

**Arrested Development: The Mr. Big Sting as a Failed Social Problem**

by

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## ABSTRACT

### **ARRESTED DEVELOPMENT: THE MR. BIG STING AS A FAILED SOCIAL PROBLEM**

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The use of the Mr. Big sting undercover policing tactic by Canadian police services has led to debate and controversy among civil libertarians, legal actors, and academics. It has not, however, led to widespread discussion or concern amongst the general public. Using a social constructionist framework, this study investigates why Mr. Big stings have failed to become a widely recognized social problem in Canada. An ethnographic content analysis of print media discourse reveals that weak claims-making led to this problem's failed emergence. Unable to support complex, specialized problem claims, it is suggested that the media's preference for simplicity left it unable to adequately present claims that sought to establish Mr. Big stings as problematic. These findings suggest that the media may be ill-suited to fulfilling its democratic role in promoting accountability among police and other public intuitions.

*To Andrew, without whom none of this would have been possible.*

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Grisly murders gone cold, gangsters, undercover cops, and unsuspecting targets; the Mr. Big sting has all the makings of a Hollywood film or bestselling novel, but for Canadian police services it is just another tool of the trade. Highly effective and controversial, this undercover tactic has been in use across Canada for over two decades, challenging the outer limits of what is deemed acceptable in Canadian law all the while. Typically, Mr. Big stings are used in cases where evidence is scarce, but a particular individual is suspected (Puddister and Riddell 2012; Milward 2013). Without evidence to charge the suspect, police undertake an elaborate undercover investigation that has been known to take exorbitant amounts of time, money, and resources to complete (Keenan and Brockman 2010; *Hart* 2014). The cost, they say, is worth the effectiveness of this ruse, as a confession is the all but guaranteed result. Posing as an organized crime syndicate, undercover officers surveil, befriend, and groom targets, eventually convincing them to join their fictitious gang (Moore, Copeland, and Schuller 2009; *Hart* 2014). After months, or sometimes years, of constructing an elaborate underworld of violence and crime, targets are granted the “opportunity” to meet with the organization’s boss, Mr. Big (*Hart* 2014). The goal of the ruse is for Mr. Big to convince the target that he/she ought to confess their past misdeeds to him in exchange for money, a job, respect, or even their own safety (Keenan and Brockman 2010; Smith, Stinson, and Patry 2010). In all but a handful of cases Mr. Big is successful, eliciting full confessions from targets that may well be under severe duress (Keenan and Brockman 2010; Smith et al. 2010; *Hart* 2014). At trial these confessions hold considerable weight and are difficult to challenge, often leading to a target’s conviction (Keenan and Brockman 2010; *Hart* 2014). As an incredibly effective undercover policing tactic, Mr. Big is often heralded by Canadian law enforcement as an essential tool for closing cold or difficult

cases where evidence is lacking in relation to a particular suspect (Keenan and Brockman 2010; Puddister and Riddell 2012), but for critics, this effectiveness may be exactly the problem.

For former sting targets like Kyle Unger, Clayton George Mentuck, Nelson Hart, and many others, Mr. Big's ability to extract confessions is far too powerful. Claiming to have feared for their lives, these targets fabricated bloody narratives in the hopes of pleasing Mr. Big, only to later discover that their lies had been videotaped by their new friends who were actually undercover police officers (*Mentuck* 2001; Keenan and Brockman 2010; *Hart* 2014). Each of these men then began long legal battles to prove their innocence, eventually and after much hardship, winning their freedom. The ability of the Mr. Big ruse to extract confessions from innocent men and women is a troubling revelation; one that civil libertarians, legal actors, and academics argue should not go unnoticed. Social science research (see Moore et al. 2009; Kassin et al. 2010; Kennan and Brockman 2010; Smith et al. 2010) and past cases like those mentioned here, indicate that the confessions obtained by way of Mr. Big stings are often unreliable. When taking into account the strength of confession evidence to persuade juries, even if it contains obvious contradictions and falsehoods (Kassin et al. 2010), the fate of anyone caught in Mr. Big's snare seems all the more grim.

