOLM
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The Idaho Falls Police Department still has not officially released the names of the victims in a pair of fatal January shootings.

The Post Register was able to confirm the names of the victims in those cases through family members or records requests.

The Idaho Falls Police Department's stated policy is to not release the names of victims who die under nearly any circumstance. The department also often refuses to release the names of other parties involved in what the department deems to be accidents that result in death, such as car versus pedestrian accidents.

The department refused to release names of the Blackfoot driver involved in a fatal September car versus pedestrian accident on Broadway, and the Idaho Falls driver involved in similar accident in June. It also hasn't released the names of two women killed in September when the car they were riding in was hit by another vehicle traveling at high speed on 17th Street.

In denying the names, the city cites Idaho Code 74-124(1)(c) "because its release would be an unwarranted invasion of personal privacy."

The frequent refusal to provide the names of deceased victims has become an issue since Randy Fife was hired as city attorney in 2013. But the refusals conflict with the Police Department's media guide which states deceased victims' names will be made available following notification of next of kin. (The media guide later contradicts itself, saying victim names "are generally not available.")

Source: Clipped from the *Post Register* <https://www.postregister.com/> February 25, 2017.

Since the press is/has its own platform to state their case to the public this situation is unique because municipal entities and their record custodians do not have the same ability to retaliate and express their position. The risk of a lawsuit and the ability to cause harm to the record custodian personally gives the press a lot of power and makes them an advantaged target population.

Contenders

Government entities when viewed by the general public are classified as contenders. By their very nature they are extremely powerful. Compared to an individual, the government is the largest regulatory body. It has the power to strip an individual of their freedom. The ironic thing

about the government is that its aim is the protection of liberty. Government is a paradox. In trying to please one group of people, a contending group of people becomes offended. Public records magnify this conundrum. On the one hand the government can seal records making it difficult for them to be reviewed and therefore protecting the privacy of the individuals involved. On the other hand, the government can release records freely to the public and be transparent. Governments that lack transparency are rated as less democratic because people are removed from government decisions.

The further away the government agency is from the public, the less positively viewed they are (Cook 2014). When people are interviewed about their experiences leaving a bureaucratic office and the individuals they worked with, they tend to hold a more positive view. But, when asking an individual who has not had a recent encounter, they are more likely to generalize bureaucratic agencies negatively (Wilson 1991). For example, generally the public holds a negative view of the DVM, but when researchers asked people as they were leaving the DMV about the employees they worked with, people responded positively about the employees and remarked on their general helpfulness (Wilson 1991).

There are two government groups that are most involved with victim redactions and public records. First are local agencies, specifically clerks and municipal attorneys. When a requester asks for a public record a clerk or attorney finds the specific record and then reviews it before its release. If there is information the custodian does not think should be released, they have the power to redact that information. When a redaction is made, the custodian must inform the requester what redactions were made and provide them with specific references to the Idaho Code for the redaction justifications.

Second, is the state legislature. The legislature writes the Idaho Code. As a body, legislators decide what is allowed to be redacted. They are also responsible for the way the Idaho Code is presented and organized. They define terms. When the code is left ambiguous, local agencies must interpret the law as best as they can until there is judicial review.

Local agency employees, like municipal attorneys, do not have the opportunity for much positive public interaction. Likewise, the legislature often feels very removed from the public's everyday life. Some members of the public may have positive feelings for the individual legislators that represent them, but often have a negative view of the effectiveness of the body as a whole.

Dependents

Groups in the dependent category are seen as children that need cared for and are not good decision makers. Dependents lack political power but are still positively viewed. It should be clarified that by positively viewed does not mean revered. Society does not aspire to be in this group, but they feel that this group is worthy of pity and public assistance. Victims of crimes fall into this category.

The very nature of being a victim of a crime means that something negative happens to a person because of the actions of another outside of their control. Victims turn to the government in assistance in restoring the adverse effects of what happened to them. Victims are discouraged from seeking revenge on their own or hiring vigilantes. Their inability to seek justice on their own means that the government must provide policies to protect them. These policies cost taxpayers in the advantaged group. As a society, people are willing to bear the burden of a criminal justice system to a degree because at one point anyone could become a victim.

Not all victims are viewed as equally deserving. Victims sometimes are stigmatized for the role they played in the crime or the type of crime committed. Victims can even be blamed for what happened to them. For example, if a child is kidnapped, people do not blame the child. The child lacked awareness, or physicality to resist an adult. But, if someone came home and found that their house had been robbed, people may ask the question if the person kept their doors locked. If it was well known that they did not lock their doors, some individuals may say that it was only a matter of time before the victim was robbed. They may even go as far to say they were asking for it. This is especially true of victims of sexual assault. Greater acceptance in rape myths demonstrates that victims are believed to hold a much stronger responsibility for the crimes committed against them. This may explain why even though they are seen as dependents, policies for protecting the private information of sexual assault victims are not as great as those protecting other crimes. Rape myths also show that sometimes it is possible for a victim to even be seen as a deviant. Some people believe that sexual assault victims fabricate their stories as a means of revenge to punish innocent people.

A victim of a crime has to decide if trying to receive justice will outweigh any negative stereotypes of being a ‘troublemaker’ or ‘whistleblower’ or is it worth the effort. Victims also have to consider that a public record lasts forever. How they feel about their privacy might change over time. Revictimization occurs when the negative connotations are publicly associated with the victim’s name. Victims can be confronted by ghosts of the past and forced to relive painful experiences.

Victims benefit by keeping their information private. Once a record custodian releases their information, any other person that makes that request must receive the same information. Record custodians are not supposed to consider who is making the request when deciding what

to release. Victims who want to talk to the press can do so without the press first obtaining their name from a request. If record custodians redacted victim names, victims as a whole could remain private, and those that want to share their story can.

In Idaho, any person, including victims, cannot take legal action towards record custodians for their private information being released in a public record. Idaho's laws specifically protect record custodians from negative fallout from upset individuals. Depending on the person, most individuals do not have a means of shaming a record custodian, other than their own social media accounts. In this case, victims are in a precarious place wanting to voice their dissent to a policy, but also not wanting to broadcast their role as a victim. The limited avenue for victims results in very low power.

Victims are also not very well organized. Since crime and victimhood are general terms to include a wide variety of cases, there lacks the same bond to bring victims together. For example, someone who is the victim of identity theft might not feel like they relate to someone who was a victim of domestic violence. It is hard for victims to organize themselves without something like a shared experience. There are some small victim advocacy groups for individual crimes like sexual assault, but these groups tend to be underfunded. As a general classification of people, victims do not have access to the same money, voting, and lobbying power that the media has. Select wealthy individuals who are victimized, usually do not become advocates for all other victims, but use their resources for countering their own specific problems. An exception may be the surviving members of Marsy Nicholas who are currently advocating for state amendments to expand the legal rights of victims of crime called Marsy's Law.

Deviants

In this model, convicted criminals would fall under the deviant category. Convicted criminals are punished by the state. They are likely to receive punishment from anything as low as a fine to incarceration. In the context of victims, the aggressor is viewed negatively by the public because their actions took choices away from the victim.

I make sure to clarify “convicted criminal” rather than “accused criminal” because depending on the crime, an accused criminal could slide closer to the dependent or if they have monetary resources even contender positions. In the United States, the public has a strong belief in the phrase innocent until proven guilty. This strong protection of the accused is important because the American public greatly fears undue punishment for crimes not committed. Generally speaking, the American justice system is more comfortable knowing that a few criminals do not receive justice than having an innocent person have their rights taken away. That is why accused criminals have an extensive list of constitutional protections such as a right to an attorney, right to remain silent, trial by jury, able to face their accuser, etc. The United States constitution has more rights outlined for those accused of crimes than victims.

In some crimes, such as sexual assault and rape, the views of victim and accused criminals can actually become swapped. Victims can be negatively viewed as deviants, and criminals can be seen as dependents. During Justice Kavanaugh’s nomination hearing, the public became divided on Dr. Ford’s testimony stating that she was sexually assaulted. Critics of Dr. Ford felt that her motives were politically driven and her accusations were not grounded. Others believed her testimony and did not feel Kavanaugh was worthy of the position on the Supreme Court. This example illustrates one of the fundamental difficulties of sexual crimes. Since many sexual crimes take place in private when alcohol is often involved, accusations boil down into a

he said, she said situation. Depending on the perceived likeability of either the victim or the defendant, can have strong implications on who is deviant and who is a dependent worthy of pity.

Theories of social construction suggest that the Idaho Legislature is less likely to pass laws protecting the information of victims if doing so comes into conflict with those advantaged groups such as taxpayers and reporters. This body of literature can help to explain why the legislature has done little to clarify what information should be private and redacted. The ambiguity of the law may not be explicitly intentional, it explains the implicit difficulties victim advocacy groups have faced in trying to define more rights for victims.

Implicit Biases

Psychologists have outlined two types of thinking patterns and attitudes: explicit and implicit thoughts. Explicit thoughts are those that are easy for a person to identify and are cognitively aware. Implicit thoughts are much harder to detect because by their very nature they are unknown to the thinker but rely on deeply held beliefs and attitudes often derived from heuristics and stereotypes (Kahneman 2011). This project will focus on the predictive policy attitudes of implicit biases of victims.

A central role of social selection is individuals noting attributes deemed sufficient or not according to the time and place of the group. (Link and Phelan 2001). Implicit biases are formed early in children as a means of survival (Vedantam 2010). Children need to recognize who is trustworthy within their group, like being able to identify their mother and father. Babies quickly learn to gravitate and trust those with similar facial features they are familiar with. In this aspect, implicit biases on their own are not necessarily a good or bad thing. A baby with limited social interaction with people outside of its family is not racist when it cries in the presence of someone

of a different skin color since babies have limited understanding of the social construct of race (Vedantam 2010).

Biases can become problematic when people rely on those biases and stereotypes to wrongfully exclude groups of people. Stigmas are viewed negatively because there is a connection between labels and negative stereotypes (Fiske 1998). Mental recognition of stereotypes are often “automatic” and facilitate “cognitive efficiency” (Crocker et al. 1998). The automatic nature of stereotypes makes it easy for a person to quickly identify if a person is normal or not. On a primal level, victims of crimes may implicitly be stigmatized because they remind us that the world can be unjust and that frightens us, they could be marked or look different, and a belief that victims are somewhat liable for blame (Lyons 2006). This is problematic for victims viewed by those who accept rape myths. A person that stereotypes a victim of a sexual crime to be in part responsible for the crime committed against them, is likely to be treated with more negativity than a victim of a different crime where the viewer believes the victim to be without fault. These negative implicit views can even go as far as victims not being believed because the viewer may subscribe to the stereotype that women lie to get attention, are vindictive, or they change their mind after the fact. This can cause victims of sexual crimes to be seen as less desirable sexual partners, not good mothers, problematic employees, etc.

Implicit biases have five key characteristics. First, they are unconscious and automatic. They are activated without an individuals’ intention or control (Blair 2002; Rudman 2004). Second, implicit thoughts are very pervasive to the individual holder. Everyone possesses them, even those avowing commitments to impartiality (Greenwald, McGhee and Schwartz 1998; Kang 2012; Rachlinski et al. 2009). Third, implicit thoughts do not always align with the explicit

beliefs of an individual. Implicit and explicit biases are generally regarded as related but distinct mental constructs (Dasgupta 2013; Kang 2009; Wilson, Lindsey, and Schooler 2000). For example, a person may explicitly believe and state that they are not racist but may instinctively change their body language or behaviors (like holding their purse closer) in the presence of a different race than their own. Fourth, implicit thoughts have real-world effects on behavior. Significant research has documented real-world effects of implicit bias across domains such as employment, education, criminal justice, medical treatment, and many others. Fifth, implicit biases are malleable. The biases and associations one forms can be “unlearned” and replaced with new mental associations (Blair 2001; Dasgupta 2013; Dasgupta and Greenwald 2001).

Implicit biases exist when the stereotype outweighs the new unique information. For example, a child watching old western films associates that people who wear black clothing are villains. That same child then may come to associate those not in a western film but who also wear black as being distrustful. This can be particularly troubling when negative associations are made about characteristics of people that cannot be changed like their gender or race (Gawronski and Bodenhausen 2006). As stated previously, implicit attitudes towards a particular belief can be predictive of actions (Perugini 2005). Those that have an implicit bias against women are more likely to treat them differently when they are victimized.

While it is well known that implicit biases exist, testing for them is extremely difficult. One recent way implicit testing has taken place is through non-voluntary bodily testing. An advantage to implicit testing this way over explicit survey questions is the fear of respondents not being truthful in their answers. Survey respondents, even in antonyms testing, have been found to try and give the most socially acceptable answers to what they assume researchers are looking for (Nosek, Hawkins, and Frazier 2011). For this reason, implicit testing has proven

popular. By measuring response time to questions, measuring bodily physical reactions such as rapid eye movement or sweat, rating images of disgust, and brain scans, researchers feel that respondents are less able to manipulate the data. This allows for direct variable measurement instead of subjective estimations influenced by social desirability concerns. For example, if a person is asked to rate how sexist they are, most individuals would report very low sexism. But, if asked their opinion of the qualifications of female politicians or evaluate identical resumes of males and females, researchers can get a better idea of an individual's implicit preferences. It should also be noted that not all respondents are trying to be deceptive in their survey responses. Since these biases exist on the subconscious level, the survey taker is not aware, and therefore cannot report with accuracy.

Implicit bias testing is not without problems. Researchers have studied whether participants can successfully generate invalid results by “faking out” tests like the Implicit Association Test (Lai et al. 2014; Steffens 2004). Participants can slow their responses to a metronome beat to give the impression of non-bias. The more familiar a type of study is to participants, the easier it is for them to become self-conscious of their answers. For example, participants that take part in back-to-back studies have been found to eliminate and even reverse the direction of their first bias findings (Hughes et al. 2016).

Another criticism of implicit bias research has been the misuse of findings. Clickbait titles used by media outlets describe implicit testing as a way to prescreen and label people with undesirable characteristics such as, “Conservatives are Racist and Sexist.” Some people fear that neuroscience, personality, and emotion testing pigeonhole people. Labels can cause a spectrum of responses from the public with people being seen as having a mental disorder freeing them from the responsibilities of their biases because they are unable to think differently on one end,

to groups of individuals should be excluded from policymaking because their opinions are not “politically correct” on the other.

What clickbait authors fail to make clear is that implicit biases are not an excuse for socially unacceptable exploits. All people carry biases. Fridell (2017) explains, “The bad news from the science is that even well-intentioned individuals have biases that can impact their perceptions and behavior—producing discriminatory behavior. The good news from the science is that individuals, once educated on the science of implicit bias, can impact those biases.” Papillon (2012) clarifies, “Neuroscience does not provide an excuse to continue to have and act on our biases. Instead, it reveals those biases and removes our ability to deny the tendencies of our unconscious mind.” Implicit bias testing should not be a way to label individuals, but as a way to generalize and explain certain types of behaviors so people can recognize those biases in public policy and seek to make more inclusive adjustments. Recognition of bias is what allows people to change.

Victim Blaming

Evidence suggests that many people still place significant blame on rape victims regardless of their circumstance (Bieneck and Krahe 2001). Those in authoritative roles who should help in the justice process are also susceptible to victim blaming (Feldman 2014). As an example, when a college student at Patrick Henry College went to the Dean of Student Affairs and related her rape experience, she received the following comment, “You are in part responsible for what happened, because you put yourself in a compromising situation... Actions have consequences” (Niemi and Young 2014, 230). Fear of being blamed or stigmatized results in women choosing not to report rape.

A victim's first contact with the government and creating a public record is often with the police officer dispatched after the victim or their advocate calls. Police provide an important service of documenting from the victim what happened to them. They write a report, take photographic and video evidence, and assist in getting necessary individuals to a medical facility. But police and government personnel can act as gatekeepers making it difficult for rape victims to find justice. If the victim is taken to a medical facility, in some states victims are responsible for the upfront medical costs of an examination. Some rape victims are charged up to \$1,000 for the invasive four to six-hour medical exam to prove that they have been raped. Some investigative reporting found that not all rape kits are tested if police believe there will not be enough evidence to press charges. One might argue that this is an oversight in a burdened system, but Yung (2017) connects that the most reported reason why kits are not tested and further investigation brought forth is because the police felt that the rape could not be substantiated.

The physicians that treat rape victims may also have implicit racial biases (Dehon et al. 2017). Racial disparities in treatment and medical staff's preference for white people over other minorities has been well documented (Musey, et al. 2016; Pezzin, et al. 2007). Evidence suggests that decision making based on heuristics and biases is more likely to occur under certain conditions: time pressure, lack of solid knowledge/information to make a decision, cognitive overload, and fatigue (Aronson 2008). Physicians who work in emergency rooms, places where rape victims are first likely to go, commonly experience cognitive overload as a result of managing multiple patients at once and dealing with frequent interruptions (Burgess 2010; Johnson et al. 2016). This further complication of victim stigmatization and implicit racial biases may make it more difficult for minority rape victims to seek out medical help.

Beyond immediate medical assistance, rape victims may be impacted by the implicit biases of other members of the justice system such as prosecutors, public defenders, judges, and jury members (Richardson and Goff 2013). Unlike private attorneys that are more motivated by their client's finances and have more autonomy of their schedules, public attorneys such as public defenders and prosecutors are dictated to by their municipalities. Lack of control over caseloads can lead to cognitive overload like physicians (Richardson and Goff 2013). Attorneys are just as susceptible to implicit biases. In many rape cases that result in a trial, jury members are left to suss out the "she said/he said" evidence presented by the attorneys. Implicit bias tests of juries found that those more likely to serve on jury duty were also more likely to hold negative implicit sexist and racist biases (Butler 2007). Recent cases like Brock Turner's, the Stanford swimmer, have caused the public to question the biases of the judge, and other judges that award lenient sentences to those convicted of rape based on their race and social class. Brock Turner was found guilty of rape with two eyewitnesses. Judge Aaron Persky, who oversaw the trial, cited the "extraordinary circumstances" of Turner's youth and sentenced him to six months, of which he only served half of that time. Judge Persky wrote, "A prison sentence would have a severe impact on him. I think he will not be a danger to others" (Stack 2016). Implicit sexist and racial biases of judges means that justice is not distributed evenly between sets of people, but the individual characteristics of victims and defendants matter more.

The media reporters covering cases of crime are susceptible to implicit thoughts that can affect the way the story of the victim is framed. Minority victims are less likely to receive the same positive media coverage as white victims (Dukes and Gaither 2017). Racial minorities are overrepresented as criminals or perpetrators compared to their white counterparts in the media, but also that this media bias promotes public hostility toward those groups (Chiricos and

Eschholz 2002; Dixon and Linz 2000). Other work regarding the criminal justice system and sentencing suggests that harsher punishments are given for crimes involving racial and ethnic minorities compared to crimes involving whites (Bobo and Johnson 2004; Russell 1998). Content analyses have found that Blacks are also less likely to be depicted as victims than Whites (Bjornstrom, et al. 2010; Dixon, et al. 2003). Repeated exposure to the underrepresentation of racial minorities as victims and overrepresentation of Whites as victims may alter the public's views of reality. When minorities are viewed as victims by the media, they are also blamed for their crimes and even being responsible for their own deaths. The media fixates on their past actions or the location of their home as being a crime-ridden neighborhood (Dukes and Gaither 2017).

If members of the justice system, medical staff, and the media are susceptible to implicit biases and accepting rape myths so are record custodians. Idaho's unclear definitions on the privacy of victims mean that custodians are left leeway in determining whose identity should remain private. In making their determinations, custodians read a lot about the victim and might make different judgment calls depending on the views they have about that victim's right to privacy.

Narrative Policy Framework

Shanahan et al. (2017) theorize that narratives play a large role in shaping policy. People like to think of themselves as highly rational individuals who base their decisions on logic and statistics. In reality, people are persuaded by emotion and stories, even more than by science and data. Since policy is created by people, policy is also susceptible to being swayed by narratives. Narrative policy framework is a theory that tries to explain why narratives have such power in the policy making process.

Policy discussed in formal settings, such as a committee hearing or floor debate, takes place in the form of sharing narratives (Shanahan et al. 2017). Each side of a proposal shares stories of why or why not the policy should be implemented. Narrative policy framework defines narratives as needing several elements. 1) Characters: Stories need at least one character. As in any good story, there may be victims who are harmed, villains who harm, and heroes who provide or promise relief from the harm and a solution to the problem (Ney 2006; Stone 2012; Verweij et al. 2006). 2) Setting: Setting is where the policy takes place and in what domain it is intended to affect. 3) Plot: The plot provides the arc of the story and usually what is causing the harm the policy is intended to address. It ties the characters together and explains the situation. 4) Moral/Solution: Policy narratives also promote a policy solution. In narrative terms, we refer to this solution as the moral of the story (Ney and Thompson 2000; Stone 2012; Verweij et al. 2006).

The narrative policy framework articulates five core assumptions that one must consider before deciding to apply the narrative policy framework:

1. **Social construction.** Meaningful parts of policy reality are socially constructed. As explained in the social construction of target populations analysis, policies around victims have a lot to do with how each interested party is perceived generally by the public. Current policy favors reporters and the media because they are politically powerful and are generally positively seen as a government watchdog. Victims are pitied, but their weak power to influence and questionable choices resulting in their victimhood leaves their narratives as less positive.
2. **Bounded relativity.** The meaning of those social constructions varies to create different policy realities, but this variation is bounded (i.e., by belief systems,

ideologies, etc.) and thus is not random but, rather, has some stability over time.

