THE MEDIA AND CRIME:

Tension Between
Truth and Justice

Wendy J. Murphy, JD
New England School of Law
Wmurphy@fac.nesl.edu

COMPETING PURPOSES

CRIMINAL TRIAL
- Adversarial process
- Protect individual rights

JOURNALISM
- Produce truth
- Government oversight

CRIMINAL TRIALS

- Document “dumping”
- Suppression rules
- Defendant, but not prosecutor, can offer misleading and even false information
- Disparate ability of parties to speak publicly
- Disparate sanctions for party misconduct

IMPACT OF DISPARATE RULES ON TRUTH-TELLING

- False information distorts truth
- One-sided silence distorts truth
- Disputes portrayed as 50-50 contests distort truth
- Suppression rules distort truth

IMPACT OF UNBALANCED REPORTING

- “Acquittal by frenzy”
- Incentivizes exploitation of myths and social prejudice - “bad mother”; “nuts and sluts”; “feel good” prejudice, etc.
- Creates unfair expectations (no DNA on pillow?)
- Jury tainting
- Undermines reporting, prosecution and justice

WHAT STORIES GET TOLD?

- DNA distortions (“exoneration does not mean “innocence”)
- “Will the Bryant result deter reporting”?
- “Will it hurt the case that the victim had sex with three men in three days?”
- “Does her lie hurt the credibility of all ‘real’ victims”?
- Why no stories about the four dead sperm?
- Why only certain “types” of victims? Offenders?

WHAT CAN WE DO?

- 1. REFRAME THE QUESTION
- “it’s not gray - it’s black and white”
- 2. NOTICE AND COMPLAIN - compare and contrast
- 3. LETTERS TO EDITOR/OPEDS - and call the writer directly -- but don’t waste time
- 4. MEET WITH THE EDITORIAL BOARD
- 5. MAKE YOUR OWN NEWS
- 6. FIND A SHILL
- 7. SANCTIONS (kidnapper case)
- 8. VICTIM LAWYERS