Although these dangers have been discussed within legal and intellectual circles, the general public remain conspicuously absent from this discussion. There are certainly individuals attempting to stir public debate on this issue; social media pages have been dedicated to opposing the tactic's use, documentaries have been made outlining its dangers, and articles have been written lamenting its approval by Canadian courts. Why then, has the use of Mr. Big investigations by Canadian law enforcement not become a widely discussed issue on the public

agenda? Why has this discussion remained, for the most part, limited to legal and academic circles? More succinctly, why has the use of Mr. Big sting investigations failed to become a social problem in Canada?

#### A CONSTRUCTIONIST VIEWPOINT

Studying social problems from a constructionist perspective allows researchers the ability to ask a unique set of questions that are inaccessible to objectivist researchers. Where objectivists view problematic conditions as inherently so, constructionists investigate the social processes that lead problematic conditions to become subjectively defined as such (Spector and Kitsuse 1977). Collective subjective definitions are formed and proliferate through the making of claims (Fuller and Myers 1941; Blumer 1970; Spector and Kitsuse 1977; Best 1989; 2001; 2008; Loseke 2003). By studying the rhetorical techniques of claims-makers, constructionists are able to identify the characteristics that allow some conditions to become known as social problems while others do not (Spector and Kitsuse 1977). Over time, this theoretical tradition has identified a variety of rhetorical strategies responsible for successful and unsuccessful problem construction (Hilgartner and Bosk 1988; Best 1989; 2008; Loseke 2003). Hilgartner and Bosk (1988) suggest constructing social problems is a highly competitive process, leaving many conditions unsuccessful in achieving problem status. Studying conditions that have failed to become problems offers additional insight into claims-making and the construction of social problems; however, few studies of this kind have been completed in constructionist literature to date.

## CONSTRUCTING MR. BIG

This inquiry uses constructionist theory to investigate why Mr. Big stings have failed to become a social problem in Canada; a question the literature has yet to address. It will be argued that the condition's inability to garner extensive public notoriety was a function of failed claims-making. Specifically, the weak claims and weak claims-makers presented in print media discourse on Mr. Big investigations prevented the successful construction of this problem. As a complex condition with problem claims dependent on specialized knowledge and/or lengthy explanations, the Mr. Big condition was incompatible with the media arena's preference for simplicity. The resulting media coverage provided inconsistent, incomplete, and at times misleading constructions of Mr. Big stings and their associated problem claims.

## DOCUMENT OVERVIEW

To address the role of claims and claims-making in the failure of Mr. Big stings to become a social problem, this thesis begins by providing a thorough overview of social constructionism and social problems theory. Chapter 1 lays a solid theoretical foundation for the rest of the paper, exploring the history of the constructionist approach to social problems, how researchers use these ideas to study social problems work, significant critiques of the approach, and various conceptual models. The second half of Chapter 1 looks at claims-making in the media more directly, dissecting the norms and expectations of news work and their effects on claims consumed by larger audiences. Chapter 2 offers additional background information by outlining the typical storyline of a Mr. Big sting, how this evidence is treated by the Court, and the effects of the landmark Supreme Court ruling in *Hart* (2014).

Chapter 3 describes the process of completing an ethnographic content analysis, and why this qualitative method is the most appropriate choice for a constructionist study of print media. The sampling and coding methods used in this study are also explained. In Chapter 4 the results of this inquiry are presented and the dominant themes and trends found in both problem claims-making and counter claims-making are described.

The final chapter in this paper discusses the trends found in problem claims-making in relation to what is known about successful and unsuccessful social problems. By reflecting on the significance of these findings, this case study is positioned in the literature as both corroborating and contributing to what is known about how potential social problems navigate public arenas. The damaging effect that media access has had on problem claims and the implications of this are then discussed. After outlining the limitations of this research and suggestions for future study, this document concludes with a brief reflection on the current state of Mr. Big investigations and the future of claims-making.

At a time in North American history when police conduct and issues of police accountability are falling increasingly under the microscope, the failure of Mr. Big sting investigations to become a social problem in Canada seems unusual. Indeed, given the controversy this tactic stirs in legal and academic communities, the general public's apparent indifference and/or unawareness of the issue is striking. Why have claims-makers been unable to successfully construct this condition as problematic in the eyes of the public? Why has the use of Mr. Big sting investigations failed to become a social problem in Canada? This analysis seeks to answer these important questions.