Views of victims have recently seen changes in cultural norms such as #MeToo, but little has changed in the way of policy. Like the Black Lives Matter movement, victims' stories are judged on individual cases rather than systemic problems.

3. Generalizable structural elements. Narratives have specific and identifiable structures. The story of victimized individuals lends itself well to narratives. For this very reason is why reporters have a high interest in acquiring the names of victims. Victims are unique in that their victimization is twofold. The media reports on the initial crime that led to victimhood but sweeps past the victimization of public exposure.
4. Three interacting levels of analysis. Narratives operate at three interacting levels: micro (individual), meso (group), and macro (cultural and institutional). The rights and privacy of victims can be analyzed on each level. On the micro level, individual accounts can be looked at whether it is the story of a victim or an individual custodian handling a record request. This could be in the form of implicit bias testing of a single individual and how their socialization forms their views. When thinking about the collective group of victims, legislative body, media, or custodians in general, this is looking at the meso level. Chapter 6 analyzes the Idaho Legislator's view of victims and is focused on this level. At the macro level, this issue can be studied in terms of cultural views of sexism and misogyny.
5. Homo narrans model of the individual. Narratives are understood to play a central role in human cognition and communication, i.e., people prefer to think and speak in story form. The discussion of how victims should be viewed is almost entirely

predicated on narratives. Lack of data on concrete numbers of individuals makes it impossible for policymakers to make decisions without taking into account narratives.

Policy Narrative Strategies

Coalitions play a large role in the narrative policy framework. Different advocacy groups each try to project their side of the story and try to persuade both the public and legislators of their preferred policies. Coalition strategies are influenced by their current policy position. Coalitions vary in belief stability, strength, and cohesion (Shanahan, Jones, and McBeth 2011). Coalitions are not static and make changes to their strategies based on new information presented by competing coalitions. Although there are possibly other strategies, the narrative policy framework focuses on three narrative strategies: scope of conflict, causal mechanisms, and the devil/angel shift.

Scope of Conflict

Influenced by Schattschneider (1960), the narrative policy framework hypothesizes that members of coalitions will use the perception of costs and benefits to expand or contain coalition membership in their favor (Jones and McBeth 2010). In short, when interest groups portray themselves as losing on an issue, they engage in narrative strategies that aim to expand the scope of conflict; conversely, when groups portray themselves as winning, they engage in narrative strategies that contain an issue to a status quo audience. For example, since victims are seeking to expand their protections and rights, they frame their narratives that anyone could become a victim. The media wishes to maintain the status quo on name redaction, so chooses to try and limit stories. They contend that very few people are affected and the need for complete government transparency is more important for protecting widely publicly approved democracy interests.

Causal Mechanisms

The character element in narratives, whether explicitly mentioned or just implied, seek to place blame or praise for policy outcomes. Villains are labeled for causing harm to victims, and heroes are lauded for fixing problems. To date, the narrative policy framework has based its definitions of causal mechanisms on the work of Stone (2012). Stone defines four causal theories: intentional, inadvertent, accidental, and mechanical. Those that do not want a policy to change will tell narratives that the problems are accidental (no one at fault) or mechanical (could not be avoided) because it makes the problems brought up by the minority as unavoidable and impossible to solve. This is seen in the Idaho Legislative hearings of Marcy's Law. Those who opposed the amendment argue that why the problems faced by victims are tragic, there is little that can be done to avoid their problems. They state that further victims' rights would only happen after the fact and would not reduce the individual from becoming a victim.

Devil/Angel Shift

Weible, Sabatier, and McQueen (2009) describe the devil shift as follows: "The devil shift predicts that actors will exaggerate the malicious motives, behaviors, and influence of opponents." According to Stone (2002), heroes are classically understood in a policy narrative as problem fixers, whereas villains are problem instigators. If the devil shift is occurring, researchers will find a high ratio of villains to heroes. In other words, policy narratives employing the devil shift seek to blame and vilify, not to identify heroes or allies who are likely to fix problems. Alternatively, the angel shift finds a higher ratio of heroes to villains.

Theory Cohesion

The three theoretical approaches—social construction of target populations, implicit bias, and the narrative policy framework—all work together to form a cohesive picture explaining

how policies regarding victim perceptions are formed (See Figure 3.2: Theory Cohesion). First, as a person grows from infant to adulthood, they become socialized through the narratives told by those around them. They develop heuristics and biases that draw them towards and against certain viewpoints and ideas. For example, a child will be conditioned to understand that phrases such as “be a man” or “act like a lady” carry a cultural picture of what men and women look like and behave.

The constant reaffirming of these narratives causes the individual to develop implicit biases that they are not even aware of. This causes the individual to behave differently in social situations. As the individual is confronted with hundreds of decisions daily, their brains rely on heuristics to lessen the mental load. For instance, an adult is likely to consistently vote for members of their preferred party even if the candidate supports policies that they explicitly believe to be wrong or may cause them harm (i.e., a woman voting for a politician accused of sexual assault). The individual votes off political party identification because of the narratives they believe about the party. Each time the individual votes for their preferred party, the preference for that party grows stronger.

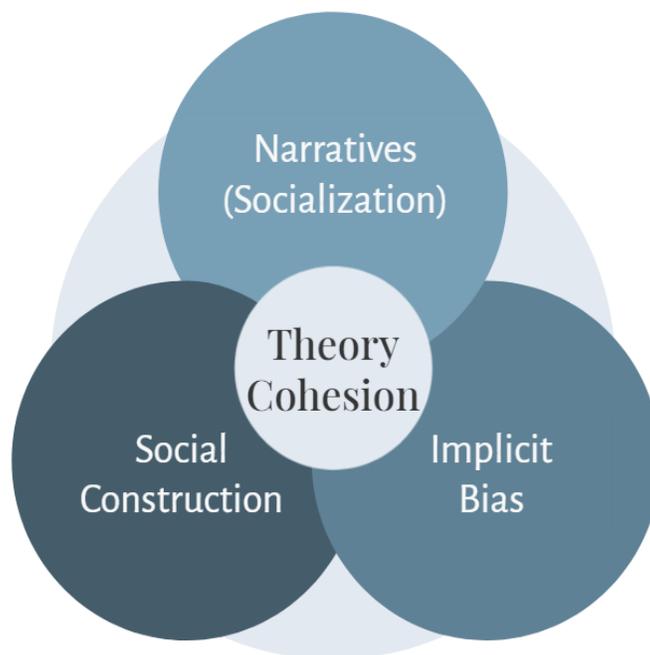
The collective implicit biases held by the majority shape the social construction of different groups in society. Politicians willing to please the majority, use social constructions of groups to determine policies, rewards, and punishments. Groups that are more powerful and positively viewed by society are more likely to be policy victors. For example, views of victims and the press play a large part in the unconscious decisions of legislators on policy formation.

Coalitions that represent different population groups use narratives to appeal to both the public and politicians to maintain or change their perceived place in society. For instance, collision groups that represent sexual abuse victims have tried to educate the public about ideas

of consent and shape perceptions of what is considered rape. Changes in responses to the rape myth acceptance scale since 1980 show a decrease in people likely to accept rape myths. Movements like #MeToo encourages individuals to speak out and share their story. The large response to the movement caused a change in dialog as well as vocabulary regarding consent. As new narratives become commonly accepted, new generations are socialized differently than their parents were.

This however is not a cycle since each theory informs the other. For example, narratives play a key role in shaping social constructions. Social constructions are not always based on facts about groups of people, but rather how society—and really just the ruling majority—sees that group. The better a target population can control and construct their own narratives, the more positive society in general will feel about that group. On the inverse, groups that have little ability to unify or tell their story, the more people will rely on their implicit biases to decide what kinds of benefits and burdens that group deserves.

Figure 3.2: Theory Cohesion



Chapter 4

Public's Perceptions

On many topics, public policy and public opinion are fundamentally linked (Smith and Larimer 2017). As public support waxes and wanes, those shifts drive public policy to change (Cook 2014). There is an exhaustive amount of research and study into the relationship between the opinions of the public and elected officials. However, aside from observing the fact that public opinion usually leads the development or change in public policy, this project does not explore the connections between public opinion and the creation of public policy. Instead, this chapter explores the public's changing attitudes on information collected and released by the government in police reports and the changing attitudes on how victims, particularly sex victims, are viewed by the public. Given that this project explores the impacts on victims being exposed and revictimized by their personal information being released through the Idaho Public Records Law, it is important to remember that the public records law is the creature of public policy and subject to the changing tides of public opinion.

The relationship between policymakers and the public is not the same for all types of policies. For issues that the public is not as aware of or knowledgeable about, legislators and bureaucrats have much more leeway in creating policies and interpreting them. This can cause two different outcomes. First, legislators can make policies that those with high political power desire, with little cost to their political reputation with their constituents. In other words, if a powerful lobbyist would like a certain policy, legislators can grant that policy, presumably in exchange for whatever perks the lobbyists are offering, without fear of being voted out of office by the public. As discussed in Chapter 3, the social construction of target populations theory

describes politically powerful entities that are negatively viewed by the public as “contenders” (Schneider and Ingram 1993). Oil tycoons, for example, are contenders because they are not well liked by the public. Oil tycoons are perceived by the public as being harmful to the environment, taking unnecessarily high profits, and causing gasoline prices to be expensive, but at the same time, oil tycoons are politically very powerful because of the amount of money they can offer to a politician’s reelection fund. If a politician openly gave the oil industry beneficial policies, it would result in an unhappy public. The politician would be viewed by the public as unethical and giving special treatment to undeserving elites. Even with a large campaign war chest, a hated and disliked politician could struggle to be reelected. So instead, politicians who want to accept money from oil lobbyists must do so under the radar of the public. A common way for politicians to deliver beneficial policies to elites is through tax breaks or low regulatory burdens because the public as a whole is not very financially savvy or understands economics. This can obscure the benefits delivered to elites by a politician. If the public does not have any (or very few) opinions on a policy, legislators do not need to be as discreet about their policy choices. They can just take the perks.

The second and more optimistic view of legislators in the event of non-salient topics is that legislators could genuinely want to do what the public desires, but they must guess what their constituents want. Legislators may also lack enough information personally on the topic to create a well-developed policy. It is difficult for policymakers to know how the public feels about an issue if the public is not aware of the issue. Relying on public opinion polls would not be helpful for legislators because true opinions may not be evident. When the public is polled on a non-salient issue, demographics and other independent variables are not as predictive of the outcome (Alford, Funk, and Hibbing 2005) because respondents could essentially be providing

results as effectively as a surveyor throwing darts in the dark. When people are put on the spot being asked for their opinion on an unfamiliar topic, they will rely on heuristics to come up with the answer (Kahneman 2011; Zaller 1990). Rather than responding that they do not know an answer, when pressed, individuals often defer to some mentally linked viewpoint because they are afraid of coming across as stupid or uneducated. Respondents when asked about their position on a non-salient policy topic may think to themselves that those administering the poll would not be asking the question unless they thought the public understood the issue. This causes respondents to make quick connections and give responses in the moment. Zaller (1990) found that if the same people were to be polled a second time a few weeks later, after giving them the chance to review the issue in their mind, people would change their responses. Heuristics can be helpful because they help peoples' brains make shortcuts to make sense of the unknown, but they can also create a sense of false confidence in topics they are not nuanced in.

Since public records and their mechanics are generally a non-salient issue for the public, understanding more salient topics is important for understanding the heuristics that people probably rely on. Views that could have an impact on a person's opinion about record redactions are views of victims and their capacity for blame, feelings about the press (both their credibility and their importance in a democracy), and general views of government as a whole.

This chapter focuses on the public's opinions and perceptions through two studies. The first study concentrates on the public's opinions of victims and the information that is redacted out of public records. This study may be the first such investigation into the subject that has ever been conducted in Idaho. The second study is aimed at understanding how the current political climate could affect people's implicit views of victims.

Part I: Views of Public Record Redactions

This research seeks to understand what factors influence the public's opinion in redacting private information in a public record request. To date, there are no comprehensive studies that assess how the public feels about redactions of private information in public record requests in Idaho. While the press and government record custodians are aware that there is variation in how the current public records law is being interpreted and administered, no one knows how the general public feels and if there are common factors to attribute these perceptions. This study will provide some of the first answers to how Idaho's redaction laws are seen by the public.

To understand how salient of an issue record redactions are to Idaho's public, first understanding what knowledge the public already had on the issue needed to be assessed. There are two types of questions that, in combination, researchers can use to understand what the public knows. First, it is important to ask respondents to self-assess how much they think they know about the issue. This helps researchers understand how familiar respondents are with the topic and if the respondents may be "guessing" when asked about policy choices. The second queries ask respondents to answer quiz questions that have correct answers. It is interesting to compare if respondents who claim to have high knowledge on the subject also score well on specific knowledge questions. For truly non-salient issues, it is expected that participants would rank their knowledge as low and for the quiz question responses to be random.

Since this research assumes knowledge to be low, it is expected that respondents are likely to rely on heuristics in answering questions about what they believe policies should be. Therefore, it is also important to measure personal views that could influence policy choices. For this topic, views that could have a significant influence are a person's general view of the press, rights to privacy, trust in government, and views of victim accountability. In addition to these

views, this research seeks to understand what respondents in the moment think about what kind of information (if any) should be redacted from public records in a request.

Methods

The primary purpose of this project was to better understand Idaho's public perceptions of public record redactions by answering the question: What factors influence the public's opinion in redacting a victim's information in a public record request? The results for this examination came from a public opinion survey of adults (ages 18-62)⁷ attending Idaho State University. The survey was administered from October 23 to November 2, 2017, and resulted in 290 completed surveys. Surveys were administered using iPads. Idaho State University's large nontraditional body is more diverse than other universities and makes it a good predictor of public opinion in Idaho. A description of all variables and coding can be found in the Appendix.⁸

Dependent Variables

The dependent variables consist of how respondents answered the question if they felt like the information of five different categories should be redacted from public record requests. The five variables that were chosen were victim names, children's names, Social Security Number, home address, and telephone number. Respondents who said the government should always redact are coded as "2," respondents who responded sometimes are coded as "1," and respondents who said never redact are coded "0." Since the dependent variables are categorical, this study used an ordered logit analysis to estimate the models.

Independent Variables

⁷ Ninety percent (90%) of respondents were aged between 18-25.

⁸ A description of all variables and coding can be found in the Appendix under Table A.1: Variable Code Book Idaho's Public Perceptions of Record Redactions.

The independent variables were categorized as knowledge, personal views, and demographics.

Knowledge

In this study, it was important to test both perceived knowledge and actual knowledge since the topic of record redactions is not salient to the public. To measure perceptions, respondents were asked how confident their knowledge of public record laws in Idaho was. Respondents were then asked a battery of five true/false questions to test their actual knowledge. Correct and incorrect scores were averaged. It is expected that higher knowledge of public record laws will have a preference for more redactions.

Personal Views

Personal views were divided into views of free press, privacy, trust in state government, and views of victims. To measure respondents' perceptions of how they view free press, respondents were asked two questions. One question was aimed at understanding overall perceptions of importance of a free press, and the second question was aimed at understanding if the respondent feels that redactions of public records will have a negative impact on the press.

Privacy perceptions were also measured with two questions. The first question asked respondents to rank several different freedoms by importance, including privacy. The higher a respondent ranked privacy, the more important it is to them. The second question tests to see if their views of privacy are extended to others. The survey asked respondents if they felt the public should have a right to a politician's private life. By asking about a politician, a person in the public eye, people who felt like even politicians should have private lives would feel that privacy should be universal. It is hypothesized that those that value privacy will also want redactions of private information.

Trust in Idaho state government was an important variable to include because how a person feels about government might affect how they feel about the public records they keep. Respondents were asked to rank their trust on a five-point scale. It is expected that lower levels of government trust will correlate with higher preferences for redactions.

Views of victims measured how much the respondent believes in myths about victims and how much they victim blame. Respondents were asked to indicate their levels of agreeance with a statement that places the blame on a female victim. It is expected that the more respondents feel victims share in the blame of the crimes committed against them the less likely they will be interested in redacting victims' names.

Demographics

The last group of independent variables are control variables that include gender, party identification, age, class standing, and income. It is hypothesized that women, Democrats, and age will support more redactions, conversely, class standing, and income will have a negative relationship with redactions.

Results

The results of the five ordered logit models which examine the redaction preferences can be seen in Table 4.1. All the models are included in a single table to allow easier comparison across the various indicators. Several of the predictors achieved statistical significance at the $p=.1$ threshold.

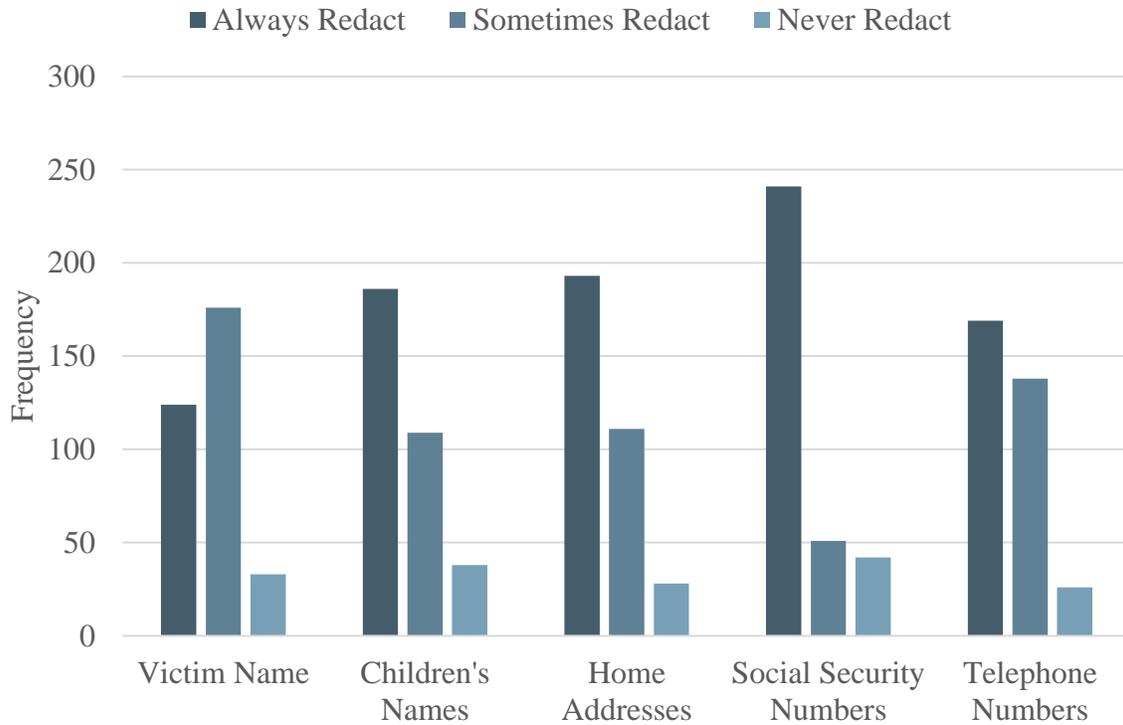
Table 4.1: Public Redaction Preference (Five Models)

	Victim Name		Child Name		Home Address		SSN		Telephone Number	
	β	Prob.								
<i>Knowledge</i>										
Actual Knowledge	.684 (.704)	.331	.007 (.741)	.992	.722 (.703)	.304	.558 (.833)	.503	.953 (.731)	.192
Perceived Knowledge	.097 (.122)	.424	-.052 (.129)	.683	-.143 (.123)	.247	-.061 (.138)	.656	-.060 (.133)	.651
<i>Personal Views</i>										
Support Free Press	.123 (.170)	.469	.266 (.168)	.115	.442 (.152)	.004*	.401 (.152)	.009*	.315 (.178)	.077*
Redactions Hurt	-.079 (.122)	.516	-.270 (.133)	.044*	-.075 (.133)	.568	-.159 (.159)	.317	-.071 (.134)	.594
Privacy Ranking	.235 (.084)	.005*	.054 (.085)	.528	-.004 (.082)	.952	-.131 (.159)	.158	-.008 (.083)	.918
Private Lives of Politicians	-.210 (.116)	.071*	-.091 (.117)	.436	-.099 (.121)	.410	-.084 (.134)	.530	-.077 (.115)	.501
Trust in State Government	-.122 (.128)	.339	-.045 (.132)	.731	.056 (.148)	.705	-.121 (.169)	.473	.017 (.138)	.901
Victim Blaming	-.240 (.100)	.017*	-.100 (.103)	.330	-.150 (.106)	.160	-.158 (.113)	.163	-.217 (.102)	.034*
<i>Demographics</i>										
Gender (F)	.118 (.265)	.654	.154 (.258)	.549	.457 (.278)	.100	.018 (.305)	.952	.202 (.267)	.448
Party ID (D)	-.239 (.138)	.084*	-.209 (.159)	.189	-.316 (.161)	.050*	-.294 (.172)	.087*	-.171 (.155)	.272
Age	.013 (.016)	.415	.037 (.019)	.061*	.030 (.022)	.183	.023 (.025)	.352	.034 (.019)	.078*
Class Standing	.049 (.085)	.561	.077 (.086)	.368	.057 (.089)	.523	.128 (.110)	.247	.008 (.086)	.919
Income	-.087 (.157)	.580	-.064 (.152)	.670	-.162 (.164)	.323	-.361 (.171)	.035*	-.183 (.160)	.255
	N	291	N	292	N	290	N	292	N	291
	Wald Chi ²	30.76	Wald Chi ²	24.3	Wald Chi ²	25.14	Wald Chi ²	31.54	Wald Chi ²	21.04
	Prob > Chi ²	.033	Prob > Chi ²	.028	Prob > Chi ²	.022	Prob > Chi ²	.002	Prob > Chi ²	.072
	Pseudo R ²	.058	Pseudo R ²	.052	Pseudo R ²	.069	Pseudo R ²	.080	Pseudo R ²	.049
	Log Pseudo Likelihood	-254.945	Log Pseudo Likelihood	-259.373	Log Pseudo Likelihood	-242.757	Log Pseudo Likelihood	-208.486	Log Pseudo Likelihood	-254.966

Note: Models were estimated using an ordered logit. Robust standard errors are in parentheses. Predictors that achieved statistical significance at the $p=.1$ are denoted by an (*).