## CHAPTER ONE: THEORY

### SOCIAL CONSTRUCTIONISM AND SOCIAL PROBLEMS THEORY: A HISTORY

Philosophers have contemplated the nature of reality and the origins of knowledge for centuries, building a wide array of theories as to how humans know what they know and whether this knowledge accurately reflects their objective world. Ontological and epistemological inquiry has led many scholars to believe that both knowledge and reality are socially constructed entities. For constructionist theorists, there is nothing in the objective world that has a meaning that was not assigned to it through a set of complex social processes (Loseke 2003). As Best (2008) explains, because language is a social creation, and it is through language that we come to know the world around us, the process of knowing anything is entirely socially facilitated (see also Chandler 2002). Social constructionists do not view the world as a collection of indisputable truths as objectivist theorists do; instead, they see a wide range of contexts and perceptions, creating individual truths. For objectivists studying the “world as it is”, constructionism prevents “real action” and “meaningful change” from taking place, favouring frivolous philosophical debates over tangible results (Loseke 2003; Best 2008). As Loseke (2003) counters, while objectivists are concerned with *whether* something is happening, constructionists are investigating *why* and *how* it is happening, allowing the potential for a much deeper understanding of phenomena, which ultimately results in more applicable and influential change.

Despite social constructionism’s long standing presence in philosophical discourse, the perspective was not adopted by sociology until the 1930s when the popularity of biological essentialist theories began to wane (Maines 2000). Sociological theories that exhibited “value-free” reasoning and proclaimed objectivity were still popular at this time, however as value-

conflict theories emerged the stigmatization of the subjective weakened (Rubington and Weinberg 1995). This maturing of the discipline made the study of widespread social values and subjective definitions possible for future researchers.

Writing as a value-conflict theorist, Willard Waller (1936) began his study of social problems by emphasizing the importance of understanding subjective elements such as attitudes, value judgements, and mores in addition to the objective elements of social problems. If negative value judgements are what cause objective conditions to be deemed problematic, then all social problems must share this trait in common (Waller 1936). Through acknowledging the importance of the subjective elements present in problem creation, Waller (1936) was able to connect objective conditions that were otherwise wholly unrelated. Waller (1936) urged sociologists to separate themselves from purely objectivist studies, and begin allowing questions of morals, mores, and values to guide their research. Waller's (1936) work represents some of the first stirrings of social constructionism in the study of social problems.

The work of Richard Fuller and Richard Myers (1941) continued this trend away from popular methods of studying social problems by suggesting sociologists continue to reject objectivist reasoning by embracing a stronger focus on subjective definitions. While Fuller and Myers (1941) concede that objective conditions are necessary for the existence of social problems, they argue that without coinciding subjective definitions a social problem could not exist. This argument is illustrated by cases of controversial social problems where groups' subjective definitions differ while the objective conditions do not (Fuller and Myers 1941). Fuller and Myers (1941) explain that differing cultural values influence the subjective definitions held by group members, creating contradictory views of specific objective conditions; this may

include disagreement regarding whether the condition is a problem at all, or if it is, what should be done to address it (Fuller and Myers 1941). For Fuller and Myers (1941), the defining feature of the sociological study of social problems should be a focus on subjective definitions and collective values.

The value-conflict theorists of the early 20<sup>th</sup> century left the constructionist approach to social problems without a proposed method of empirical study, a flaw that some scholars have suggested led to the general disinterest in this approach for many years (Schneider 1985). It was Herbert Blumer who resuscitated the subjectivist approach in 1970 by providing a strong critique of the objectivist approach to social problems. According to Blumer (1970), by studying objective conditions exclusively, sociology is left unable to either detect emerging social problems or to comprehensively identify those conditions already popularly viewed as social problems. Adopting social constructionism more explicitly than past theorists, Blumer (1970) argued that no objective condition is inherently problematic, and that it is collective definitions that allow conditions to become known as social problems. Blumer's (1970) pointed attack on objectivist research successfully brought the study of collective definitions back into the foreground of sociology, and in doing so, precipitated a major turning point in the study of social problems.

Malcolm Spector and John Kistuse's (1977) "Constructing Social Problems" (hereafter CSP) is widely regarded as the principle origin of modern social problems theory (Schneider 1985; Best 1993; Miller and Holstein 1993; Rubington and Weinberg 1995; Loseke 2003). CSP took Blumer's (1970) strong reading of constructionism and created an organized theoretical approach with suggestions for how a formal sociology of social problems might be created

(Spector and Kitsuse 1977). This systematic and organized approach to studying subjective definitions was unprecedented in its application of social constructionist philosophy, and posed a significant challenge to functionalist theories on social problems popular hitherto (Schneider 1985; Rubington and Weinberg 1995).

Spector and Kitsuse (1977) argued that functionalist studies of social problems were inadequate in many ways. The reactionary nature of functionalist theories alone prevents them from identifying social problems before conditions are already widely understood as such (Spector and Kitsuse 1977). This approach not only prevents functionalists from studying how conditions become known as problematic, but more importantly, why some conditions become known as social problems while others do not (Spector and Kitsuse 1977). After an outcry is heard regarding a social problem, functionalists begin analysing and explaining the issue, and how it breaches the proper functioning of an alleged “normative system” (Spector and Kistuse 1977). As “experts” on this normative system, sociologists are then assumed to possess an understanding of how this system *ought* to work, constructing their own moral superiority (Spector and Kitsuse 1977). Perhaps the most damning critique of functionalist theory that Spector and Kistuse (1977) present is that functionalist reasoning “would not produce a sociology of social problems, but only a sociology of social disorganization, an explanation of social conditions, but not of social problems” (p.39).

With CSP, Spector and Kitsuse (1977) intended to correct the shortcomings of functionalist theory by creating a “theoretically defensible, methodologically specifiable, and empirically researchable definition of social problems” (p. 27). While their work is in some ways an extension of the work of earlier theorists such as Fuller, Myers, and Blumer, Spector and

Kitsuse (1977) were still critical of these approaches, arguing for a stronger rejection of objective conditions in favour of the study of subjective definitions exclusively. For Spector and Kitsuse (1977), objective conditions are so irrelevant to the study of social problems that addressing questions of whether or not specific conditions exist at all is an unnecessary practice.

Spector and Kitsuse (1977) clearly indicate their indifference to the objective world by referring repeatedly to conditions as “putative”. Subjective definitions are formed and spread through the making of claims (Spector and Kitsuse 1977). It is this claims-making process that Spector and Kitsuse (1977) believed should be at the heart of the study of social problems, arguing that a social problem is a dynamic process of social activities rather than simply a type of condition. Studying the rhetorical activities involved in claims-making allows researchers to identify the underlying value judgements that individuals and groups use to structure their arguments (Spector and Kitsuse 1977). While social problems theorists must prevent themselves from becoming involved in members’ value judgements, observing these value judgements will help to clarify how and why a putative condition has been framed in one way over another (Spector and Kitsuse 1977). The social problems theory that Spector and Kitsuse (1977) proposed would comprehensively examine claims-making activities to establish how problems are first recognized, how they develop, and how they are responded to and ultimately dealt with. Spector and Kitsuse’s (1977) CSP presented an empirically and methodologically consistent sociology of social problems that was able to connect a variety of ostensibly unrelated conditions through their shared subjective experiences. This created, for the first time, a general theory of social problems.

*Creating Successful Social Problems*

After the work of Spector and Kitsuse (1977) consolidated the constructionist perspective of social problems, case studies using this new theoretical framework became more popular among sociologists. As scholars continue to study social problem creation using a constructionist approach, an increasingly detailed picture of how successful claims are structured has emerged.