When using ordered logit, it may be easier to interpret the influence of a variable through an illustration, Figure 4.1 presents all five redaction categories at all three levels of redaction stances.

Figure 4.1: Redaction of Private Information



The majority of respondents (72%) said that Social Security Numbers should always be redacted. This reaction is expected given the fear of identity theft. What is unexpected is that twelve and five-tenths percent (12.5%) responded that Social Security Numbers should never be redacted. This is a larger percentage than home addresses or telephone numbers. There were fewer “Always Redact” responses for victim names than children’s names compared to home addresses and Social Security Numbers.

Model 1: Victim Name

The strongest predictor of victim name redaction was the respondent's privacy ranking ($p=.005$). The greater importance given to privacy the more likely the respondent would want to redact victims' names. The second privacy view indicator, the private lives of politicians, was also significant ($p=.071$). The more an individual felt like the public does not have the right to know a politician's private life, the more they were supportive of victim name redaction. Victim blaming was significant ($p=0.17$). People who were less likely to blame victims were also more likely to redact victims' names. The only demographic that showed significance was party identification ($p=.084$). Respondents who identified as Democrats were more likely to redact victims' names.

Model 2: Child Name

Only two independent variables were significant in predicting the redaction of children's names. The first significant variable is the respondents' views on if redactions hurt the press' ability to be a government watchdog ($p=.044$). The results indicate that the less a person feels that the press needs information the more likely they are to support redactions. Age was also significant ($p=.061$). Older respondents felt that the names of children should be redacted from public record requests.

Model 3: Home Address

Unexpectedly, support for the press as an important trait of democracy ($p=.004$) had a positive relationship with home address redactions. Party identification ($p=.050$) was significant. Democrats were more likely to redact home addresses.

Model 4: Social Security Number

Support for the press' role in democracy ($p=.009$) was positively associated with redactions of Social Security Numbers. Party identification ($p=.087$) was significant and had a negative relationship. Income ($p=.035$) was positively related. The more money a respondent makes, the more they feel like Social Security Numbers should be redacted. A plausible explanation could be that the more assets a person has, the greater fear they have of their identity being stolen.

Model 5: Telephone Number

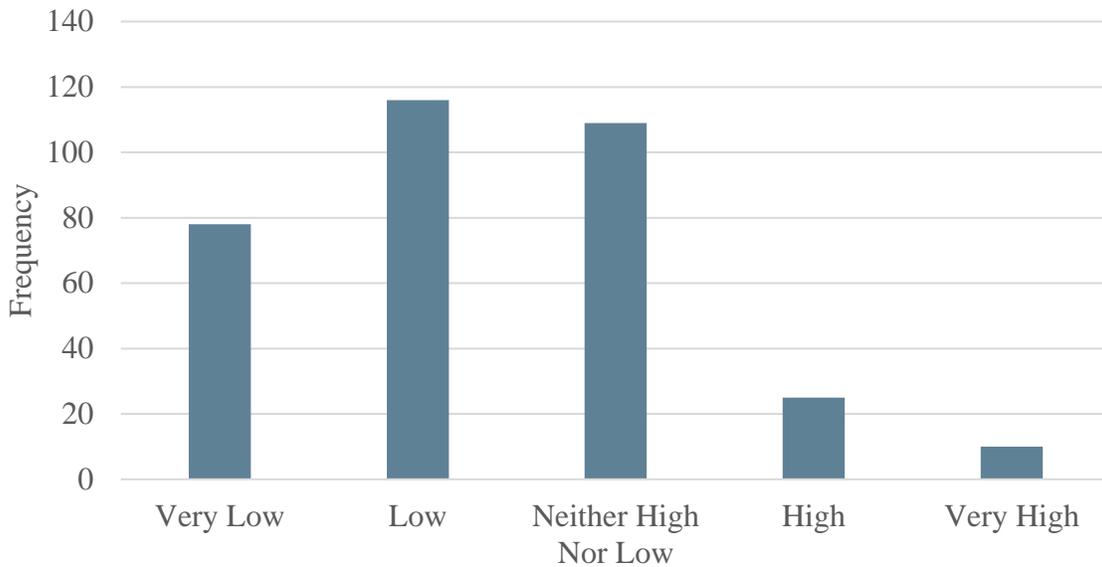
The most significant predictor was victim blaming ($p=.034$). Those that blame victims and feel like they are responsible for the crimes committed against them also felt that telephone numbers should not be redacted. Support for the press' role in democracy ($p=.077$) had a positive relationship with redactions as did age ($p=.078$).

Discussion

Knowledge

Knowledge was not a predictor in any of the models. While initial predictions had indicated that knowledge may have an impact on redaction stances since the overall knowledge was low it was clear that most respondents had not thought about public record requests before. Only ten percent (10%) of students responded to having high or very high knowledge. Overwhelmingly, the majority of respondents were not confident in their knowledge. Figure 4.2 illustrates the frequency of how respondents self-reported their knowledge of public records laws.

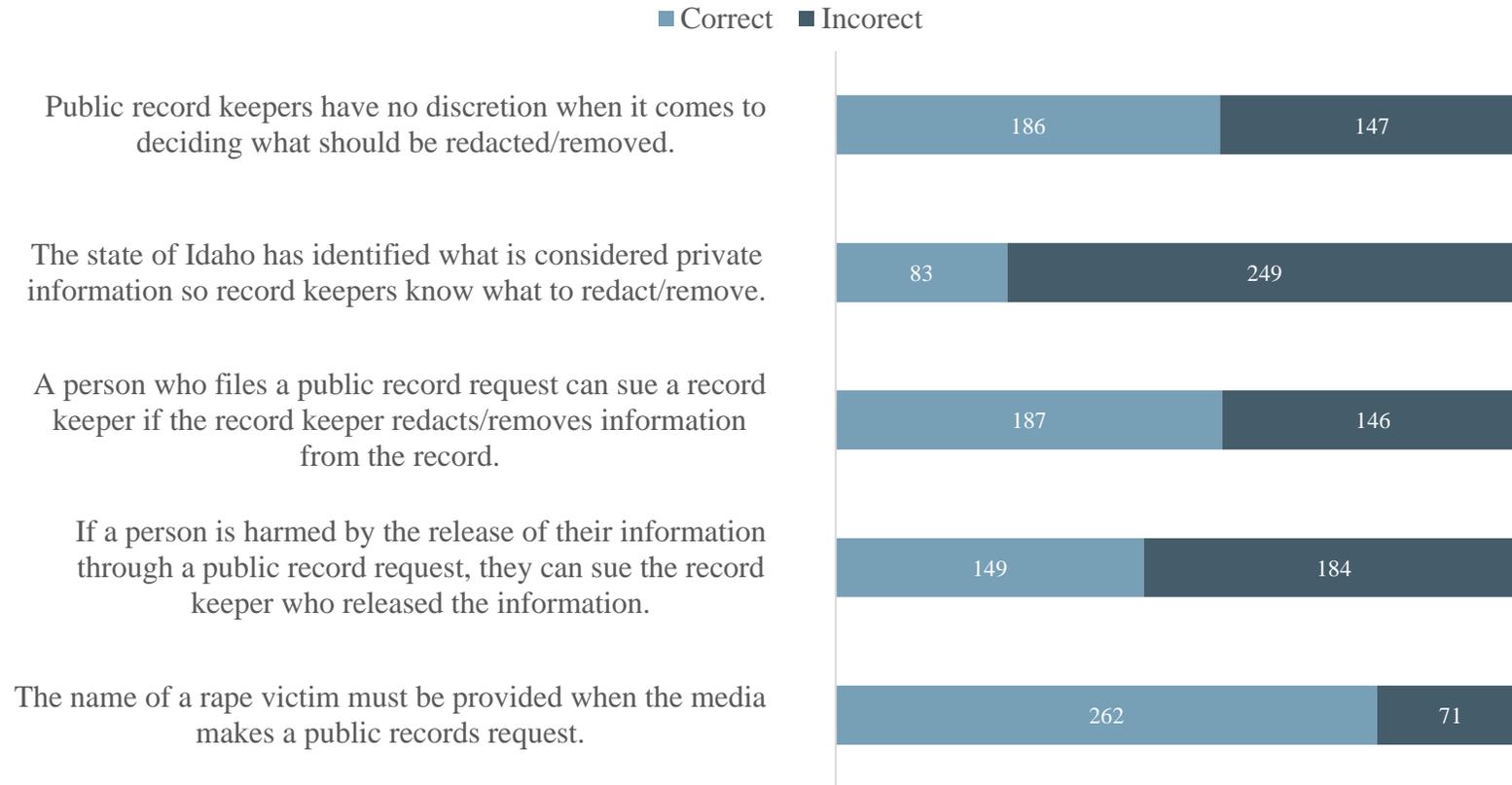
Figure 4.2: Self-Reported Perceived Knowledge of Public Records Laws



As the literature stated, when a person knows very little about a subject, they rely on heuristics to help them come to conclusions. The battery of true/false knowledge questions confirmed the respondents' own perceptions of their knowledge (See Figure 4.3). Averaging the responses of all five questions, the participants as a group had fifty-two percent (52%) correct and forty-eight percent (48%) incorrect. The almost perfectly split results show that as a group they were as accurate as flipping a coin. Respondents that do not have knowledge are likely to make a best guess.

One of the drawbacks of this kind of survey was the lack of knowledge on the subject. To keep the survey as short as possible to improve completion rates, a lengthier information packet about public records was not given to the respondents. Future research on this issue could test if respondents, given more time and information, or greater time in between information and response, would yield more predictive results, not just in knowledge, but other independent\

Figure 4.3: Results of True/False Tested Knowledge



variables. If a respondent felt like they had to guess on the knowledge battery, they may have guessed on the redaction stance questions too.

Press Support

Like the knowledge questions, results about perceptions of the press suggest some non-salience of how the press is able to obtain information from public records. The question about the press' role in democracy showed an overall conviction supporting the press (See Figure 4.4). Respondents stated that they felt the freedom of the press is an important trait for democracy with eighty percent (80%) selecting "Agree" or "Strongly Agree." Whereas views about the redaction of private information impedes the media's ability to hold the government accountable revealed uncertainty about their response. The most popular response with forty-eight percent (48%) was 'Neither Agree nor Disagree.' This indicates that respondents were unsure of how public records and redactions affect the media's watchdog role. Respondents that did have an opinion were split almost evenly with twenty-seven and five-tenths percent (27.5%) disagreeing with the statement and twenty-four and five-tenths percent (24.5%) agreeing (See Figure 4.5).

It was surprising that some of the models had a positive relationship with the press' role in democracy. This might have been because the relationship between a country's press policies and democracy is well established. Respondents may have placed both a high value on the press and redactions of private information because they failed to see the relationship between the two questions. In future research, questions should be included that directly pit press support and redaction support against one another. The one question that did try to make that connection showed again the lack of knowledge respondents had about redactions. As suggested before, more information given and time to reflect might help solidify feelings on the subject.

Figure 4.4: Perceived Relationship Between Freedom of the Press and Democracy

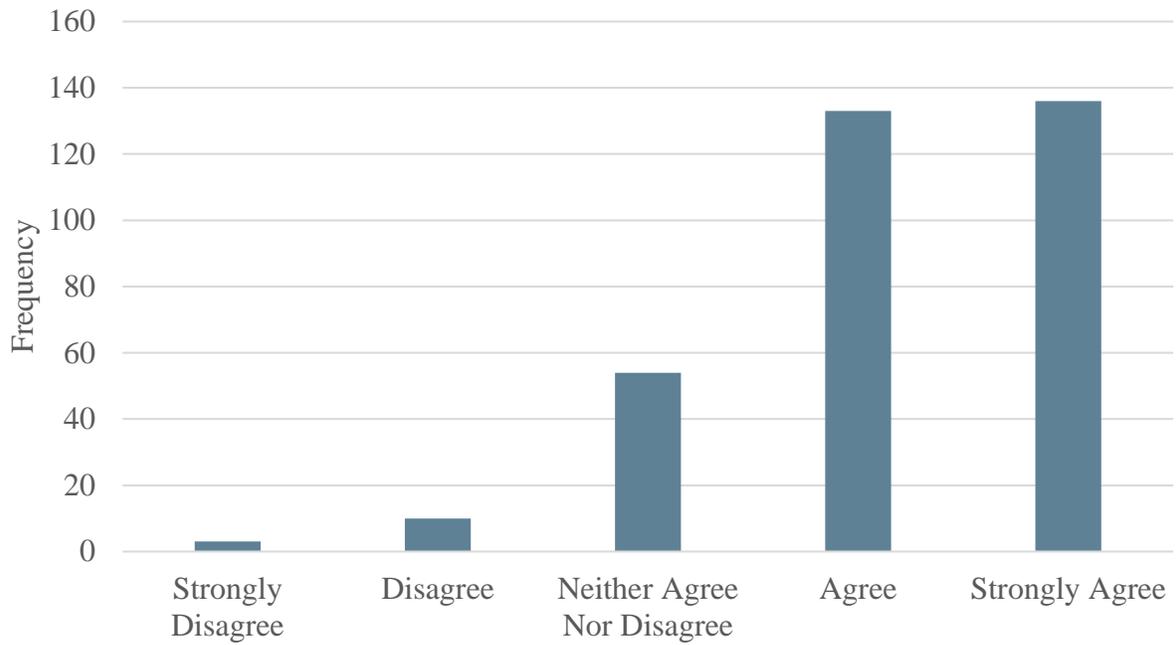
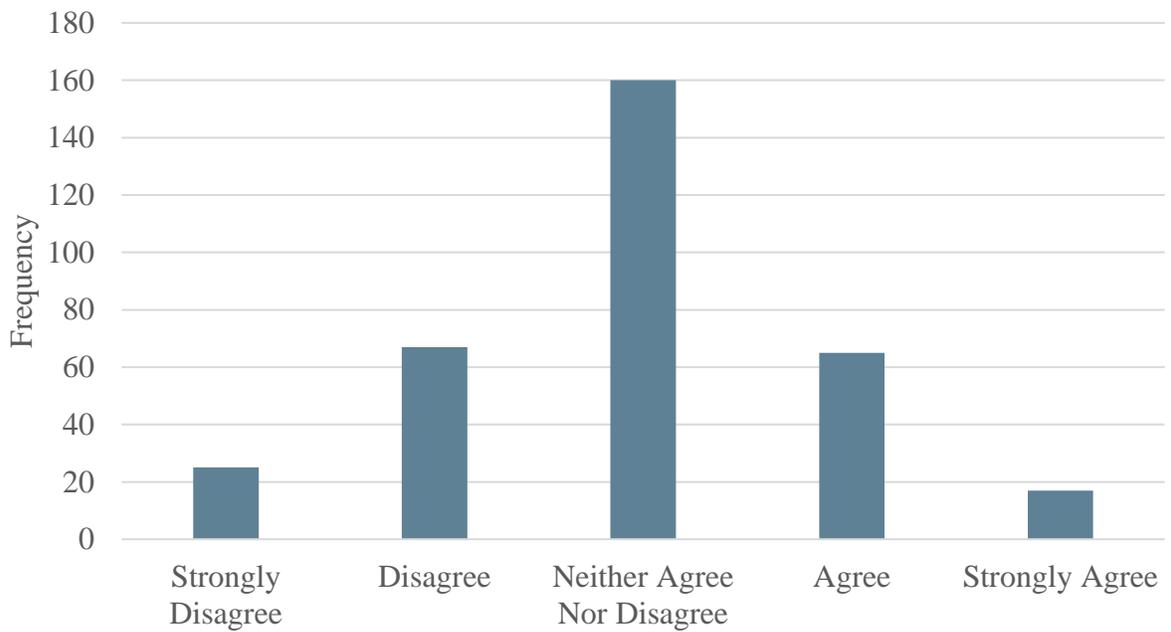


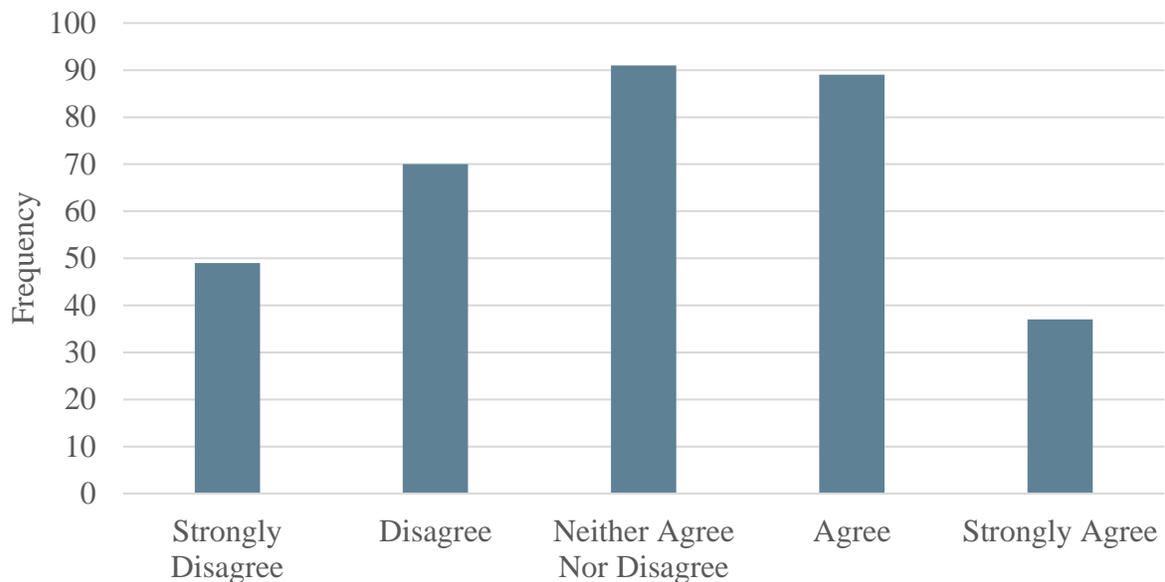
Figure 4.5: Perception of Redaction Effect on Media's Watchdog Role



Victim Blaming

Victim blaming was predictive in two models: victim name and telephone number. What is unique about this survey's victim blaming question set is that it included a question about domestic violence. Previous research usually relied heavily on only looking at the rape myth acceptance scale. Given the recent political climate and conversations about consent and sexual harassment through the #MeToo movement and Women's march on D.C., the public may be becoming conditioned to giving socially acceptable responses. The wording used in this survey was specifically chosen to try and avoid triggering language such as 'rape' or 'domestic violence.' When asked: It is a woman's responsibility to remove herself from a bad relationship, thirty-seven and five-tenths percent (37.5%) of respondents agreed with the statement, while thirty-five and five-tenths percent (35.5%) disagreed (See Figure 4.6).

Figure 4.6: Perception of Victim Blaming



This higher agreeance response than expected shows that some feel that victims are at least partly blameworthy for the crimes committed against them and that victims should carry some of the responsibility. This explains why there was a relationship between blame and redaction and why of the five redaction categories, victim name received the fewest responses for “Always Redact.” Respondents may have felt that if victims are not completely innocent of the crimes they face, then they are not completely entitled to privacy.

Although not supported by the survey data, another idea on why victim name had the least amount of support for redaction could be the public’s interest in reading about gossip. As much as an individual may disdain “rubbernecker” or noisy neighbors, people are drawn to car crashes and want to know details about tragedies. Perhaps respondents realized at some implicit level, that if victim names were always redacted from public records, it would limit the press’ ability to report on crimes and provide interesting stories for themselves to read.

Party Identification

Democrats favored more redactions across the models than Republicans. In the larger social context of privacy, policies like the PATRIOT Act and other laws that reduce privacy for national security reasons have been favored by Republicans more than Democrats. On other issues of personal privacy such as abortion, birth control, and same sex relations, Democrats have been more supportive.

Part II: The Political Climate’s Effect on Implicit views of Victims

The 2016 presidential election was shaping up to appear to be a unique political moment for more than one reason. It was the first time a major political party nominated a female candidate for president. Clinton’s opponent was also unique, given that Trump had no previous political experience and, in many ways, defied normal conventions for his nomination and

campaign. Trump's unconventional personality and approach for running for candidacy had many believing he would not succeed since his actions if made by any other candidate would have resulted in being ousted by their own party. Despite his many fracturing faux pas, Trump was elected president. Some have argued that his campaign and election politically polarized the country more than any other election in recent decades. While the long-term effects of his presidency are still being studied, the uniqueness of the moment was important to capture how Trump's presidency would affect public opinion. The survey taken in this research to measure public opinion took place approximately almost to the week, one year after the 2016 election results. This offered the opportunity to study how a changing political climate would affect implicit biases and perceptions about victims.