Best (1987; 2008) describes the rhetorical structure of convincing arguments as consisting of grounds, warrants, and conclusions. Claims-makers must begin explaining putative conditions to their audiences by making claims regarding what they believe to be the objective characteristics of the problem (Best 1987; 2008). In describing the objective reality of their chosen condition, claims-makers engage in “grounding” by naming their condition, providing an example, and giving an indication as to the scope of the problem (Best 2008). The examples used during the grounding process are often extreme, referred to as “atrocious tales” by scholars due to their horrific and disturbing nature (Dearing and Rogers 1996; Loseke 2003; Best 2008). Providing extreme examples of the condition allows claims-makers to manufacture feelings of outrage and urgency among audiences, leaving their claims more difficult to ignore (Dearing and Rogers 1996; Loseke 2003; Best 2008). Social problems researchers also find rhetorical significance in the names claims-makers choose to assign to conditions during the grounding process (Best 1987; 2008). In some cases, the application of new labels to old conditions allows for a fresh grounding process, facilitating renewed interest in a potential problem (Best 2008). Before the grounding process is complete, claims-makers will typically indicate the scope of their problem by providing statistics (Best 1994; 2008). While these numerical reassurances

provide audiences with impressions of accuracy, especially for fledgling problems, the statistics offered may represent “educated guesses” and are almost always inflated (Best 1994; 2008; Loseke 2003). Individuals often blindly accept statistical claims without critically assessing them, a phenomenon that Best (1994) terms “innumeracy” or statistical illiteracy. When horrifying examples are coupled with inflated statistics, problems are framed in misleading ways (Best 1987; 1994). This was the case during the missing children problem of the early 1980s which coupled examples of stranger abduction with statistics that included all types of missing children, including runaways (Best 1987; 1994). Using misleading statistics to overestimate a condition’s scope allows successful claims-makers to manufacture more compelling problems (Best 1987; 1994; 2008; Loseke 2003).

If the grounding process is successful, it may result in the problem being “typified” (Best 1989). Typification is the process whereby claims-makers depict putative conditions as problems of a specific type (Best 1989). Any given problem can be typified in many ways. As Jenkins (1994) shows, serial murders can be understood either as problems of mental illness or problems of criminal justice depending on which claims succeed. How a problem is typified influences how it will be categorized by audiences, which in effect influences the types of solutions that will be suggested for addressing the problem in the future (Best 1989; Jenkins 1994; Loseke 2003). In the case of serial murder, the success of mental illness claims results in individualized health-related solutions, whereas criminal justice claims are more likely to result in law and order solutions. If a problem’s grounds are presented in particular ways, claims-makers are able to direct the typification of their problem, giving them great power over how the problem will be understood.

In an attempt to typify their problem, claims-makers shape their grounds through the use of diagnostic frames (Loseke 2003). By suggesting a cause for the condition and directing blame, a diagnostic frame provides the meaning structure upon which the grounds are built (Loseke 2003). While exploring the “drinking-driving problem”, Joseph Gusfield (1981) identifies various diagnostic frames that could have been used to describe the problem. By framing drinking and driving as a problem of the individual characterized by “unsafe motorist” rhetoric, the potential cause and blame was shifted away from arguments regarding “unsafe cars” or “unsafe roads” (Gusfield 1981). Successfully framed as an individual motorist problem, subsequent policies addressing automobile safety largely focused on what could be done to improve driver performance (Gusfield 1981). Successful diagnostic frames then, have the ability to shape how a problem is understood, and in so doing, set the course for future solutions.

Certain diagnostic frames are more readily accepted by audiences than others. As Loseke (2003) explains, diagnostic frames that lack complexity are more likely to thrive. While simplistic frames are unable to accurately depict the multifaceted and complex nature of most social problems, presenting frames with more pointed orientations decreases the likelihood that audiences will become overwhelmed by detailed accounts (Loseke 2003). Simplistic diagnostic frames also lead to simplistic solutions that appear more straightforward and less arduous for audiences to support (Hilgartner and Bosk 1988; Loseke 2003). Loseke’s (1991) examination of the difference between policing “wife abuse” and “domestic disturbances” documents the potential pitfalls of problem simplification. By adopting wife abuse rhetoric, the issue of violence in the home was greatly simplified, as were police procedures (Loseke 1991). The primary recourse of women experiencing more ambiguous forms of violence was effectively removed by this policy simplification (Loseke 1991). Despite the problems over-simplification

may cause, when it comes to claims-making, complex diagnostic frames are more suited to arenas that support comprehensive information sharing, such as in “college classrooms, on PBS television, and in magazines with small audiences” (Loseke 2003:61).