In Donald Trump's announcement for his intention to run for president, a speech that became known for his comments about "Mexican rapists," his use of spotlighting immigrants as a threat to public safety triggered hostility towards minorities (Konrad 2018). Trump's continued superficial remarks have changed the way in which people have felt more confident in displaying more racist sentiments and have impacted racist political rhetoric in the United States (Konrad 2018). When people observe the acceptability of discrimination, they are more likely to engage in it themselves (Sullivan et al. 2016). Furthermore, when Trump's actions not only went unpunished but also increased his popularity and was rewarded with the presidency, the public's acceptance of racism and the way people frame openly racist individuals changed (Wood 2017). For example, white nationalist demonstrators in Charlottesville were called "average people" and "hard workers" by Trump and conservative newsgroups, despite one of the protesters driving his car into a crowd and killing a person.

Yet, Trump's racist statements and proposed policies was not his only controversy. The second defining controversy of his campaign were his comments about women. The 2016 election was special because it was the first time a woman was a recognized viable candidate for president. Unlike previous elections that had been between two men, Trump openly attacked Clinton and Fiorina (Republican primary candidate) about their appearances and gender qualifications to be president. Directed at Fiorina, Trump said, "Look at that face. Would anyone vote for that?" (Solotaroff 2015) and towards Clinton, "I don't believe she has a presidential look" (Parker 2016). Beyond his ad hominem remarks towards female politicians, Trump also openly attacked fellow primary member Cruz by commenting on his wife's appearance—making remarks of disgust about the way she looked and comparing her to his own wife. Despite these blatant personal attacks, Trump was largely excused by his fans for his behavior because they argued that his comments were not directed at all women in general.

One month before the election, the *Washington Post* published a video audio recording of Trump and Billy Bush having a lewd conversation about women. Trump described how he wanted to have an affair with a married woman, and how he felt entitled because of his celebrity status. "You know, I'm automatically attracted to beautiful—I just start kissing them. It's like a magnet. Just kiss. I don't even wait. And when you're a star, they let you do it. You can do anything." Trump deflected the negative publicity of the video by brushing off comments and saying, "This was locker room banter, a private conversation that took place many years ago." He also indicated that he had heard former President Clinton say much worse.

Trump's election to President of the United States, his explicit views of minorities and women, and lack of self-control on Twitter have many wondering what Trump's long-lasting impacts will be on the public. Will his explicit nature bring out people's implicit negative

behaviors? While implicit racist and sexist views and their relationship to voting have been explored by others, this research seeks to better understand how they might affect one's views of rape victims in Idaho.

Implicit views affect one's impulse feelings because implicit views are created by repeated association. When people repeatedly have interactions of associations, those associations are filed away in their minds to be recalled later. Just as reading becomes automatic, so does memory recall of filed away associations. For example, people are not surprised when they hear a door close because they have heard that sound many times and have come to associate the sound of a door closing as a normal occurrence (Gawronski and Bodenhausen 2006). This is true of ideas as well. When people come into repeated contact with ideas of race or sex, individuals can come to believe that those ideas are normal. This can be both done positively if the repeated thought is about inclusion, or negatively if the thoughts are about exclusion or subjugation.

Even though survey attitudes about race and gender have changed in the last half-decade in favor of more equality of women and minorities, the public as a whole has not supported policies or voted for minority political candidates. Implicit bias research has found that “new racism/sexism” has replaced more traditional views of explicit racism and sexism. It is believed that people still hold racist and sexist beliefs, but they are more careful about openly expressing viewpoints that differ from their espoused egalitarian beliefs (Ditonto, Lau, and Sears 2013). Instead, people will publicly express that they support minorities, but then still engage in discriminatory stigma behavior such as not hiring/promoting/voting, supporting policies that place burdens on others, and exclusion from social circles.

While the percentage of the United States public who endorse explicitly white supremacist messages is quite small, white supremacists' enthusiastic support for Trump is concerning. What is not surprising to social scientists is that Trump continues to receive support from a large conservative base. In previous implicit studies, conservatives were found to be more likely to endorse explicitly negative statements about minority groups reflecting symbolic racism (Sears and Henry 2003), while liberals are more likely to show aversive racism through negative arousal and unintentional interpersonal discrimination toward minorities (Dovidio and Gaertner 2004; Nail et al. 2003).

One explanation for the dividing policy opinions of self-identified conservatives and liberals is that implicit attitudes can be triggered by powerful motivating emotions such as fear. Previous implicit studies on political attitudes using non-voluntary reactions such as pupil dilation and skin conductivity found that conservatives were more reactive to images of fear and disgust than their liberal counterparts (Amodio et al. 2007; Hibbing et al. 2014; Kahneman 2011; Smith et al. 2011). Experimental research found that in the case of voter ID laws, people with both explicit and implicit negative attitudes towards minorities were more in favor of stricter ID laws. When fear (voter fraud) was introduced as a motivator for why the government should implement ID laws, it was easier for those with racial biases to support discriminatory policies (Banks and Hicks 2016).

Knowing how implicit attitudes are generally affecting conservatives and liberals, it is less surprising that Trump's remarks are not rebuked by his party base. Results from a survey taken within three weeks of the 2016 election revealed that implicit sexist attitudes were a predictor of Trump support. While sexist attitudes were not as predictive as party support in that survey, results did show that those that switched from Democrat to Republican held more sexist

biases than their party members that said they were voting for Clinton (Bock, Byrd-Craven and Burkley 2017).

Supporters of racist or sexist politicians are able to come to terms with the cognitive dissonance of supporting a person who taps into their own negative feelings but at the same time denying their own racist and sexist views by; denouncing that the politician never said or did anything that was suggested, claiming that actions or phrases are not racist or sexists, the actions of one person should not be held responsible for systemic problems (DiAngelo 2010, Olick and Levy 1997), shift blame to others that have done much worse (Fischer 2012), or attack the messenger (Oxley et al. 2014). This mental gymnastics allows the individual to believe that they are still a “good person” and a part of the in-group, while simultaneously supporting politicians and policies that have negative outcomes for people around them whom they care for.

What is fascinating is the number of people that support candidates who share little of their same values and support policies that work against the voter’s own self-interest. For example, women who support sexist men or the poor who support tax breaks for the wealthiest. One large explanation for people voting against their self-interests is partisanship. It matters less what parties do, but how a person identifies themselves (Lee 2009). Voters rely on heuristics to determine their party choice. It is less relevant which candidate the party chooses because the majority of voters do not do their own research on candidates and rely heavily on their party preference (Redlawsk 2002). For American voters, party affiliation is a way to express a bundle of identities. Parties are a form of tribalism that allows people with multiple identities; race, gender, religion, class, profession, etc., to find an overarching in-group that covers most of their beliefs. Consequently, those that ascribe to a different party are out-group members. A person is able to then justify their support of a candidate that hurts their self-interest because they

rationalize it is better to stay with their chosen in-group than to support an out-group member (Brendan and Reifler 2010).

Methods

This research seeks to understand what factors, specifically implicit biases demonstrated during the Trump campaign, play a role in determining people's likelihood of accepting rape myths. The results for this examination came from the same public opinion survey measuring the public's knowledge and views of public record redactions. The questions used for this section resulted in 260 completed surveys. The response rate was slightly lower because not all respondents answered every question. A description of all variables and coding can be found in the Appendix.⁹

Dependent Variable

The dependent variable seeks to measure people's implicit biases of blaming female victims of sexual crimes. The dependent variable is an index created from the questions in the Illinois Rape Myth Acceptance Scale. One question was selected from each general category. Since all of the questions were centered around rape and there is a worry that society may be becoming more sensitive to giving socially acceptable answers regarding that topic, a fifth question was included that removed the word rape and could be related more broadly to domestic violence. This question still got at the heart of the bias for blaming victims of the crimes committed against them. Respondents were asked to rank the myth statement from strongly disagree (1) to strongly agree (5). Responses were added together to create an index score.¹⁰

⁹ A description of all variables and coding can be found in the Appendix under Table A.2: Variable Code Book the Effect of President Trump's Approval, Implicit Racism, and Sexism on Views of Sexual Assault Victims.

¹⁰ Cronbach's Alpha for the rape myth index was .724. Since the score is above .700, this test indicates that the variables were closely related enough to each other to justify creating an index.

Higher scores indicate that a person is more believing of the myths and is more likely to victim blame. As positive correlated independent variables increase, so does the respondent's acceptance of rape myths (See Table 4.2). Since the dependent variable ranges from 5 to 25 a tobit model was the most appropriate analytical strategy.

Table 4.2: Rape Myth Acceptance Index Questions and Results

Type of Myth	Question Asked	1	2	3	4	5
She was asking for it	If a girl is raped while she is drunk, she is at least somewhat responsible for letting things get out of hand	59	19	8	11	3
He didn't mean to	It shouldn't be considered rape if a guy is drunk and didn't realize what he was doing	64	19	10	4	3
It wasn't really rape	If a girl doesn't say "no" she can't claim rape	59	22	11	6	2
She lied	A lot of times, girls who say they were raped agreed to have sex and then regret it	33	29	26	9	3
Domestic violence	It is a woman's responsibility to remove herself from a bad relationship	15	21	27	26	11

Note: Results are in percentages. A score of 1 indicates "Strongly Disagree," 5 indicates "Strongly Agree."

Independent Variables

The first primary independent variable is support for President Trump. Respondents were asked, "On a scale from 1 to 5, where 1 represents "Strongly Disapprove" and 5 represents "Strongly Approve," please indicate your level of approval of the job President Donald Trump

has done since taking office.” Stronger support was coded high. It was anticipated that those who support Trump would also be more accepting of rape myths.

The second independent variable is implicit racism. Generally speaking, racism is socially unacceptable, therefore making it difficult for researchers to ask respondents of their biases. The added challenge of tapping into implicit feelings (what is unknown consciously to the respondent) means that researchers cannot blatantly ask survey takers to report their biases. Instead, four different questions were used to create an additive index variable (See Table 4.3).¹¹ To make sure respondents were accurately answering and holding consistent views, the third question of the set was reversed coded. Higher scores indicate that the respondent holds more implicit racist feelings (except of reverse coded question. It was anticipated that higher implicit racism scores would correlate to more myth acceptance.

Table 4.3: Implicit Racism Questions and Results

Questions	1	2	3	4	5
Minorities use race as an explanation for social problems they encounter	12	16	25	37	10
Minorities who are unsuccessful do not use opportunities (e.g., education, employment, etc.) available to them	21	31	25	18	4
It is necessary for the federal government to enact programs to help minorities overcome past discrimination	8	15	21	39	17
All citizens currently have equal rights in America	26	36	12	15	12

Note: Results are in percentages. A score of 1 indicates “Strongly Disagree,” 5 indicates “Strongly Agree.”

¹¹ Cronbach’s Alpha for implicit racism index was .714. Since the score is above .700, this test indicates that the variables were closely related enough to each other to justify creating an index.

The third independent variable measures implicit sexism. There are many previous surveys that use question batteries to measure implicit sexism, but this study seeks to narrowly focus on sexism related to the 2016 election and Trump’s rhetoric. Four questions were asked—two related to female candidates running for office, and two asking about Trump’s rhetoric towards women in his campaign (See Table 4.4). In each set, one question was reverse coded to try and mitigate response bias. Answers to the four questions were summed to make the index variable¹². Scores with higher results indicate that the respondent holds more sexist views towards women (except for reverse coded questions). It is hypothesized that those with more implicit sexist beliefs would also be more accepting of rape myths.

Table 4.4: Implicit Sexism Questions and Results

Questions	1	2	3	4	5
Women are too emotional to be effective in elected office	67	25	8	2	1
Sexism played a role in the 2016 Presidential election	13	14	21	31	21
President Trump’s comments about “grabbing” women against their will was nothing more than harmless locker room talk	54	21	15	8	2
The way President Trump talks about women sets a bad example for young men	6	7	17	25	45

Note: Results are in percentages. A score of 1 indicates “Strongly Disagree,” 5 indicates “Strongly Agree.”

In addition to the primary independent variables, the model controlled for a variety of demographic influences. Control variables included are gender, ideology, party ID, age, number of children, marital status, and race.

¹² Cronbach’s Alpha for implicit sexism index was .751.

Results

Determinants that influence a person's belief of rape myths are displayed in Table 4.5. The model fit statistics indicate that the model performs well in predicting a person's beliefs about rape myth acceptance.¹³ At least one of the coefficients is different than 0 and the probability of the Wald Chi2 is less than .1 meaning it is statistically significant.

Table 4.5: Determinants that Influence a Person's Belief of Rape Myths

	β	Prob. > t
Primary Variables		
Approval of Trump	.931 (.374)	.013*
Implicit Racism	.276 (.115)	.017*
Implicit Sexism	.222 (.128)	.085*
Control Variables		
Gender (F)	-1.475 (.564)	.009*
Ideology (C)	-.312 (.391)	.425
Party ID (R)	.334 (.400)	.404
Age	-.014 (.049)	.767
Number of Children	.186 (.411)	.651
Married	-1.734 (.937)	.066*
Race (W)	-1.826 (.652)	.006*
Constant	2.387 (1.757)	.175
Number of Observations	260	
F	12.47	.00000
R ²	.132	
Log pseudo likelihood	-363.631	

Notes: Robust standard errors are in parentheses. The results of the model were estimated using a Tobit regression. Predictors that achieved statistical significance at the p=.1 are denoted by an (*).

¹³ A variance inflation factor (VIF) test was run to check for collinearity and none of the variables were indicated as having a problem, as all scores were below 6.

Level of approval of President Trump was significantly related to attitudes towards rape myth acceptance. Specifically, as approval for Trump increased, respondents were more likely to agree with rape myths.

Implicit racism scores were positively correlated with rape myth acceptance and significant. This means that respondents that shared a more negative attitude towards minorities also were more likely to have a preference towards agreeing with rape myths.

Implicit sexism was also statistically significant. Respondents' attitudes that women are less qualified for elected office and feel that Trump's rhetoric about women is harmless banter were more likely to accept rape myths.

Several of the control variables were also found to be statistically significant. Unsurprisingly, females were less likely to believe rape myths. People who were married, and people who identified as white were less likely to accept rape myths.

Other tested control variables were not statistically significant. Ideology, party ID, age, and number of children are no more or less likely to believe rape myths.

Discussion

Approval of President Trump, racist views, and sexist views were all predictive of being more likely to believe rape myths. This is troubling for not just rape victims, but society in general. While no one expects that they or their loved ones will be a victim of a crime, especially rape, when a person does have the misfortune of becoming a victim, the hope is that society will help that victim find justice. On a deeper level, the most troubling undercurrent of rape myth acceptance is the notion that perpetrators are not solely responsible for their actions, and that their victims should also share in the responsibility for the crime. This conclusion could make women, especially minority women, fearful of working with members of the justice system. If

they are worried they will be blamed and ridiculed for their rape, they may choose that the social stigmatization associated with being a victim outweighs staying silent. Victims also run the risk of being labeled whistle blowers or troublemakers.

The justice system already is heavily favored towards defendants because the burden of proof is placed on the victim. Added racist and sexist biases create more difficult hurdles for victims to overcome to find justice. Perpetrators who recognize these obstacles may feel less deterred about committing crimes. For example, a white man may feel that he has a better chance getting away with raping a black woman because his story is more likely to be believed by jury members and judges. At the very least he is more likely to appear more sympathetic which may result in lighter punishment.

If more sexist and racist attitudes become normalized, it is likely that the few services aimed to help female victims could be defunded. If victims become more negatively socially constructed as liars, they are less likely to be believed. At the same time, victim's perpetrators become to be viewed as victims themselves of revengeful/regretful lying women. When groups become less positively viewed by the public, they are more likely to see policies that are more burdensome and are more restrictive. For example, single mothers have many disqualifiers they must overcome before they can receive assistance from the government.

Surprisingly both partisanship and ideology were not significant indicators of rape myth acceptance while the primary variables with more conservative leaning were. I think this may be due to Trump's divisive role within the Republican party. For many Republicans, their party has espoused that they support "traditional family values." Trump's clear disregard for these values (multiple affairs, treatment of women, paying off porn stars, lewd language, etc.) in combination with protectionist policies and an increase in government spending for a border wall has divided

the Republican party. This has been made evident in the number of congressmen announcing their retirement, including Paul Ryan, Speaker of the House, before the 2018 midterm elections. Internal Republican party division also explains why there wasn't collinearity between Trump support and party.

Chapter 5

Record Custodians' Perceptions

Policies are not always a reflection of public opinion. After a policy is created by the legislature, the government bureaucracy that oversees that policy is left to implement policies. Unless carefully outlined, many policies provide bureaucrats leeway in interpreting what the legislature meant. Due to Idaho's ambiguousness in the law regarding what is and what isn't personal private information that ought to be redacted from released public records, a record custodian's views on redactions are important in understanding how state legislation is administered on the street level.

Without comprehensive guidance from some sort of overarching governmental body, individual offices and custodians are left to their own devices on deciding what is private and what isn't. This has resulted in a non-uniform policy across the state. In the preliminary research for this chapter, record custodians reported that there were disagreements even within the same governmental office as to what redaction policies should be. Custodians also privately admitted that they were not always consistent themselves in what they chose to redact and it depended on what kind of record was being requested and the circumstances of the record.

It should also be noted that not all record custodians are public employees. Idaho's rural landscape and sparse population often makes it impractical for many municipalities around the state to employ full-time clerks and attorneys. Of the 227 cities in Idaho, 204 cities have populations less than 10,000, and over a half of those cities have fewer than 1,000 residents. Municipalities in these places hire private attorneys to both represent them and handle day to day affairs. There is not a universal contract that municipalities use to set attorney rates. Each

government entity negotiates contracts one on one with their own attorney. Typically, there is a retainer fee paid up front for a certain number of hours and then rates for additional hours. Not all billable hours have the same rate and the cost of attorney services may be dependent on the complexity of the project. For most municipalities in Idaho, that means entities discourage involving their attorney unless it is deemed necessary because doing so incurs additional costs for the entity. In the case of public record requests, since redactions are optional by custodians, in many cases it is easier and more cost effective to fulfill requests without attorney review. A private attorney is likely only to review records that contain the most sensitive material. This adds to the problem of inconsistent policy adoption across the state.

When either a public or private custodian is reviewing a record request, their top priority is mitigating risk for the entity they represent. They make sure the government is following the law and avoids being haled into court. This could incentivize releasing more information than less because requesters are entitled to information and can sue to receive it, while victims have no legal recourse options when their information is released.

When choosing what to redact and not redact, custodians are also susceptible to implicit biases they might hold. Everyone is shaped by their implicit biases, and since custodians are just people they may be influenced by their biases even when they are trying to be fair. When policy is being implemented on the fly, and custodians have a limited window of time to make decisions about what information to redact, it is possible that custodians' choices could be influenced by the stigma they believe about victims.

This chapter seeks to understand what factors influence a record custodian's policy in the redaction of a victim's name in a public record request. To date, there are no comprehensive studies that assess how individual custodians decide what to redact from a public record in Idaho.

This study will provide some of the first answers to how redaction laws are interpreted from custodian to custodian.

Methods

The primary purpose of this project was to better understand the variation from record custodian to record custodian across the state of Idaho and their perceptions of their redaction policies. This project's survey asked individual record custodians, who process public record requests as part of their job, to identify what their redaction policies were in conjunction with several other questions that measured their perceptions of risk of a lawsuit, how they felt about freedom of the press, how they weighed the importance of privacy, and demographic questions. The survey was open from March 22, 2017, through April 5, 2017, and was sent out to participants through the Idaho Municipal Attorneys Association and the Association of Idaho Clerks. A total of 85 respondents participated in the survey.

The dependent variable, redaction of victim's name, consists of how respondents answered the question if they redacted victim names from record requests. Respondents who said they "never redacted" victim names are coded as "1," respondents who responded "sometimes" are coded as "2." and respondents which responded "always" are coded "3." Since the dependent variable is categorical, an ordered probit analysis was used to estimate the model. The independent variables are categorized as personal views, risk perceptions, relationship influences, and demographics¹⁴.

¹⁴ A description of all variables and coding can be found in the Appendix under Table A.3: Variable Code Book Record Custodian Perceptions of Radiation Policies.

Personal Views

Personal views were divided into views of privacy, views of free press, and views of victims. To measure respondents' perceptions of how much they value personal privacy and freedoms of the press, respondents were asked to rank their agreeance with eight questions, four measuring views of privacy and four measuring views of press. Scores to individual questions ranged from 0 (strongly disagree) to 10 (strongly agree). Table 5.1 presents the questions that calculated privacy and press views and the mean value of each question. The mean score was calculated for each group of questions. The mean privacy score was 9.67. The mean press score was 7.13. Higher scores indicate a higher importance of the issue. It was hypothesized that responses with higher importance of personal privacy would be more likely to redact victim names, and higher importance of freedom of the press would lower redactions of victim names.

Views of victims measured how much the respondent buys into myths about rape and domestic violence victims. Respondents were asked to indicate their levels of agreement with five popular myths. Four of the questions came from the Illinois Rape Myth Acceptance Scale. Scores for each question ranged from 1 (strongly disagree) to 5 (strongly agree). The mean of the scores were then calculated to determine how myths are perceived as whole. Lower scores indicate a greater rejection of rape and domestic violence myths. The mean myth acceptance score was 2.14. Table 5.2 presents the myth questions assessed and how respondents rated their answers. It was hypothesized that higher myth acceptance would negatively impact victim name redaction.

Table 5.1: Question Results for Privacy and Press Views

Questions	0	1	2	3	4	5	6	7	8	9	10	#
1 Your employer should not have a right to your social media passwords.	1	-	1	1	1	3	2	1	5	7	48	70
2 Consenting adults should be able to engage in sex within their own home.	-	-	-	-	-	2	1	2	4	6	53	68
3 My cell phone provider should be required to get my permission before tracking my location.	1	2	1	-	1	6	5	5	8	7	35	71
4 A person should not have the right to access the tax records of another person without their consent.	2	1	2	1	1	7	1	2	8	10	34	69
5 Reporters should be allowed to keep sources confidential.	1	3	3	4	1	14	4	5	10	9	16	70
6 The media should be able to write about private citizens.	-	2	5	12	3	12	3	4	9	7	14	71
7 The media should be able to criticize the government.	1	2	1	2	1	10	5	4	10	6	29	71
8 The media should have the right to release any visuals (photos/videos) that they want.	13	6	11	9	2	6	9	3	6	1	5	71

Note: Respondents were asked: “On a scale of 0 to 10, where 0 indicates “Strongly Disagree” and 10 indicates “Strongly Agree,” please indicate your level of agreement with the following statements.”

Table 5.2: Record Custodian Views of Victims

#	Questions	1	2	3	4	5	#	AV
1	If a girl is raped while she is drunk, she is at least somewhat responsible for letting things get out of hand.	36	12	8	4	3	63	1.83
2	It shouldn't be considered rape if a guy is drunk and didn't realize what he was doing.	42	11	7	-	3	63	1.59
3	If a girl doesn't say "no" she can't claim rape.	31	15	13	4	-	63	1.84
4	A lot of times, girls who say they were raped agreed to have sex and then regret it.	15	17	20	5	3	60	2.40
5	It is a woman's responsibility to remove herself from a bad relationship.	5	12	26	13	7	63	3.08

Note: Respondents were asked: On a scale of 1 to 5 where 1 indicates "Strongly Disagree" and 5 indicates "Strongly Agree," please indicate your level of agreement with the following statements. AV indicates average score.

Risk Perceptions

To assess how a record custodian perceives risk for the press and victims, respondents were asked to rate their concerns about legal action from each group on a scale from 1 (not at all concerned) to 5 (extremely concerned). Table 5.3 shows the results. The mean risk perception of legal action from a person whose information has been released was 2.84. The mean risk perception of legal action from the media was 2.57. It was hypothesized that higher perceived risks from victims would positively impact redaction of victim names and perceptions of risk from the press would have the opposite reaction.

Table 5.3: Risk Perceptions of Legal Action

#	Questions	1	2	3	4	5	#
1	Legal action from a person who is upset that you have released information that they consider private	14	20	18	16	10	78
2	Legal action from a record requester who is a member of the media for redacting information	13	24	18	17	6	78

Note: Respondents were asked: “On a scale from 1 to 5, with 1 indicating not at all concerned and 5 indicating extremely concerned, how concerned are you about each of the following issues?”

Relationship Influences

One hope for this this project was to evaluate whether having a connection to the press or knowing a rape victim would influence a respondent’s perceptions. Respondents were asked if they had a friend or family member work as a journalist or for the press. They were also asked if they knew anyone who was a rape victim. For each question no/sure was coded as 0 and yes was coded as 1. It was hypothesized that if a respondent had a close relationship with someone in the press, then that respondent would be more likely to have a policy to release victim names and knowing a victim will make a respondent more likely to redact a victim name.

Demographics

The last group of independent variables includes state demographics, specifically if the respondent is a public or private employee, gender, age, education, marital status, number of children, and religiosity. Since record custodians that are private employees are generally hired as outside consultants (in Idaho’s case, attorneys) it was hypothesized that record custodian’s best interest was to avoid lawsuits and to not redact victim names. Since most victims of rape and domestic violence are women, it was hypothesized that female custodians should have a positive effect on redaction.

Results

The results of the ordered probit model which examines the victim name redaction stance can be seen in Table 5.4. Several of the predictors achieved statistical significance at the $p=.1$ threshold.

Table 5.4: Determinants that Influence a Custodian’s Policy to Redact Victim Names

	β	Prob. > Z
Personal Views		
Views of Privacy	-.188 (.238)	.428
Views of Free Press	.053 (.174)	.757
Views of Victims	1.176 (.586)	.045*
Risk Perceptions		
Risk from Press	-1.533 (.501)	.002*
Risk from Victims	.979 (.407)	.016*
Relationship Influences		
Rape Influence	-.015 (.816)	.995
Press Influence	.749 (.756)	.322
Demographics		
Public or Private	4.566 (1.651)	.006*
Gender	7.120 (2.458)	.004*
Age	-.065 (.030)	.033*
Education	.218 (.251)	.384
Married	-1.689 (.907)	.063*
Number of Children	1.939 (.596)	.001*
Religiosity	-.700 (.241)	.004*
Number of Observations	41	
Wald $\chi^2(14)$	28.34	.012
Pseudo R^2	.501	
Log Pseudo Likelihood	-13.877	

Notes: Robust standard errors are in parentheses. The results of the model were estimated using an ordered probit analysis. Predictors that achieved statistical significance at the $p=.1$ are denoted by an (*).

Looking first at personal views, generalized views of privacy and press did not meet my threshold of significance. Views of victims were significant, but not in the way as expected

($p=.045$). Perhaps there are outside influences that are affecting the way people view rape myths. It is notable that questions which contained the word “raped” received lower scores than the question that did not use such triggering language. This may be a problem of social acceptability bias, or perhaps moods on rape myths are changing.

Both variables measuring risk perception were significant and performed in the expected manner. These results suggest that as record custodians perceive higher risk in the form of legal action from people who are upset their private information was made public, the more likely they are to redact victim names ($p=.016$). Conversely, the more custodians perceive risk from the press the more likely they are to release names without redaction ($p=.002$). These results give the impression that risk calculation may play a part in redaction policies.

Relationship influences were not significant for either variable. Knowing a rape victim ($p=.995$) or having a friend or family member who works for the press ($p=.322$) did not affect a custodian’s redaction policy. One possible shortcoming of the survey could be that the strength of the relationships was not asked. Simply knowing a person may not have much difference from general knowledge of the situation.

With the exception of education ($p=.384$), all other demographic variables were significant. Private employment was significant ($p=.006$) but had the opposite effect than expected. The model results showed that private employees were more likely to redact victim names than public employees. One explanation could rest in the fact that, as presumed before the survey, all private employees were attorneys.

Female gender ($p=.004$) and number of children ($p=.001$) showed a positive relationship. As postulated before, since rape and domestic violence victims tend to be women and children,

those that are women or have more children have an increased likelihood of being able to sympathize with victims.

Age was negatively significant ($p=.033$). According to Dalton (2016) and the General Social Survey (Smith et al. 2014) younger generations are more likely to express feelings of solidarity as an important characteristic of good citizenship. Questions asked from the General Social Survey were centered around 1) Support people in America who are worse off than yourself, and 2) Help people in the rest of the world who are worse off than yourself. Results found that younger respondents were more likely to support those measures. Dalton (2016) and the General Social Survey (Smith et al. 2014) also found that younger people are more tolerant and accepting of others. The older a person was, the less tolerant they were. It is possible that younger custodians are more likely to redact names because they are more sympathetic.

Religiosity was significant ($p=.004$) and negative, meaning the higher the religious commitment the respondent had the more likely they were to not redact names. This finding is interesting because many religions teach generalized positive behavior such as forgiveness and love that one would think would translate to being more sympathetic, but religions also tend to create an us versus them mindset. Two possibilities come to mind explaining why religious commitment would decrease redaction. According to Dalton (2016) higher religiosity rates correspond with increased acceptance of authority and institutions. Since the press is positively viewed as an important institution for democracy, this could explain why higher religiosity rates favor policies that would benefit the press. Second, many religions have doctrines with chastity laws. Perhaps higher religiosity could play a part in an individual accepting negative social constructions of rape and domestic violence victims.

Marriage was significant ($p=.004$) and negative. This means, if a custodian is married, they are more likely to not redact victim names. This finding was not expected. One explanation might have to do with the small sample size of the survey. Gender may also be influencing this outcome. All the male respondents, except one, were married. There was more variation in female responses.

Discussion

Looking at the results, there were several findings worthy of further investigation and research. One of the most interesting findings was the variation in policies from record custodian to record custodian. This demonstrates how the lack of direction on public record laws leaves a lot of discretion up to the individual that happens to be fulfilling the record request. Along those same lines, none of the respondents reported that they always leave in victim names. Every respondent said that they always redact or sometimes redact names. This is encouraging, but their responses do not give a clear indication how often names are left in. Further research on this topic is needed. One could file a public request for the fulfilled requests over a period of time, and compare what custodians actually redact to the general responses of this survey.

I was also surprised to see that over forty-two percent (42%) of respondents said that there was no agreed upon policy for the agency they worked for. That gives the impression to me that many of the offices that fulfil public record requests are not talking about this issue and there might be a lack of knowledge about what the law actually states regarding requests.

Another indication that some record custodians might be lacking education is how many of the respondents answered the risk perceptions portion of the survey. Given that victims should be perceived as having low power because they are unable to seek legal action, it was surprising that many respondents reported that they were concerned or extremely concerned about the

possibility. It is of interest to note that attorneys who took the survey reported the press being a larger risk than the individuals whose information was released. In future surveys, questions should be added to test the respondents' knowledge of the laws. When considering risk, this survey might have been the first time the respondent considered the issue. It would be interesting to also know what kind of training a new records custodian hire undergoes before they fulfil a public record request.

The answers to the risk perception and their significance in the model suggest that risk is a motivator for behavior whether the risk is real or not. For policy makers that wish to change custodial behavior, they could consider changing risk perceptions. For example, if victims could sue custodians for their private information released, custodians would worry a lot more about what they redact. Conversely, if legislators defined what is, and isn't, private information, requestors would have less success in lawsuits proving that information was wrongfully withheld.

The findings considering the views of victims were interesting and produced results that were different than expected. An increased opinion that victims are not completely without blame leading to an increase in victim name redaction seems odd or counterintuitive. Maybe this finding is related to social construction of target populations theory that victims are dependents that need protection. In the case of single mothers who are pitied but also judged for constructed ideas as to why they might be single (i.e., past bad choices in picking the wrong men or teen pregnancy), policies often treat single mothers like children who need an adult to protect them and make better decisions on their behalf. It is possible that people who buy into rape myths also pity victims but feel that their circumstances are the result of bad choices. Redacting their names

is a way a custodian can act like a parent protecting a wayward child. Further research should press more into how victims are viewed and constructed by record custodians.

The differences between public and private employees were unexpected. One possible explanation for attorneys having a higher redaction policy on victim names than public employees, is that in most cases where attorneys are asked to review a record it is because the record is likely to be of a sensitive nature. Under Idaho's public record act, public records do not have to be reviewed by an attorney before the record is released, but there are extra provisions and protections to the custodian if the record was reviewed by an attorney. Private attorneys are more costly to public agencies to use to review record requests than a public clerk. Therefore, cases that are reviewed by private attorneys are more sensitive and are likely to contain material that is more easily seen as private. Mundane records like traffic violations are likely to be reviewed by cheaper public clerks.

The cost of an attorney might also factor into how the attorney approaches record redactions. Redactions are a way that attorneys can show they are worth their cost. If they repeatedly return sensitive records without redactions, custodians might wonder if the attorney review is worth it. For an attorney, redactions are less thought intensive work and are easy to bill for. Private attorneys may be redacting often so they can bill more. To see if cost is affecting redaction policies, one could compare what private versus public attorneys redact out of similar records.

Conclusion

Idaho's sunshine laws have resulted in a wide range of variation from record custodian to record custodian. This means that victims' privacy in Idaho is not equally protected. Redaction policies are heavily dependent on who the record custodian is and what they believe. This study

found that views of victims, perceptions of risk, and demographics all have a role in shaping a record custodian's redaction of victims' names policy. The results of this survey suggest that the social construction of target populations influences how record custodians view the interested parties of the press and victims. For instance, rape myth acceptance made a positive impact on victim name redaction.

Unfortunately, the limitations of this research have left many unanswered questions as to how the public feels about Idaho's redaction policy and how victims change their behavior. As the clash between press and privacy continues to strengthen, and new technologies make private information more public, legislators may have to revise their redaction policies to protect the public, and especially victims.

Chapter 6

Legislators' Perceptions

The third piece of the policy formation puzzle is the state legislature. Idaho's Legislature is responsible for writing and organizing the Idaho Code. The Idaho Code is organized into 74 different titles, addressing subjects from criminal court procedures to county governance. Each title is organized further into chapters, which address specific items related to the overall title. Each chapter, in turn, is organized into sections. The Legislature alone has the authority to organize the Code and has provided organizational headings to each title, chapter, and section that are probably intended to help direct bureaucrats and the public to find and understand the law. Unfortunately, not only does the current public records policy suffer from a lack of uniform interpretation and application, but the organization of the law in the Idaho Code is difficult to follow and disjointed in print.

Though legislatures are often discussed as if they are a uniformed body, it is a collection of individuals who need not have any qualifying professional skills, representing both personal interests and those of their constituents, while balancing political capital amongst their peers. It is also a group continually in a state of fluctuation. Each yearly session is comprised of slightly different members than the year before. This differs from bureaucratic agencies that are usually staffed by professionals in their field and whose employment is not beholden to the whims of the public. Since legislation is often created by piecemeal, no one set of legislatures can be completely responsible for the way in which laws are written and organized. This adds complexity to social scientists in being able to study "the Legislature" in understanding how beliefs shape policy.

Unlike record custodians who can answer survey questions about their views of victims and redaction policies, the Idaho State Legislature is more allusive. If as a group they were receptive to take a survey, researchers still have two problems. First, the group being studied are not necessarily the same individuals that created the policy. Second, researchers cannot be sure if politicians are answering truthfully or if there is response bias. As elected representatives, they must consider what the views of their constituents are. They may respond not with their own ideas, but what they think others expect them to say. If the aim is to understand beliefs and attitudes, sometimes a case study can be an effective tool. A case study provides a snapshot with how legislators are voting, what they are willing to say during hearings and debates and gives clues to their decision-making process.

Despite the fact that the individuals who comprise any given legislative session are not solely responsible for writing Idaho's Code, while in office they do collectively have the power to change and improve it. This chapter will seek to understand more broadly how Idaho State legislators may view victims' rights through a case study analysis of Marsy's Law in 2018. Marsy's Law is a proposed state constitutional amendment aimed at giving and creating more victim protections. Using narrative policy framework, an analysis of the public hearing regarding Marsy's Law can give a quantifiable look into what kinds of arguments given by opposing coalitions the legislators find the most persuasive and what their perceptions are concerning the needs of victims.

Marsy's Law

According to her family, Marsalee (Marsy) Nicholas was a beautiful University of California Santa Barbara student who was stalked and killed by her ex-boyfriend in 1983. A week after her murder, Marsy's mother was confronted by her daughter's killer at a grocery

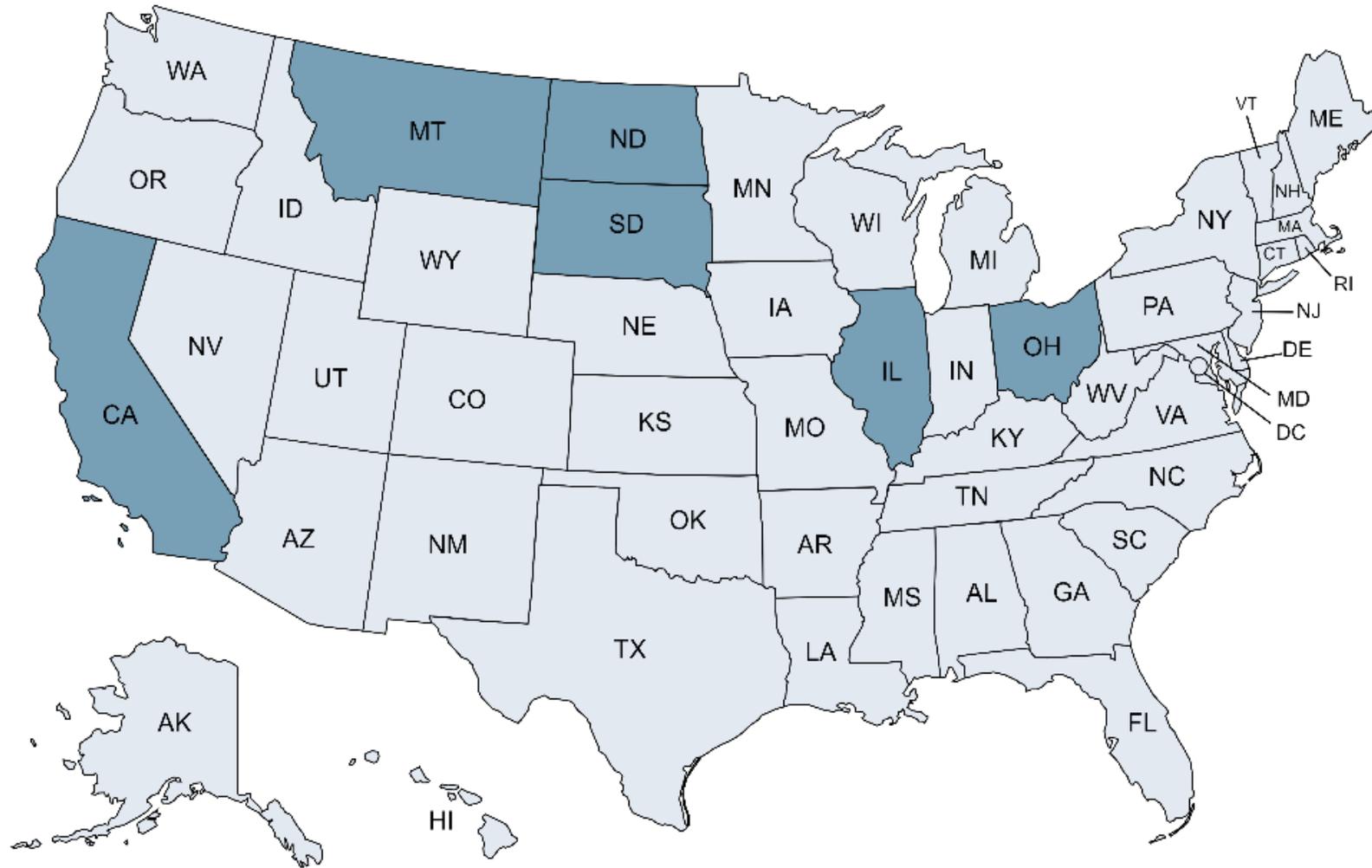
store. He was out on bail and Marsy's mother had not been notified. As could be expected, this was extremely traumatic for Marsy's family. They were upset that Marsy's killer was free, let alone the fact that no one had told the family that he was out of police custody, and they worried what he might do.

While this situation may seem surprising for a person who has never been a victim, this story is not uncommon for victims. Though well meaning, the California court system had no legal obligation to inform Marsy's family about the bail hearing. While criminals have more than 20 individual rights spelled out in the United States Constitution, victims and their families have none.

In an effort to grant victims more legal rights, Marsy's family created Marsy's Law LLC with the goal of encouraging all 50 states (and eventually the United States) to adopt constitutional amendments that would offer victims' rights in notification and opportunities to speak at bail hearings, pleas, sentencing and parole hearings. Marsy's Law passed as a constitutional amendment in California in 2008. By 2018, Montana, North Dakota, South Dakota, Ohio, and Illinois had passed their own versions of Marsy's Law. (See Figure 6.1)

Marsy's story is a compelling narrative filled with emotion. The plight of victims is very sympathetic compared to criminals. Many people are surprised to learn that criminal defendants have more constitutional rights than victims. Generally, policy is heavily influenced by narratives (Jones 2014; Smith and Larimer 2017). Narrative policy framework predicts that narratives with strong characters and good stories usually see favorable policy. Social construction of target populations explains when different groups are pitted against each other, the group that has the most power and positive social perceptions usually receive the policies they want. One would

Figure 6.1: States that had passed Marsy's Law by 2018



then assume that between victims and defendants, victims would see more policies that favor them. Oddly this does not appear to be true in the case of Idaho victims' rights proposed amendment. Marsy's Law faces opposition by policy makers.

On March 6, 2017, SJR 103 was introduced in the Idaho State Senate. SJR 103 was a proposed state amendment advocating for further victims' rights. Senator Lakey from Nampa, Idaho, sponsored the amendment. The amendment proposed that felony crime victims should have timely disposition of the case, reasonable notification prior to proceedings, a right to be present and heard upon request at proceedings, to confer with the prosecution, and to refuse contact with the accused. The amendment was drafted in Idaho with input from the Idaho Prosecuting Attorneys Association and other victim advocacy groups but was also heavily influenced by the group Marsy's Law.