Familiar diagnostic frames are also more likely to succeed in capturing the attention of audiences (Hall et al. 1978; Loseke 2003). By characterizing a new problem as an instance of a previous problem, claims-makers are able to use the excitement generated by fresh problems to keep older issues alive (Loseke 2003). Other diagnostic frames may provide audiences with feelings of familiarity by expanding the domain of an established problem, allowing a new problem to take advantage of the power and acceptance already held by a more developed claim (Hall et al. 1978; Nelson 1984; Loseke 2003). This domain expansion is seen in Jenness’ (1995) study of the movement against gay violence. The progression from hate *crimes* to hate *incidents* expands the domain of gay violence to include forms of non-violent discrimination as well (Jenness 1995). This process of convergence can also occur when many different social problems are attributed to the same fundamental cause (Hall et al. 1978). Familiarity buttresses new or weak claims, helping them to succeed in social problems arenas.

While grounds convince audiences that a condition exists, warrants reveal why the condition’s existence should be viewed as problematic (Best 1987; 2008). Warrants are the value judgments and justifications that indicate conditions are wrong or unwanted (Best 1987; 2008). Claims-makers invoke a variety of widely held and somewhat vague values such as “justice” or “equality” in order to morally justify the denunciation of conditions (Best 1987; 2008). Using multiple values as warrants is a strategy that helps claim makers reach larger audiences with

diverse value systems (Best 1987; 2008). Social problem frames that express poignant warrants are essential for claims to effectively resonate with audience members.

To portray social problems as intolerable claims-makers utilize both logical and emotional motivational frames (Loseke 2003). Logical motivational frames appeal to an audience's sense of dominant cultural themes, such as "individualism" or "family" (Loseke 2003). By referencing the violation of multiple cultural themes, claims-makers can add an air of urgency to their claims and may even succeed in manufacturing concern (Loseke 2003). Claiming an attack on cultural themes, however, is rarely the most effective strategy for convincing audiences that concern is warranted. Claims-makers often prefer the use of emotional motivational themes because emotional impressions are more compelling and difficult to challenge than logical motivations (Loseke 2003). It is for this reason that claims-makers are more likely to appeal to what Loseke (2003) calls "cultural feeling rules": the culturally specific ways that individuals believe they should feel in given situations. Two areas affected by cultural feeling rules that are particularly important to this study include whether audience members feel individuals are deserving of sympathy or hatred.

For claims-makers interested in framing individuals as worthy of sympathy, victimization rhetoric can be effective in achieving this goal. According to Best (1997), victimization itself is frequently framed as suffering caused by a cruel condition that is surreptitious yet prevalent. Victimization rhetoric draws clear lines between good and evil, greatly simplifying real world interactions in doing so (Best 1997). The category of "victim" then, is so morally unambiguous that Holstein and Miller (1990) argue the successful application of this term instantly and implicitly removes blame from a subject and justifies the intervention of others to help and

protect them. Loseke (2003) argues that the power behind the successful construction of victims is found in claims-makers' ability to manipulate cultural feeling rules. These rules dictate that true victims should be innocent, exploited, and unjustly harmed through no fault of their own (Holstein and Miller 1990; Best 1997; Loseke 2003). Failing to successfully construct these characteristics prevents individuals from obtaining sympathy, thereby preventing audiences from considering them to be victims. For example, Gruenewald, Chermak, and Pizarro's (2013) study of victim representations in the news media found that victims who were defined as deviant or whose actions led to their own victimization were viewed as less deserving of sympathy and were therefore unlikely to warrant news coverage. Those individuals who maintained few social ties, such as the homeless and the transient, were also deemed undeserving of sympathy (Gruenewald et al. 2013). Some groups, however, are thought to be especially deserving of public sympathy and are therefore more frequently defined as victims. Children, females, and the elderly are commonly viewed as vulnerable populations and often provide social problem claims-makers with victim narratives that are likely to produce public outrage (Best 1997; Loseke 2003; Gruenewald et al. 2013). In their exploration of the elderly's victimization, Fattah and Sacco (1989) note that victim labels are easily placed on the elderly because of their perceived vulnerabilities. Aging itself is considered a form of victimization that leaves the elderly physically, socially, and economically vulnerable to criminal victimization (Fattah and Sacco 1989). Sacco and Nakhait's (2001) work, however, shows that overall the elderly are not actually victimized more frequently than younger populations. That the elderly are often successfully defined as victims despite their relative lack of victimization illustrates the power of cultural feeling rules to influence audience constructions of the world. Claims-makers who are