While Idaho has already passed a victims' rights constitutional amendment in 1994, proponents of SJR 103 argued that the rights of victims were not expanded enough or made clear. Victims currently may receive required notice of a proceeding only an hour before it begins. If the notice is optional, like a bail hearing, they may not be informed at all. Victims in Idaho currently have a right to have contact with the prosecutor, but that does not mean they will actually get to meet with them. Some victims are only able to speak with their secretaries or write letters. During court proceedings, victims and defendants are sometimes in a position where they are both in the same waiting room. This can be traumatic for the victim. If the victim does not want to be in the same space as their accused perpetrators, victims are often the ones that have to move. Most courthouses are not equipped with separate waiting areas and victims have reported using such places as a restroom to escape their perpetrators.

A year after its submission on March 3, 2018, the Senate State Affairs committee discussed the amendment. After 4 minutes of testimony from Senator Lakey and 1 question, the amendment was voted on with a “do pass” recommendation to the Senate floor. The motion passed unanimously by the committee. On the Senate floor the amendment was read for the third time and then voted by the Senate without discussion or comment. SJR 103 passed unanimously on the floor. It is interesting that the amendment was not split along party lines or had detractors.

After the amendment left the Senate, the House State Affairs committee heard testimony on March 17, 20, and 21. Unlike the Senate State Affairs committee, there was lengthy discussion. Over the course of 3 sessions, almost 6 hours of testimony was delivered from opponents and proponents. In a 10-5 decision, the amendment was voted on to be held in committee and not to be sent to the House floor. Had the amendment progressed and passed the House, the amendment would have gone to the Idaho public to be voted for adoption in November, 2018. The outcome and intense debate in the House State Affairs committee was interesting and unexpected given the lack of debate in the Senate.

While there have been many studies of the role narratives play in the policy process, those cases tend to study familiar issues with broad public knowledge of the topic like obesity (Husmann 2015), immigration (McBeth and Lybecker 2018), and gun control (Merry 2015). What is still unknown is how narratives are used by coalitions when the issue is not publicly salient. It is also unknown how legislators will react to different types of narratives without guidance from their constituents on how they should vote. Given the monetary support and 50 state organizational plan of Marsy’s Law LLC, it is surprising that victims’ rights are not a salient issue given the compelling stories of victims. In the survey from Chapter 4, only ten percent (10%) of respondents stated that they had some knowledge of victim’s rights.

This lack of knowledge begs the questions: What kinds of narratives are used by both coalitions when a policy is not salient to the public? How do legislature members publicly respond to these arguments? To answer these questions this chapter analyzes the failure of SJR 103 (Idaho's Marsy's Law in 2018) in the House State Affairs committee hearing.

Victims' Voices and Defendant's Rights

A victims' rights amendment is an interesting case study because both competing coalitions have sympathetic characters with compelling narratives, but the issue was not publicly salient. The narratives in case studies on other non-salient issues, for example ones that benefit contenders, may be mired by lobbying spending making it difficult to suss out the impact of just the narratives. Similar to the problem of public record redactions where rights of privacy come into conflict with the constitutional protected rights of the press, two perceived rights are pitted against each other in Marsy's Law. On the one hand, there is an expectation that the justice system should aim to restore what was lost to a victim. Part of that restoration is the cathartic feeling the victim experiences in sharing their story and being believed. On the other hand, the United States' justice system operates on a belief in innocence until proven guilty and all accused are entitled to due process and equal protection. Marsy's Law upsets the current status quo between victim's rights to a voice and defendants receiving fair trials.

Victims' Voices and Methods of Silencing

The stigmatization of victimhood can be an isolating experience. As explained in Chapter 1, victims can incur a secondary victimization through the justice system (Laxminarayan 2012). Victims are asked to repeat their stories over and over again to police, medical workers, and attorneys. Though the intentions may be to help the victim, members of the justice system have to question the victim's story for accuracy. This can leave victims feeling like they are not

believed and they are alone (Laxminarayan 2012). The societal stigmatization surrounding victims can also make it hard for victims to talk to other people like friends and family (Howard and Pike 1986). Victims sometimes worry that others feel uncomfortable around them because of the circumstances of their victimhood—and that is often the case. Discomfort felt by others can lead to discrimination in hiring (Link 1982; 1987), ostracizing from social circles (Link et al. 1989), and limiting of dating potential (Rosenfield 1997).

Isolation from fear of retribution from family, friends, strangers can be common amongst victims. When victims do not report crimes it not only affects them, but also makes society as whole believe that the problem is smaller than it is. Unreported crime and discussion of that crime stops the public from understanding the magnitude of the issue. One of the reasons why the #MeToo movement gained traction quickly, because for many this was the first time on a global scale people were seeing the volume of shared experiences. Victims went from seeing what happened to them not as an isolated case, but part of a larger systemic problem. Yet despite all of the media coverage of #MeToo, change has been relatively slow and public discourse has waned.

Victims have to carefully weigh the consequences of stigma against seeking justice (Laxminarayan 2012). One place where victims would like to feel in control of their own story is in the courtroom. Movements like Marcy's Law have lofty aims at removing barriers for victims' involvement during the criminal proceedings. In the case of Marsy's Law in Idaho, proponents have been unsuccessful in changing the status quo or significantly altering public knowledge of victims' rights. This analysis of the House State Affairs hearing will focus on the narrative aspects of the opposition that were successful.

One reason why an issue may not be salient to the public is because silencing techniques could be used to keep discourse out of the public. Houston and Kramarae (1991) outlined how groups of people, in particular women, have been silenced throughout history by dominant coalitions using silencing tactics. When groups of people are silenced, they are unable to be a part of the policy decision making process. Rich (1978) named some of the ways women are destructively silenced: namelessness, denial, secrets, taboo subjects, erasure, false-naming, veiling, and lying. These tactics of silencing have been a way for minority groups to be isolated and disempowered. Jarowski (1988, 118) states, “silence is oppressive when it is characteristic of a dominated group, and when the group is not allowed to break its silence by its own choice.”

Silencing is a problem in the professional sphere including academia where in promotions, tenure, and publications, women continue to be the minority. Since women tend to be underrepresented in leadership positions (caused by larger systemic problems) they are not invited as often to teach, lecture, or write on policy issues (Christian 1987). This is also a problem in politics. In 2018, approximately only a quarter of Idaho legislative positions were held by women. 5 out of the 15 positions on the House State Affairs committee were held by women. Politicians create policies for all citizens, but the absence of minority voices means that some perspectives are left out of the process. When legislatures lack diversity, it may be hard for policy makers to understand the positions of the people their policies affect. This can cause unintentional (and even intentional) burdens on minority groups.

Houston and Kramarae (1991) outline several different ways to recognize how women are silenced in narratives and state that these techniques are also used on other minority groups. They contend that if silencing tactics can be listed, numbered, and counted, it will help silenced

groups be able to point out these tactics and overcome them through several strategies. Some of the silencing techniques identified by Houston and Kramarae are:

1. Problem shifting: silencers will try to change the subject or make the harms seem like they are caused by something else.
2. Trivializing: groups are suppressed when the harms they claim are brushed aside as not being as important as they say it is.
3. Gaslighting: silencers can manipulate the words of suppressed groups into false statements that no longer mean what they intended to. Gaslighting blurs the line of truth.
4. Mansplaining: when one group (but not always) talks about another group's problems that they themselves have not experienced in simple, derogatory language. This is related to how dominant groups control language and are in charge of legitimizing words.
5. Enforcing hierarchies: society favors men in leadership positions because traditional roles of motherhood keep women from being able to leave their children. Traditional hierarchies enforce that the way things are now are the way things should be in the future. People should play the roles dictated by society. This enforcement makes it difficult for power to be moved because there is a perception that more power for one group means less power for the dominant group.
6. Putting the issue off: instead of confronting the issues, silencers can choose to ignore the issue. One way this often happens is that for some reason the issue cannot be dealt with now but will have to wait for a later date. This strategy can appease people in the short term, and the future date of discussion is always moving.

Victims and women both share a history of voice suppression. While victimization is not exclusive to women, many victims of sexual crimes are female. It is estimated that ninety percent (90%) of victims of rape are female (US Department of Justice 2000). In the United States eighty-one percent (81%) of women reported experiencing some form of sexual harassment and/or assault in their lifetime (Kearl 2018). One of the main objectives Marsy's Law seeks is for victims to have a larger voice. In Idaho, unless granted by the presiding judge, victims' testimony is usually relegated to their responses to questions from the attorneys. Victims are limited in what they are allowed to share about their experiences. The inability of victims to be physically heard telling their stories in their own voice during criminal justice proceedings means their point of view is not heard by those in the courtroom or written down. The lack of impact statements and written testimony makes it difficult for the public to see the harm victims face. This can make victims seem like a lone individual.

Defendants' Right to a Fair Trial

In the context of victims in the courtroom and their impact statements, legal scholars question if the narratives of victims should be a part of the criminal justice system. A statement from a mother about the pain she feels over a child that was murdered can be very compelling and emotional for a jury to hear. Some scholars believe that these moving victim impact statements give the case a different voice. They give new information that "helps provide particularized context for decision making; it brings to the legal forum an otherwise silenced narrative voice; and it supplies an undisguised opportunity for the trier of facts to exercise compassion in the legal context" (Bandes 1996, 362). Yet, that same appeal to emotion can be so powerful that jurors and judges can be swayed to ignore the facts of the case.

Those accused of a crime move through the justice system already stigmatized before a trial is completed. Those accused of a crime must overcome the facts of the case brought before them and the second hurdle of distancing themselves with the predisposed prejudices of being accused of a crime. The tragedy of a victim may compel those in the legal system to find justice for the family, even at the cost of overlooking factual evidence. “Victim impact statements evoke not merely sympathy, pity, and compassion for the victim, but also a complex set of emotions directed toward the defendant, including hatred, fear, racial animus, vindictiveness, undifferentiated vengeance, and the desire to purge collective anger” (Bandes 1996, 395).

The person accused of a crime may be wrongfully convicted because they could not surpass the empathy felt for the victim (Bandes 1996). Especially in capital punishment cases where the stakes are the highest, there is lots of legal rhetoric calling for objective rules (Bandes 1996) and the dismissal of emotion that might taint the outcome. A jury’s thirst for retribution of the victim may cause blind spots to overlook the existence of mitigating circumstances or even whether the person who pays for the wrong was the one who committed it (Bandes 1996). This is evident in research that looked at the race of victims in death penalty cases. In a study conducted by United States General Accounting Office (1990), “In 82% of the studies [reviewed], race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found more likely to be sentenced to death than those who murdered blacks.”

Contrary to Bandes analysis, Sheley (2017) iterates that in the era of social media, victim impact statements need to be a part of the justice process for the court’s legitimacy. In the 21st century the internet is robust and embedded in societies’ daily lives. The use of media and ability

for videos and messages to go viral have changed the force of a victim impact statement. Victim statements are no longer left to just the ears of those in the courtroom.

In the now infamous case of *People v. Turner*¹⁵, the victim, referred to as Emily Doe, wrote and read her victim impact statement in court. Doe was able to do this since the state of California had already passed Marsy's Law expanding the rights of victims in the courtroom. Judge Aaron Persky sentenced Turner to a mere six months in a county jail. Turner would eventually receive parole after serving three of those months.

Emily Doe's letter to the court quickly went viral on social media. Unlike other allegations of rape, her story had two witnesses and lent her factual credibility necessary for the world to focus on, not whether the assault occurred, but on the harm she suffered (Sheley 2017). The public's reaction to the light sentencing, her description of the complex pain felt, and the media debates nationwide on the subjects of rape, white privilege, sentencing, sexual offenders registry, illustrated how with or without the court, victims' narratives will be profoundly impacting the public's perceptions of the justice system in the digital age. Sheley asserts that when the court limits the voice of victims, or results in inconsistent punishments for similar crimes, the public loses faith in the justice system.

An answer to Sheley's argument may be that it is not the responsibility of the justice system to simply have the appearance of legitimacy, but to actually render justice as fairly as possible. In the case of *People v. Turner*, it was not the victim impact statement that was

¹⁵*People v. Turner*, Case No. B1577162 (Cal. Super. Ct., Santa Clara Cnty. March 30, 2016). On January 18, 2015, Brock Turner, a 19-year-old Stanford student athlete, sexually assaulted 22-year-old Chanel Miller while she was unconscious. Turner was discovered in the act by two Stanford graduate students who physically restrained him until police arrived. The following criminal case received renowned notoriety and Miller's victim impact statement was widely disseminated in the news media. Miller was identified throughout the trial as "Emily Doe," but has since relinquished her anonymity and become a public victims advocate, which is why she is identified in this footnote with her name.

damaging to the court's legitimacy but the light verdict from the judge and obvious personal favoritism towards a defendant from high social status. It should also be noted that the age of the internet is not necessarily the great equalizer of voices either. The digital world is susceptible to systemic implicit biases. While it is true that access to a global platform has never been so accessible, it does not mean all voices are equally heard. Algorithms on TikTok and YouTube are responsible for if a message goes viral or not. These algorithms use a combination of geolocation, demographics, viewer engagement, number of followers the poster has, stitches, shares, and the clout of those sharing to determine how well the message will be promoted. That means celebrities, influencers, and traditionally attractive people will continue to have their views heard more than the "common person."

Methods

To understand what common narrative stories were used and how legislators responded, all sessions of the House State Affairs Committee hearings on SJR 103 were listened to three times and coded for narrative elements and narrative silencing tactics. The audio recordings of these sessions were obtained on the Idaho Legislature's Media page. The State Legislature at this time does not keep video recordings of committee hearings, only audio. The media page includes the minutes from each hearing. Those minutes were used for identifying who the speakers were.

To code for silencing tactics, narratives first needed to be identified. A narrative is defined as a story with at least one character (though the character does not have to be human and could be only inferred), having a setting/plot (this is where something happens in a story), and a moral or solution. If all three elements could be identified, the statement would be considered to be a narrative. Within one testimony there could be multiple narratives. People tell several stories with different storytelling approaches to make their overall point. Even the

questions asked by the representatives could be narratives if the question is couched in a way to make a point rather than ask a question. For example, Representative Scott asked Senator Lakey, “Don’t you think the way this amendment is worded that victims will be able to sue the state for right to counsel?” Representative Scott is telling a story where the character is a crime victim, the plot is victims suing the state, and the moral is that the intentions of the amendment will be abused.

The first time the audio was listened to was just for the purpose of familiarizing with the points and stories people gave in their testimony. The questions and responses were recorded with their time signatures. The second time listening to the recording was to identify the narratives. Statements were only counted that had all three narrative elements. Narratives were labeled as either supportive or oppositional if the moral was to not pass SJR 103. With the third pass, oppositional narratives (a combination of the questions asked and testimony) were coded for silencing tactics identified by Houston and Kramarae (1991). Table 6.1 illustrates examples of how opposition silencing tactics were labeled and coded.

Results

Before this research began, the failed result of SJR 103 was known, but the outcomes of who spoke the most and on what issues was unexpected. Figure 6.2 represents the voting results and how many questions each representative asked. Representatives in red are Republicans and representatives in blue are Democrats. The ten representatives in the top section voted to hold the amendment and the five on the bottom section voted to send the amendment to the floor. The first number below a representative’s name is the number of questions directed towards the proponents and the second number is the number of questions directed to the opponents. Questions that were asked by representatives to the individuals who advocated the same position

the representative would eventually vote in favor of, were often leading questions. For example, Representative Zito (who voted against SJR 103) asked a public defender if they thought the amendment would result in higher costs. This was a point the public defender had alluded to but not explicitly expressed in their testimony. The question allowed the public defender to expand more on this idea and continue persuading the other representatives.

Table 6.1: Examples of Silencing Tactics

Type	Example Narratives
Problem Shift	“Victim programs are underfunded, we should focus on that” – This argument was made to direct the focus off of victims wanting to be heard in court to focus on a different problem. “This is a California bill” – Discussion was made that since Marsy’s Law did not originate in Idaho it would not be a good fit. This example again tries to change the focus of the problem by diverting discussion away from the actual amendment.
Trivializing	“Victims already have rights” – This argument was made to diminish the need for the rights victims felt they wanted.
Gaslighting	“Victims sometimes lie” – By shifting the focus away from defendants, gaslighting makes the victim the deviant and the defendant the victim. It confuses realities with hypotheticals.
Mansplaining	“This won’t solve your problem” – Some made statements about how victims feel without experiencing what that victim has gone through. They made assumptions that the victim’s situation could not be improved and that victims did not understand the legal system.
Enforces Hierarchies	“Victims should not be involved in the criminal justice process” – Statements like this are to protect the current hierarchy in the judicial system. If victims had a larger role to play this would cause a powershift.
Put off the Issue	“We should wait to make these changes through statute instead of as an amendment” – This argument recognizes that there is a problem/harm but wants to put off doing something about it till a later date.

Figure 6.2: House State Affairs Committee voting outcome for SJR 103

Voted to Hold

				
Loertscher 5/0	Luker 13/0	Barbieri 2/0	Harris 2/0	Giddings 5/0
				
Manwaring 6/0	Zito 3/1	Scott 15/1	Smith 6/0	Ringo 4/0

Voted to Pass

				
Monks 3/3	Crane 1/7	Palmer 0/0	Holtzclaw 0/1	Armstrong 0/4

Note: Representatives shaded in red are declared Republicans. Members shaded in blue are Democrats. The first number is the number of questions asked to proponents, the second number is the number of questions asked to opponents. Pictures were obtained from the Idaho Legislature <https://legislature.idaho.gov/house/>.

Table 6.2: List of Speakers in the House State Affairs Committee Discussing SJR 103

Proponents	
Sen. Lakey	Author of the Amendment
Lauren Busdon	Crime Victim
Jayk Reynolds	Crime Victim
Ashlee Berk	Crime Victim
Sarah Busdon	Mother of Crime Victim
Paul Cassell	Retired Federal Judge and Law Professor
Silvia Flores	Crime Victim
Kieran Donahue	Canyon County Sheriff
Holly Koole-Rebholtz	Prosecuting Attorneys Association
Jan Bennetts	Ada County Prosecutors
Teresa Baker	Idaho Association of Counties
Tammara Tarvin	Idaho Victim Witness Association
Skip Smyser	Senate Staff and Attorney for Marsy's Law LLC
Rep. Malek	Co-Sponsor
Opponents	
Richard Eppink	Idaho ACLU
Ian Thompson	Idaho State Public Defense Commission
Elisa Massoth	Idaho Association of Criminal Defense Lawyers
Michael Bartlett	Private Defense Attorney

The State Affairs Committee heard testimony from 18 individuals, 14 proponents and 4 opponents. Proponents were comprised of the amendment sponsors, crime victims, and victim advocates. The opposition included the chairman of the Idaho ACLU and defense attorneys. See Table 6.2 for a complete list of speakers.

Proposition Narratives

The most common narrative themes of the proposition were:

1) Victims need notification for their safety. Silvia Flores spoke about her daughter's murder. Flores' daughter was killed by her abusive husband in front of her mother and four children while he was out on parole. Flores said that herself and her daughter did not know that he had a parole hearing. Flores stated that if they had known they would have spoken to the judge about how dangerous he was or left the state of Idaho to await his trial. "Had we had notification we could have asked the bail to be set higher—my daughter may be alive."

2) Being able to testify and be a part of the criminal procedures helps victims in the healing process. Jayk Reynolds is a single father. In the narrative he told, he had recently gained custody of his children and bought a house. While out driving in his new neighborhood, he saw a man with a gun. He told the man to put the gun away. The man instead pointed the gun at Reynolds. Reynolds then testified that this act made him very nervous of his neighborhood and his feelings of safety were taken from him. During the criminal proceedings he was not able to speak to the prosecutor directly. In court he could only answer the questions the lawyers posed to him. "They wanted my story but not my voice." He felt that the current system treats victims as pieces of evidence, and not a person.

3) Defendants are given more rights than victims. This idea was brought up by almost all the proponents. They questioned the logic of why criminals are protected more by the legal

system when it is the victim whom the harm befell. They argued that criminals had a choice, but the victim did not. Lauren Busdon was raped at age 14. She recounted how painful the justice proceedings were when she was asked to sit in the same waiting rooms with her rapist and his family. She testified that when she did not want to be accosted by her rapist again, it was she who was moved to children's waiting rooms or empty prison cafeterias. She felt like these waiting areas were degrading. "The defendant was treated with more respect than me."

Ashlee Berk, a mother of five, also questioned the asymmetric rights but from a different perspective. Berk's husband was shot in the head and heart because of an affair he was having. Berk found out about the murder and affair at the same time from a police officer. She was heartbroken over losing her husband and his betrayal. She was frustrated that during the prosecution of her husband's murderer her husband's whole life was presented to the jury in the worst light possible as the defense team picked apart every bad decision her husband had made. At the same time, the defendant's poor decisions and bad deeds not only were not presented to the jury but were required to be kept out of the prosecution. Under Idaho's rules of evidence, past crimes, wrongs, and bad acts of a defendant are not allowed in order to ensure that defendants receive due process. The prohibition on presenting a defendant's past bad actions is designed to protect defendants from unfair trials. However, Berk said it was unfair given that her husband could not defend his actions. "Defendants are judged on one moment, but victims are judged on their whole life." Berk concluded with how painful it was to not only go through the justice proceedings herself, but that her children were hearing and will forever be able to read about what their father did.

Opposition Narratives

While there were fewer who testified for the opposition, there were still many additional narratives told through the questions of the representatives that voted against the bill. The most common narrative themes of the opposition were:

1) Costs. It was unsure how much the amendment would end up costing the state. Senator Lakey suggested that costs should be minimal with only the costs of extra notification. He suggested that costs could be reduced by using the electronic messaging systems the state already operates. The opponents brought up that they had heard that South Dakota had estimated that passing Marsy's Law was going to cost the state \$5 million. Senator Lakey pointed out that those costs were an estimate by the opposition in South Dakota and the cost increases had never been verified.

2) Undeserving victims will get to take advantage of the amendment rights. Representative Giddings asked in the form of a question if someone shoplifted from Walmart, would a corporation like Walmart be entitled to all the same victim rights? Senator Lakey responded that they would and that it should not matter what circumstance a victim has, they are a victim regardless. Senator Lakey also responded that Idaho's current constitution already states that companies and entities can be victims. Opponents phrased this scenario several more times using insurance companies, wealthy people, and big industry.

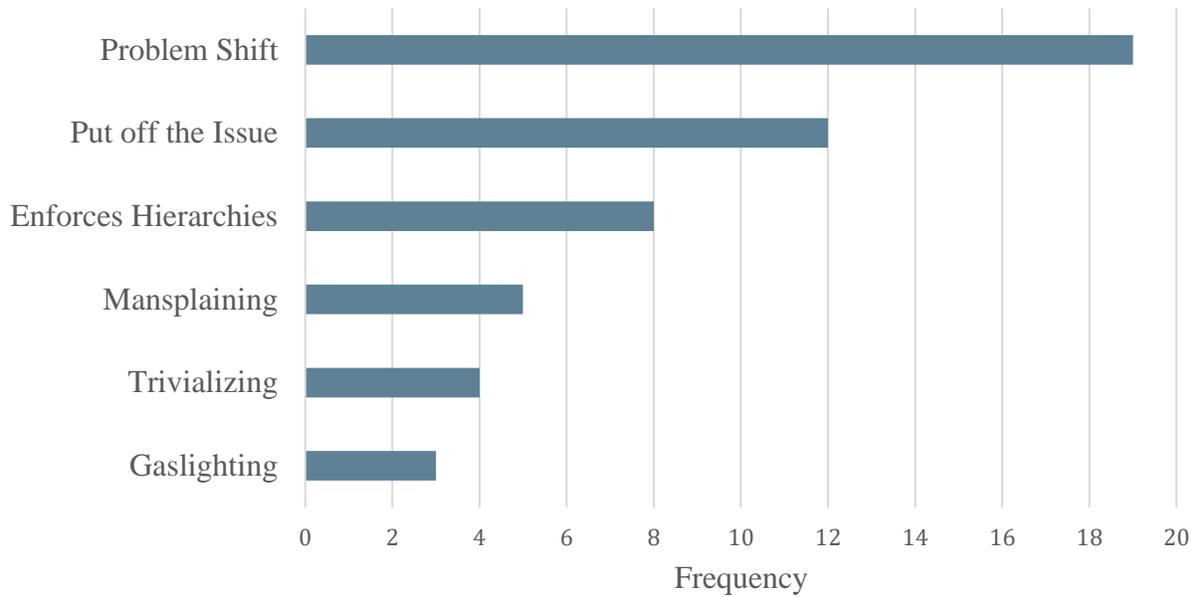
3) A constitutional amendment would be difficult for the legislature to change if there were unintended consequences. Opponents suggested that if victims' rights should be expanded, it should first be done through statute. Defense attorneys in particular used extreme hypotheticals that victims would be able to sue the state for services like the right to a paid private attorney in

addition to the prosecutor. They suggested that the amendment be withheld from the floor until a statute could be thoroughly vetted.

4) Victims should not be a part of the criminal justice proceedings. As Michael Bartlett put it, “In the legal system a victim is only an alleged victim and a defendant only an alleged criminal until there is a guilty verdict.” Bartlett went on to explain that one of the reasons why defendants seem to have so many rights is because in the United States the legal system presumes innocence until proven guilty. If victims are allowed to inject more emotion into the courtroom, juries may be swayed by wanting to convict for the sake of the victim than truly knowing if the defendant was guilty. The defense attorneys predicted that this overabundance of emotion from victims would cause more mistrials and defendants are more likely to appeal. This could slow down the justice system and cost the state more.

The coded results of the silencing tactics used in opposition narratives found that problem shifting stories were told the most often (see Figure 6.3). Opponents regularly focused on issues that did not pertain to the amendment itself. The second most common tactic was putting off the issue. Most of these narratives can form the idea that the amendment should be statute first. The least used tactic was gaslighting. Only the three defense attorneys each made reference that victims are not really victims. These narratives were usually about a girl who claimed to be raped and blamed an innocent boy who did not do it. They also used transportive language and asked the representatives to imagine the accused boy as their son or nephew.

Figure 6.3: Results of Counted Silencing Tactics Narratives



Discussion

Non-Salient Policies

When in comparison with each other, proponents focused on harms of victims using real world examples they had either witnessed or felt themselves, and opponents focused on hypothetical harms. While one might argue that the opposition could not focus on real world harms because the amendment had not yet passed in Idaho, they could have compared Idaho to other states that have enacted Marsy’s Law like California and Montana.

Despite using hypotheticals, the opposition’s narratives ended up being the most compelling for the voters. This may be because victim’s rights are not a salient topic. Since the public is not knowledgeable, they are unlikely to carry an opinion. This freed representatives from worrying about what their constituents thought. The media’s lack of coverage also made representatives free to vote how they wanted. A Google search for SJR 103 shortly after its failure resulted in only two short news stories that did not focus on the narratives of the debate.

As the literature predicts, policies on non-salient issues are not likely to pass because lawmakers feel safer keeping the status quo. If a representative votes to hold a bill, it is unlikely significant voters would punish them. Yet, if they pass a bill that turns out to have unforeseen consequences the voters may not reelect them.

Another reason for its failure could be that Marsy's Law does not necessarily offer a perfect solution to the problems that plague victims. The solutions offered are not completely satisfactory because victims will still be stigmatized. Rochefort and Cobb (1993) state that a problem is not a problem until a solution has been identified. The public may hear narratives about non-salient issues, like victims' tragic stories with the justice system, but without a viable solution also being presented with the narrative, the public is likely to believe that the harms caused in the narrative were unavoidable. This creates a situation where the public feels for the tragic nature of the victim, but that is the unavoidable nature of being a victim.

Silencing Tactics

Silencing tactics were used by the opposition. The fact that the two most commonly used tactics were problem shifting and putting off the issue, and the two least used were gaslighting and trivializing, indicates that the opposition does find merit in victims' claims. Instead of trying to attack those claims head on, it was easier to shift topics. But, if trivializing had been used more, it would have been an indicator that the opposition did not think the claims were warranted.

In the problem shift narrative arguments about false accusations, opponents used devil shift tactics outlined by narrative policy framework scholars. Opponents argued that victims are not really victims but are people who wrongfully accuse others to punish them. These narratives over exaggerate the commonality of false accusations.

Nevertheless, these results demonstrate that silencing tactics used during the SJR 103 hearing were probably not intentional suppression. Even so, silencing intended or not still has the same effect. Some research suggests that unintentional silencing is the most difficult for suppressed groups to overcome because it is challenging to spot and change culture (Glick and Fiske 2001). For example, patronizing phrases like “little girls are pretty” and “little boys are smart” are difficult to change because the comments are genuine and meant to compliment. And still, the undertones of the comments are that women are expected to be beautiful, and men are supposed to have breadwinning jobs. When silencing is a part of culture, sometimes it is the members within the same silenced subgroups that oppose change to the status quo. For example, Representative Scott stated that she too was a victim of a crime but felt that it was not a victim’s place to interject into the justice system.

Social Construction

At first glance, when applying the theory of social construction of target populations, both victims and criminals have low power, but victims are more positively viewed, so one should have expected to see policies that favored the victim over the criminal. The mistake would be in assuming that only two socially constructed groups can be pitted against each other in a vacuum. After listening to the testimony of the opponents, advantaged and contender groups were identified in the narratives. Even though taxpayers were not mentioned, they are an implied character when there is discussion about costs. Idaho taxpayers fit in the advantaged category because they are positively constructed since they contribute to the overall benefit of the state and they have high power since they are the most likely to vote by virtue of caring how their tax dollars are spent. Large companies like Walmart are seen as contenders. They are powerful but not as positively viewed by the public (see Table 6.3).

Table 6.3: Social construction of narrative characters in House State Affairs Committee Constructions

		Positive	Negative
Power	Strong	Advantaged <i>Taxpayers</i>	Contenders <i>Walmart</i>
	Weak	Dependents <i>Crime Victims</i>	Deviants <i>Convicted Criminals</i>

Note: Created from the work of Schneider and Ingram (1993)

When policies are being distributed, advantaged groups are the most likely to get favorable policies. Since the costs of the amendment were unknown, costs in the millions would have negatively hurt taxpayers. The public also dislikes when policies overtly benefit contenders. Since the amendment specifically mentions that businesses and entities can claim the rights of victims (although they already do) representatives did not want to show support for helping a disliked group.

Senator Lakey and others who wrote the amendment probably focused more on the legal aspects of being consistent with the definition of a victim than worrying about the narrative tone. The amendment could probably have been written to not include the phrase specifying that businesses could be victims and receive notification, and still of had the same outputs since businesses are already defined as victims in an earlier amendment. The narratives of the proponents could have also expanded to more than just victims and criminals. They should have made claims that the amendment would be beneficial to Idaho taxpayers and other advantaged groups. That, even if there are negative repercussions like costs, the benefits to taxpayers will outweigh those drawbacks.

Roles of Victims

Though it was never explicitly stated by either proponents or opponents, the larger implication of SJR 103 was about the role of victims in the criminal justice system. There is a balancing act between the criminal justice system being about punishing the bad behavior of the criminal or helping victims receive restitution. Very rarely in the criminal system is the defendant required to make restitution with the victim. That usually only happens if the victim is wealthy enough to hire an attorney to file a civil complaint.

This is why the discussions of victim impact statements are so important. If the justice system is about exacting punishment, then it is the utmost duty of the government to make sure that punishment is just and that people are not wrongfully convicted. That is why the United States uses the highest standard of innocence until proven guilty. The government is willing to let many criminals avoid punishment because one wrongful conviction is so devastating. But, if society changes its mind and believes the justice system should do more for victim restitution, victims should play a larger role in criminal proceedings or barriers to civil action should be lessened.

The systemic debate was important for weighing the harms between different narratives for the representatives. On one side there is the harm of the wrongfully convicted, and on the other is the harm of the victim. When solutions for victims are not easy, it is harder to identify the problem. The problem of wrongfully convicting a person is a harm that can be avoided, but victims incur the worst of their harms before the government can intercede. Victims may be labeled as helpless because the state cannot undo the harms of the crime. Perhaps the representatives thought that no policy could ever make up for the harms a victim feels. That

made it easier for them to support hypothetical people because those solutions to their harms were more concrete.

The systemic debate also explains why all the Democrats and women who served on the State Affairs committee voted to hold the amendment. Traditionally Democrats and women have supported victims, especially in cases of rape and domestic violence. Even though there were victims that probably appealed to this demographic, those same representatives are the ones who traditionally also support defendant's' rights. This particular amendment may have conflicted with their individual core values.

Chapter 7

Conclusion

The focus of this project is to understand how perceptions of victims shape victim protection policies in Idaho regarding public record redactions. At the core of any analysis of public policy, is an awareness of the foundational question of political science which is: What is the proper role/purpose of government? Political theorists have tried to answer this question with the broad idea that there is an implicit agreement between citizens and their government often referred to as the social contract. Citizens give up certain freedoms in the form of legitimizing their government. This may look like obeying laws (even if they individually oppose them), paying taxes, or having a sense of nationalism. In exchange for this legitimacy, governments offer their citizens safety. A sense of safety is broad but includes protection from foreign threats, a justice system, economic security, and natural disaster response. Governments are able to achieve these objectives by passing public policies. Public policy is any action or inaction on the part of the government.

It is the hope of the public that the government will create policies that will benefit the lives of its citizens. In the case of victim protection policies in Idaho, this project sought to determine the expectations and perceptions of the public, effectuators of the policy (bureaucrats), and the policy creators (legislature). In other words, this project sought to learn what each of these three groups expected the benefits of the victim protection policies articulated in the Idaho Public Records Law to be. The interesting thing about this topic is that even though victim policies should be important to the public, many do not think about what protections and rights a victim has until they become one. The public acts under the assumption their information is

private and rarely thinks that their information could be made public. This leads to a situation where both bureaucrats and legislators find themselves in a position to make policy choices without the general public's scrutiny. For example, one of the findings suggested that many public respondents believe that telephone numbers should be private. The law does not clearly define telephone numbers as private information and is therefore up to the discretion of the record custodian to decide.

At the same time, policies do not exist in a vacuum. The redactions in public records also affect more than victims. Redactions also affect those who want to gain information from public records, like the press. Unlike the public, the press has been much more vocal on how they would like public record laws shaped. In the survey of the public, it was evident that the public supports the press' role as a government watchdog, which in turn also allows them to have more of a voice in influencing policies. Reporters have used their platform to individually name record custodians that redact information from public records in their newspaper articles and publicly shame them for policies they disagree with. The lack of/inability for record custodians to provide a counter argument can cause an already government skeptical citizenry to believe that the government redacts information for nefarious purposes. This then influences legislators to not make changes that would more narrowly define what private information is.

The lack of clear legislative direction leaves record custodians in a position where they must interpret the law themselves. This has resulted in a system where even within the same office, two custodians could choose to redact different things regarding a victim's personal information. Surveying custodians was the first step in understanding how the Idaho Public Records Law is being administered. The confirmed variation illustrates the need for the legislators to act on defining privacy so that all citizens can receive equal protection of the law.

Understanding the thoughts and motivations of legislators can be difficult without asking each legislator directly their opinion. Yet even survey or interview answers are likely to have flawed data since legislators worry about reelection and may choose to report answers they assume their constituents and campaign contributors want to hear rather than how they feel themselves or intend to vote. An examination of public meetings, like the ones discussing Marcy's Law, is an alternative way to understand how new victim policies are thought of and received by the legislators. The House State Affairs Committee hearings gave insight to how both adversarial coalitions are messaging and how legislators publicly respond in the statements and questions they make. By using a narrative analysis approach, this provided a quantifiable look into what kinds of arguments the legislators find the most persuasive and what their perceptions are concerning the needs of victims.

By looking at three different levels of analysis, this project sought to give a snapshot of how perceptions of victims inform the privacy policy rights of victims regarding their information in Idaho's Public Records Law. The following sections outline the important findings from each perspective level.

Public's Perceptions

What makes this research interesting is that unlike most policies studied to understand the public perceptions, record laws are extremely niche. Even those with a law degree are not going to necessarily have high knowledge in this area unless they practice municipal law. Because respondents admittedly knew little in this area (ninety percent (90%) responding that they did not have much prior knowledge, it can be assumed that knowledge of the general public is low. That affects the policy preferences of the public. When asked one's opinion on a topic that one has

never given much thought, previous research indicates that people will heavily rely on heuristics and any related knowledge they can connect to the issue.

Low knowledge was confirmed when respondents were asked true and false questions about public records law. The question with the least amount of correct answers asked, “The state of Idaho has identified what is considered private information so record keepers know what to redact/remove.” seventy-five percent (75%) of respondents incorrectly answered “True.” This question shows that the public generally believes that the government has a detailed policy on record redactions and maintaining private information. This assumption may stem from the notion that record laws are not salient, with the logic that if the policy was broken, the public would be better aware of problems. The second highest incorrect response was to a question about victims' rights to sue. To the question asking, “If a person is harmed by the release of their information through a public record request, they can sue the record keeper who released the information” fifty-five percent (55%) of respondents believed the statement to be true. The public imagines that an injustice brought about by the releasing of their personal information should allow them to seek retribution.

When respondents were asked what they thought should always be redacted from public records, of the five categories; children’s names, home addresses, Social Security Numbers, telephone numbers, and victim’s names, victim’s names were the least thought to be “always redacted.” Perhaps the general public has a higher belief that they could be a target of identity theft, rather than seeing themselves as a victim of a crime. This could explain why Social Security Numbers, home addresses, and telephone numbers were believed that they should be redacted more often. It was interesting that telephone numbers were thought of as more private

than one's own name, because currently telephone numbers are legally the least protected of the five categories.

The difference in redaction stance between children's names and victims' names could in part be attributed to who is perceived as more blame worthy. In the context of public records, a child's name is likely to be part of a public record because they are a victim of crime or domestic dispute. The expressed preference for the redaction of children's names, may be because people see children as innocent bystanders and not as fully autonomous. That means that the crimes committed against them cannot be their fault. Adding further intrusion or stigma to a child seems unjust. On the other hand, an adult victim may be seen as somewhat responsible for the crime committed against them. An adult may also be seen as more capable in handling the added stigma of being a victim.

Privacy was the strongest significant predictor of victim name redaction. This seems to make sense. A person with a high preference for privacy over other freedoms such as; freedom of speech, freedom to practice/not practice religion, right to bear arms, freedom of assembly/association, and right to a fair trial, perhaps is more inclined to redact victim names because they do not believe it is the public's right to know an individual's personal business. This preference for privacy was also found statically significant in the question asking about politicians. When asked their level of agreement on, "The public has a right to know about an elected official's private life," those who agreed with the statement felt that victim's names should be redacted less. Inversely, those that disagreed with the statement were more likely to support victim name redactions.

To understand the public's perceptions of victims of sexual crimes, the survey asked respondents questions from the rape myth acceptance scale. Initially an unexpected outcome was

the difference in responses from the four questions that all used the word “rape” verses the last question that implied domestic violence. Many more people agreed that “It is a woman’s responsibility to remove herself from a bad relationship.” Agreeance with this statement implies that victims in poor relationships are somewhat compliant in the crimes committed against them. This could also be interpreted that victims are discredited by not leaving and are implicated as blameworthy. In contrast to the question, “If a girl doesn’t say “no” she can’t claim rape” it was easier for respondents to recognize that just because a person does not say no, is does not mean they are consenting to sex. In both situations of ability to leave a bad relationship or verbally saying no to sex, victims of crimes are not willing participants. A second reason why there could be higher agreeance to this question is the public could be becoming more sensitive to the word “rape.” The public could be conditioned to giving socially acceptable responses and are also more aware of rape myths.

Perhaps unsurprisingly, women were less likely to believe rape myths. Victimization of rape is not exclusive to women, but females do make up the majority of victims of sexual crimes. One of the ways the #MeToo movement was so powerful that it made society more aware of the prevalence of sexual crime. It started a discord for people to realize that family members, friends, neighbors, and coworkers had experienced either sexual harassment or become a victim. It may be that female respondents were less believing in rape myths because they could empathize with the scenarios.

Approval of President Trump, racist views, and sexist views were all significantly predictive of being more likely to believe rape myths. In a society that values having a legitimate justice system, people want to believe that when crimes are committed against them, they will be able to turn to the government for relief. When people believe that the justice system doles out

outcomes based on a person's race, gender, or wealth—rather than on the facts and law—people do not utilize the system. Stigmatized people may believe that their efforts will result in nothing, or worse, that they may be accused of lying and prosecuted for filing false reports. The most troubling trend of rape myth acceptance is the notion that perpetrators are not solely responsible for their actions, and that their victims should also share in the responsibility for the crime. When a sexual crime is committed, the stigma of the victim is usually known to only the victim and their perpetrator(s). In seeking help from the justice system, victims must disclose their stigma to law enforcement. This creates a domino effect of exposing themselves to public scrutiny. Fears that a victim's report may not be taken seriously because of their race, gender, or the political preferences of those handling their case, delegitimizes the justice system.

Record Custodians' Perceptions

The survey of record custodians confirmed that record redactions are applied unevenly across the state. Forty-two percent (42%) of survey respondents reported that there is no agreed policy for the agency they represent. While this number already sounds high, my inclination is that the number of entities without officially agreed on policies is probably higher. This discrepancy between what was reported and my intuition is in the way the survey question was worded. Respondents were asked, "Does your agency have an agreed policy on what is redacted from public records?" Since many agencies are represented by one attorney, that individual may have responded "yes" because there is no one to disagree on their policy decision. This brings up the question, is a policy decided by the employee or the municipal entity? For example, if that employee is replaced by another employee that has a different interpretation of the Idaho Public Records Law, does that mean the agency's policy changed, or there was never really an official policy to begin with?

The question may also have been overly broad. A group of attorneys and clerks at an entity may agree that they should protect the privacy of victims but may disagree beyond the name of the victim what other information should also be considered private. After sharing the survey results of both the public and record custodians with the Idaho Municipal Attorneys Association at a conference, an attorney disclosed to me that they had not considered redacting telephone numbers from public records. They were surprised to see that the public reported that telephone numbers should be considered private. This attorney said that they would change their redaction policy.

Record custodians shared similar rape myth beliefs with the public. Record custodians were asked the same set of five rape myth acceptance questions. Questions 1-3 had an average score of 1.75 (scores range from 1-5 with 1 being “strongly disagree”). The fourth question asked about if they thought rape victims lie and had an average score of 2.4. The last question that inferred domestic violence had the most agreement of 3.08. As was the case with the public, the question without the word rape had the most agreeance. Like the public, record custodians are likely to share similar implicit bias reasoning. Record custodians are after all just people. They might be socially conditioned to spot rape myths because it is talked about more prevalently than domestic violence.