able to successfully capitalize on emotional motivational frames such as this are likely to see their claims garner widespread support.

The construction of perpetrators who are deserving of hatred is a more difficult and risky claims-making task (Best 1997; Loseke 2003). Members of the public are generally uncomfortable with feelings of hate and are more likely to search for excuses to hate the crime but not the offender, leaving this strategy less often used than the construction of sympathetic victims (Best 1997; Loseke 2003). Cultural feeling rules dictate that it is appropriate for audience members to feel hatred towards a perpetrator when the harm he or she causes is both intentional and undeserved (Loseke 2003). Claims-makers construct “villains” as evil outsiders who are less than human because when viewed as human, blame is more easily deflected to possible causes of the individual’s behaviour or events are explained as accidents (Loseke 2003). Bromley’s (1991) work on the construction of Satanists as subversives is an example of the construction of villains representing extreme evil. The Anti-Satanism Movement (ASM) of the 1980s and 1990s claimed that Satanists existed in large numbers and were the cause of intense suffering. These characteristics closely mirror Best’s (1997) characterization of victimization rhetoric. The ASM claimed that Satanists were the embodiment of evil, practicing ritual sacrifices, cannibalism, child abduction, and sexual abuse, among other reprehensible deeds (Bromley 1991). This construction of Satanists as subversives was so powerful that it was able to demonize otherwise innocuous behaviours, such as playing fantasy games or listening to heavy metal music (Bromley 1991). These constructions were so extreme that audience members were unlikely to question why Satanists should be seen as villains. For the majority of social problems, however, this level of extremity is not feasible, and as such claims-makers are more likely to advance motivational frames that focus on victims as opposed to villains (Best 1997; Loseke 2003).

In addition to establishing grounds and warrants, persuasive arguments present conclusions (Best 1987; 2008). The conclusions of an argument suggest which actions should be taken in order to address the concerns presented in the warrants (Best 1987; 2008). Prognostic frames draw conclusions by showing how a problem should be addressed and which institutions or individuals should be responsible for implementing these changes (Gusfield 1981; Jenkins 1994; Loseke 2003). While in the beginning stages of problem formation grounds and warrants are most explicitly stressed, once conditions have been accepted as social problems conclusions are emphasized by claims-makers providing answers to audience questions (Best 1987; 2008; Loseke 2003). Parnaby's (2003) work on the construction of squeegee kids in Toronto explains how this social problem became an issue of social deviance rather than an issue of youth homelessness. As the squeegee kids saga drew to a close, claims that constructed the youth as criminal deviants requiring social control intensified until provincial legislation criminalized the behaviour (Parnaby 2003). Because policy-makers are more likely to consider problems that come packaged with solutions, outlining conclusions with comprehensive prognostic frames is essential in the later stages of a social problem's progression and to its ability to permeate the political agenda.

Over time problems of a similar nature may adopt frames with similar characteristics, particularly if those characteristics have proven successful in capturing the public's attention and proliferating claims in the past. Ibarra and Kitsuse (1993) describe a variety of predictable rhetorical idioms that are useful to claims-makers who are developing specific types of diagnostic and motivational frames. The rhetoric of loss involves language and claims that address the need to protect deeply valued qualities, conditions, or items (Ibarra and Kitsuse 1993). By using rhetoric that creates the impression that something sacred is in danger of