Risk perception from both the press and victims were significant in predicting redaction stance. The questions are worded, “In your opinion, is there a risk of legal action from a person who is upset that you have released information that they consider private?” and “In your opinion, is there a risk of legal action from a record requestor who is a member of the media for redacting information?” Those that responded that they perceived a high risk from people who were upset about their information being released reported that they were more likely to redact

victims' names. Conversely, those that reported a high risk of legal action from the media were less likely to redact victims' names. While this initially makes sense and follows a logical conclusion, what is odd about this finding is that in Idaho record custodians should only perceive a low risk from exposed individuals since the law in Idaho does not allow them to sue the government for damages. This may indicate that knowledge of the law is not consistent amongst record custodians. In future research on record custodians, a panel of knowledge questions could be asked like the ones asked of the public. Some of the knowledge inconsistency may be due to the disorganization of the law itself.

It is notable that private attorneys versus public attorneys self-reported that they redacted victim names more frequently. There could be a combination of reasons why this is. First, private attorneys must keep track of their billable hours to justify their costs to the entity they represent. When asked to review a public record, a private attorney may redact more information because it gives the appearance that they have carefully reviewed the document. It could be that there is a perception that returning a document without any redactions after review indicates that maybe the attorney didn't really look over the document. A public attorney on the other hand is salaried and does not need to keep track of their billable hours. With tight turn-around deadlines, and no personal consequences for not redacting, public attorneys may feel less inclined to be as stringent on redactions. Second, the Idaho Public Records Law does not require all records to be reviewed by an attorney before their release. Some smaller entities without a full-time attorney may choose to bypass record review for most records (i.e., car accidents). Those entities may only send records that are sensitive to their attorneys to cut costs. That means, it should not be assumed that victims in a geographical area that has a private attorney versus a public attorney will have more of their information protected.

Legislators' Perceptions

Like both the public and custodians, at the legislative level there continues to be relatively lower saliency around knowledge of victims and victims' rights. When legislators perceive that the public has low saliency on a policy topic, this results in several different outcomes.

First, since the public does not expect a certain policy or make their wishes known to legislators, legislators may be left unsure how to proceed. It is possible that they would like to create the policy that the public wants, but without consensus, policies on non-salient issues can become neglected. The Idaho Public Records Laws may be a result of it being a low priority for policy makers because it is a low priority for the public. With so many competing issues that the public does want, there is little incentive for legislators to use their political capital changing something that very few of their constituents will reward them for.

Second, when legislators are unsure what the public wants, they can make best guesses based on what they do know about their constituents. In the 2016 presidential election, Trump received fifty-nine and twenty-five-hundredths percent (59.25%) of the popular vote. In 2020, that number rose to sixty-three and nine-tenths (63.9%). As support for Trump grows, legislators will probably try to appeal to his coalition in future elections. Unfortunately, this may also include policies that align with his racist and sexist rhetoric. In the survey of the public, support for Trump, implicit racism, and implicit sexism were all statistical predictors of rape myth acceptance. In Trump's rhetoric, he appears to spend ample time building himself up to be "not a weak person." He has openly mocked people with disabilities, prisoners or war, refugees, and those that are victims. He perpetuates the stereotype that victims are "weak" people who are somewhat responsible for their predicaments. Amongst his supporters, the word "victim" will

probably become more negatively perceived. The phrase “playing the victim card” insinuates that victims try to get special privileges that they are not entitled to. I predict that in Idaho, victims will continue to be a marginalized group with low political power because of the negative associations attached to the word “victim.” Victims may be seen as party to blame for their predicament and are therefore not entitled to any special privileges and benefits from the state.

Third, when the public is not salient on an issue, legislators are freer to make policies that will reward themselves with the most perks. Generally, the public disapproves of the idea of lobbyists and politically powerful coalitions offering incentives for favorable policies. Especially when money is involved, it can feel like the democratic process is being subverted because everyone’s vote is supposed to be counted equally. Usually, politicians have to be subtle in how they dole out benefits. In the case of Idaho Public Records Laws, the group that is benefitting the most is the press. The press does lobby for favorable public records laws because it makes reporting and writing articles easier. When government officials or employees do not comply with what the press wants, the press is able to use their platform to call out and shame those individuals publicly with little retaliation. It is therefore in the best interest of state politicians to keep local media happy. Politicians need favorable coverage (or at least avoid negative coverage) when they campaign for reelection. When compared to the press, victim advocacy groups have little incentives to offer legislators.

In the committee hearing, problem shift was the most utilized silencing narrative tactic used by the opposition. Over a third of all identified silencing narratives were problem shift. The next highest silencing narrative was put off the issue. Combined these two narrative strategies made up sixty percent (60%) of the oppositional strategies. The two least used were gaslighting

and trivializing. This indicates that the opposition does find merit in victims' claims that the justice system does not deal with victims fairly. By using tactics like problem shifting and putting off the issues, the opposition is expressing that perhaps the solutions offered under Marsy's Law may not address the problems that victims have. It could also be a tactic to avoid changing the status quo because victims may not be perceived as "worthy" enough to have increased legislative benefits.

Utilizing the theory of social construction of target populations, it is expected that when two parties are pitted against each other for a policy, the population who is more positively perceived and/or more politically powerful should receive the policy they desire. On the surface this does not seem to be true in the case of Marsy's law where the needs of victims are pitted against the rights of defendants. While both groups have relatively low political power, accused criminals are more negatively seen than victims (even though victim's positive perceptions are not necessarily high either). Despite that, one might still expect proponents of Marsy's Law to be successful.

This can be explained in that the policy is not just between two parties. Unnamed groups, but implied in narratives, who are more politically powerful and positively seen would be negatively impacted by the policy's passage. In this instance, legislators indicated that they worried about additional costs to Idaho taxpayers. Even though "taxpayers" are not a recognized coalition opposing Marsy's Law, their hypothetical desires do have significant influence on the legislative representatives. It could also be inferred that maybe one of the reasons why the Idaho Public Records Law does not require more redactions or allow individuals to sue government entities for releasing their information is also a preference to taxpayers and a fear that changes could incur governmental costs.

Continuing with the theory of social construction of target populations, one could predict that as long as victims are seen as dependents, they can expect to see policies that offer relatively low benefits with burdens in order to obtain those benefits. This is currently seen in the status quo that victims are told by the government that their perpetrators will be criminally charged, but in order to do that, victims must publicly reveal their stigma and submit themselves to scrutiny.

Limitations and Future Research

In an effort to keep this project narrowly focused, I had to accept that there are limitations to exploratory research on issues with little to no previous work. While this project seeks to uncover perceptions of victims and name redaction, I cannot confidently say that this project met that lofty goal. While most of my studies confirmed some of the inklings I had before starting, many new questions came to mind. The three areas that I think deserve more attention are addressing the general lack of knowledge on the subject, how specific aspects of the press are viewed, and expounding on the differences of perception between victims of different crimes.

In each study I conducted, there was a continued theme of lack of knowledge on the topic of redactions from public records. This made it difficult to parse out exactly how people felt about the topic since many had never thought about the issue before. Future researchers may attempt to both measure survey respondents' initial knowledge and opinions, but then also provide participants with information explaining state law. I suspect that participants may have different opinions about what should be redacted.

Custodial knowledge should be further tested. It was surprising to find that almost half of public offices lacked an official policy. Perhaps some of this stems from the complexity to which the laws about public records are written. Even those that are doing their best to follow the law, struggle to be able to know where to find the information they need. A multistate comparison of

custodial knowledge may reveal that legislative policies from state to state do not differ much, but that judicial review might. At a municipal attorneys association conference one custodial attorney told me that he practices in both Idaho and Washington. He reported that Washington's judicial system hears more cases about redactions and uses judicial review to clarify the law.

Lastly on the topic of knowledge, further investigation can be taken to measure the knowledge of victims. This would be especially interesting to see how victim knowledge of the law varies from state to state. Does an understanding of state laws change the behaviors of victims? Are some victims more confident that their information will remain private and are willing to file a police report in some states?

In both studies of the public and of record custodians the press was generally viewed more positively. While this wasn't surprising when they are being compared to victim rights (a less salient topic), it is surprising the support the media garnished given that overall trust in the media is on the decline. Since the initial findings of some of the surveys, new events such as the #MeToo movement, "fake news," and general confusion during a global pandemic, positive views of the press may be different. It would also be worth exploring the public perceptions of local media vs national media.

The last issue that should receive more exploration in the future is how different types of victims are viewed. If given more time and resources a more in-depth survey about the views of different kinds of victims may shed different light. For example, are crimes committed against children viewed differently? What about crimes that are not sexual in nature? By using the rape myth acceptance scale and the emotionally charged word of "rape" were my results influenced by recent events of the time? I also wonder if the previous President has had an influence on his supporters now that his term is over.

One Final Thought

A limitation of studying stigma is when social scientists who do not belong to the stigmatized group, study those from a vantage point of an unshared experience (Kleinman et al 1995; Schneider 1988). The result could be a misunderstanding of the experience of the people who are stigmatized and the perpetuation of the unsubstantiated assumptions. "...in particular, the practice of privileged persons speaking for or on behalf of less privileged persons has actually resulted (in many cases) in increasing or reinforcing the oppression of the group spoken for (Alcoff 1991, 7)." In this project, I write extensively on the experiences of victims of crimes without being a victim myself. I have also not personally experienced negative backlash for my information being released in a public record. In recognizing this, I understand that I am speaking from a position of privilege, and it is not my intention to speak for victims, but to speak with them. I relied heavily on the research done by others and the testimonies victims shared about their experience with the judicial system in Idaho. Despite my best efforts, I am sure that claims were made about victims that perpetuate certain stereotypes and/or are not felt by all victims. I recognize that this is a limitation of my work. This work however was aimed at addressing the inconsistent application of the law towards victims. By understanding the perceptions of victims, this information can connect with how that perception is shaping the current policy. In the words of Alcoff, "I hope that this analysis will contribute to rather than diminish the important discussion going on today about how to develop strategies for [victims] a more equitable, just distribution of the ability to speak and be heard (1991, 29)."

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Statutes Cited

- The Idaho Public Records Act, Chapter 1, Title 74 Idaho Code.

Appendix

Table A.1: Variable Code Book Idaho’s Public Perceptions of Record Redactions

Variable Name	Questions Asked	Description & Coding
<p>Dependent Variables: Victim Name Child Name Home Address SSN Telephone Number</p>	<p>Please indicate whether you believe the government should “Always Redact,” “Sometimes Redact.” or “Never Redact” when determining if the following pieces of information should be redacted/removed from a public record request.</p>	<p>0 = Never Redact 1 = Sometimes Redact 2 = Always Redact</p>
<p>Tested Knowledge</p>	<p>Please indicate whether the following statements are True or False: 1. The name of a rape victim must be provided when the media makes a public records request. (F) 2. If a person is harmed by the release of their information through a public record request, they can sue the record keeper who released the information. (F) 3. A person who files a public record request can sue a record keeper if the record keeper redacts/removes information from the record. (F) 4. The state of Idaho has identified what is considered private information so record keepers know what to redact/remove. (T) 5. Public record keepers have no discretion when it comes to deciding what should be redacted/removed. (F)</p>	<p>1=Correct 0=False Variable is the average score of the battery</p>
<p>Perceived Knowledge</p>	<p>On a scale from 1 to 5, where 1 represents “Very Low” and 5 represents “Very High,” please indicate your level of familiarity with public records laws in Idaho?</p>	<p>1 = Very Low 2 = Low 3 = Neither High or Low 4 = High 5 = Very High</p>
<p>Press helps Democracy</p>	<p>Freedom of the press is an important trait for democracy.</p>	<p>1 = Strongly Disagree 2 = Disagree 3 = Neither Agree or Disagree 4 = Agree 5 = Strongly Agree</p>

Redactions Hurt Press	The redaction of private information impedes the media's ability to hold the government accountable.	1 = Strongly Disagree 2 = Disagree 3 = Neither Agree or Disagree 4 = Agree 5 = Strongly Agree
Privacy Ranking	Please rank the following freedoms in order of importance, where 1 represents "Most Important" and 6 represents "Least Important." Freedom of Speech Freedom to Practice/Not Practice Religion Right to Bear Arms Freedom of Assembly/Association Right to a Fair Trial Right to Privacy	Recorded Reversed Raw Number Higher numbers indicate higher importance.
Trust in State Government	On a scale from 1 to 5, where 1 represents "Strongly Distrust" and 5 represents "Strongly Trust," please indicate your level of trust in the following: Federal Government	1 = Strongly Distrust 2 = Distrust 3 = Neither Trust or Distrust 4 = Trust 5 = Strongly Trust
Gender (Female)	What is your gender? Man Woman Other (please specify)	1 = Man 2 = Woman 3 = Other
Party ID (Republican)	Which of the following best describes your party identification? Strong Democrat Democrat Independent Republican Strong Republican	1 = Strong Democrat 2 = Democrat 3 = Independent 4 = Republican 5 = Strong Republican
Age	What is your age?	Raw Number
Class Standing	Which of the following best represents your classification at ISU? Freshman Sophomore Junior Senior Fifth-Year Senior or Higher Masters Student Doctoral Student	1 = Freshman 2 = Sophomore 3 = Junior 4 = Senior 5 = Fifth-Year Senior or Higher 6 = Masters Student 7 = Doctoral Student

Income	<p>In terms of income, how would you classify yourself?</p> <p>Working Class Lower-Middle Class Middle Class Upper-Middle Class Upper Class</p>	<p>1 = Working Class 2 = Lower-Middle Class 3 = Middle Class 4 = Upper-Middle Class 5 = Upper Class</p>
Victim Blaming	<p>On a scale from 1 to 5, where 1 represents "Strongly Disagree" and 5 represents "Strongly Agree," please indicate your level of agreement with the following statement: It is a woman's responsibility to remove herself from a bad relationship.</p>	<p>1 = Strongly Disagree 2 = Disagree 3 = Neither Agree or Disagree 4 = Agree 5 = Strongly Agree</p>
Private Lives of Politicians	<p>On a scale from 1 to 5, where 1 represents "Strongly Disagree" and 5 represents "Strongly Agree," please indicate your level of agreement with the following statement: The public has a right to know about an elected official's private life.</p>	<p>1 = Strongly Disagree 2 = Disagree 3 = Neither Agree or Disagree 4 = Agree 5 = Strongly Agree</p>

Table A.2: Variable Code Book the Effect of President Trump’s Approval, Implicit Racism, and Sexism on Views of Sexual Assault Victims

Variable Name	Questions Asked	Description & Coding
Myth Acceptance	<ol style="list-style-type: none"> 1. If a girl is raped while she is drunk, she is at least somewhat responsible for letting things get out of hand 2. It shouldn’t be considered rape if a guy is drunk and didn’t realize what he was doing 3. If a girl doesn’t say “no” she can’t claim rape 4. A lot of times, girls who say they were raped agreed to have sex and then regret it 5. It is a woman’s responsibility to remove herself from a bad relationship 	<p>Strongly disagree = 1 Disagree = 2 Neither agree/disagree = 3 Agree = 4 Strongly agree = 5</p> <p>Answers added together to create index score</p>
Approval of Trump	<p>On a scale from 1 to 5, where 1 represents “Strongly Disapprove” and 5 represents “Strongly Approve,” please indicate your level of approval of the job President Donald Trump has done since taking office</p>	<p>Strongly Disapprove = 1 Disapprove = 2 Neither = 3 Approve = 4 Strongly Approve = 5</p>
Implicit Racism	<ol style="list-style-type: none"> 1. Minorities use race as an explanation for social problems they encounter 2. Minorities who are unsuccessful do not use opportunities (e.g., education, employment, etc.) available to them 3. It is necessary for the federal government to enact programs to help minorities overcome past discrimination (reverse coded) 4. All citizens currently have equal rights in America 	<p>Strongly disagree = 1 Disagree = 2 Neither agree/disagree = 3 Agree = 4 Strongly agree = 5</p> <p>Answers added together to create index score</p>
Implicit Sexism	<ol style="list-style-type: none"> 1. Women are too emotional to be effective in elected office 2. Sexism played a role in the 2016 Presidential election (reversed coded) 3. President Trump’s comments about “grabbing” women against their will was nothing more than harmless locker room talk 4. The way President Trump talks about women sets a bad example for young men (reverse coded) 	<p>Strongly disagree = 1 Disagree = 2 Neither agree/disagree = 3 Agree = 4 Strongly agree = 5</p> <p>Answers added together to create index score</p>
Female	<p>What is your gender?</p>	<p>Female = 1 Not Female = 0</p>

Ideology	Which of the following best describe your political orientation?	Very liberal = 1 Liberal = 2 Moderate = 3 Conservative = 4 Very conservative = 5
Party ID	Which of the following best describes your party identification?	Strong Democrat = 1 Democrat = 2 Independent = 3 Republican = 4 Strong Republican = 5
Age	What is your age?	Raw number
Number of Children	How many children do you have?	Raw number
Married	What is your relationship status?	Married = 1 Not married = 0
White	From the following options, do you consider yourself to be: American Indian or Alaskan Native, Hawaiian or Other Pacific Islander, Asian or Asian American, Middle Eastern, Hispanic or Latino/Latina, Non-Hispanic White, Other	White = 1 Not white = 0

Table A.3: Variable Code Book Record Custodian Perceptions of Radiation Policies

Variable Name	Questions Asked	Description & Coding
Redact Victim Name	Which of the following do you redact from public record requests? Victim Name	1 = Never Redact 2 = Sometimes Redact 3 = Always Redact
Redaction Stance	Which of the following do you redact from public record requests? Children’s Names, Home Address, Social Security Numbers, Victim Names, Telephone Numbers, Gender, Ethnicity, Citizenship, Disability, Birth Date, Prior Criminal Record, Marital Status, Full Face Photos and Comparable Images	Score was calculated using the mean of the thirteen private information redaction identifiers. 1 = Never Redact 2 = Sometimes Redact 3 = Always Redact
Views of Privacy	On a scale of 0 to 10, where 0 indicates “Strongly Disagree” and 10 indicates “Strongly Agree,” please indicate your level of agreement with the following statements. 1. Your employer <u>should not</u> have a right to your social media passwords. 2. Consenting adults <u>should</u> be able to engage in sex within their own home. 3. My cell phone provider <u>should</u> be required to get my permission before tracking my location. 4. A person <u>should not</u> have the right to access the tax records of another person without their consent.	Score is calculated as the mean of the four questions and can range for 0 to 10. Higher scores indicate stronger levels of valuing personal privacy.
Views of Free Press	On a scale of 0 to 10, where 0 indicates “Strongly Disagree” and 10 indicates “Strongly Agree,” please indicate your level of agreement with the following statements. 1. Reporters <u>should</u> be allowed to keep sources confidential. 2. The media <u>should</u> be able to write about private citizens. 3. The media <u>should</u> be able to criticize the government. 4. The media <u>should</u> have the right to release any visuals (photos/videos) that they want.	Score is calculated as the mean of the four questions and can range for 0 to 10. Higher scores indicate stronger levels of valuing freedom of the press.

Views of Victims	<p>On a scale of 1 to 5 where 1 indicates “Strongly Disagree” and 5 indicates “Strongly Agree,” please indicate your level of agreement with the following statements.</p> <ol style="list-style-type: none"> 1. If a girl is raped while she is drunk, she is at least somewhat responsible for letting things get out of hand. 2. It shouldn't be considered rape if a guy is drunk and didn't realize what he was doing. 3. If a girl doesn't say “no” she can't claim rape. 4. A lot of times, girls who say they were raped agreed to have sex and then regret it. 5. It is a woman's responsibility to remove herself from a bad relationship. 	<p>Score was calculated using the mean of the answers of the five questions.</p> <p>1 = Strongly Disagree 5 = Strongly Agree</p>
Risk from Press	<p>On a scale from 1 to 5, with 1 indicating not at all concerned and 5 indicating extremely concerned, how concerned are you about each of the following issues? Legal action from a record requester who is a member of the media for redacting information</p>	<p>1 = Not at all Concerned 5 = Extremely Concerned</p>
Risk from Victims	<p>On a scale from 1 to 5, with 1 indicating not at all concerned and 5 indicating extremely concerned, how concerned are you about each of the following issues? Legal action from a person who is upset that you have released information that they consider private</p>	<p>1 = Not at all Concerned 5 = Extremely Concerned</p>
Rape Influence	<p>Have you, or someone you know ever been a victim of rape or domestic violence?</p>	<p>0 = No/Unsure 1 = Yes</p>
Press Influence	<p>Do any of your friends or family work as a journalist or work for the press?</p>	<p>0 = No/Unsure 1 = Yes</p>
Gender	<p>What is your gender?</p>	<p>1 = Male 2 = Female</p>
Age	<p>What year were you born?</p>	<p>2017 subtract the raw number participant responded</p>

Education	What is the highest level of education you have completed?	1 = No schooling completed 2 = Nursery school to 8th grade 3 = Some high school, no diploma 4 = High school graduate or GED 5 = Some college credit, no degree 6 = Trade/technical/vocational training 7 = Associate degree 8 = Bachelor's degree 9 = Master's degree 10 = Juris Doctorate
Married	Are you now married, widowed, divorced, separated or never married?	0 = Unmarried 1 = Married
Number of Children	How many children do you have?	Raw number the participant reported
Religiosity	How frequently do you attend religious services?	1 = Never 2 = 1-2 times a year 3 = Once a month 4 = 2-3 Times a month 5 = Weekly 6 = Multiple times a week