becoming lost, claims-makers are able to construct feelings of altruistic heroism in those who support their claims and endeavour to act in favour of “the cause” (Ibarra and Kitsuse 1993). Especially applicable to the current study is the rhetoric of entitlement. The rhetorical devices used in this idiom express feelings of democratization and the freeing of society from various forms of discrimination and intolerance (Ibarra and Kitsuse 1993). As Ibarra and Kitsuse (1993) note, the rhetoric of entitlement is most effective for claims regarding issues of injustice and intolerance, and as such, this idiom is likely to play a significant role in claims-making regarding the protection of citizen rights. Ibarra and Kitsuse’s (1993) depiction of these predictable rhetorical idioms underscores the importance of studying the vernacular characteristics of claims as a means for discovering latent diagnostic and motivational frames.

When these processes of typification and frame creation are successful, claims proliferate and reality is constructed in the claims-maker’s vision. At times, certain claims-makers may become so successful at framing their social problem that they become authorities on the subject, giving them great power over how the problem is understood and how it will ultimately be dealt with (Gusfield 1981; 1989). Gusfield (1981; 1989) calls this authority the “ownership” of public problems. To own a social problem is to have a disproportionately powerful influence over how a problem is defined, to the extent that other members of society seek out owners when they need information or direction regarding that particular problem (Gusfield 1981; 1989). Examples of problem ownership abound in the literature, from Steven Pfohl’s (1977) account of how the American Medical Association came to “own” battered child syndrome, to Jenkins’ (1994) description of the FBI’s media supported ownership of the serial murder problem, to the well-known example of Mothers Against Drunk Driving (MADD) owning the drinking and driving

problem (Best 2008). Problem ownership provides claims-makers with the significant advantage of having *their* claims deferred to by both the media and audience members.

### *Studying Unsuccessful Social Problems*

Although the success of some claims are able to promote claims-makers to positions of authority, other claims are unable to permeate the public consciousness in any meaningful way at all. Despite the growth in the theoretical literature's appreciation of failed social problems, comparably few case studies have been undertaken addressing these failures. Ball and Lilly's (1984) work regarding a clandestine motel in a major US city shows how organizations that prefer to avoid becoming known as social problems are able to do so. Although similar motels in the area had been the target of aggressive moralistic claims-making regarding the lewd activities that occurred inside, the motel studied by Ball and Lilly (1984) was able to remain out of the public eye entirely. By maintaining an appreciation for the community's cultural ideals and moral concerns, the motel was able to engage in "impression management" making it difficult for claims-makers to find tangible examples of the motel's indecency (Ball and Lilly 1984). Unable to present examples of wrong doing, claims-makers still intent upon denouncing the motel would be forced to offer unsubstantiated accusations, potentially damaging their own reputations in doing so (Ball and Lilly 1984). The failure of the clandestine motel problem shows how social constructions can be affected not only by the presence of active claims-makers, but also by their absence. In preventing successful claims against their business, the clandestine motel owners were able to avoid becoming the target of claims-making activities (Ball and Lilly 1984).

In one of the rare case studies addressing failed social problems, Weitzer (1991) analyses the failure of the prostitutes' rights movement, COYOTE (Call Off Your Old Tired Ethics), to convince the public, the media, and policy-makers that prostitution should be decriminalized in the United States. This movement was able to procure small successes, by winning some legal cases, receiving cooperation from some cities and police forces, and attracting limited media coverage (Weitzer 1991). For Weitzer (1991), however, this movement counts as "failed" because public opinion has not changed regarding the issue, and significant lasting acceptance by governments and authorities has still not been achieved. The movement's lack of funding, poor organization, and lack of participation (particularly by those affected by criminalization), damaged its ability to effectively and efficiently proliferate its claims (Weitzer 1991). The movement's failure to sway popular moral judgements is the result of these structural shortcomings combined with weak rhetorical strategies and inconsistent or otherwise problematic issue framing (Weitzer 1991). While COYOTE was able to garner some media attention of their larger events, these reports were executed "usually in a more amused than serious manner" (Weitzer 1991:36).

Showing some similarities to Weitzer's (1991) coverage of COYOTE, Lucal (1995) also covers a "failed" social problem in her case study of battered husbands. Like the fight for prostitute rights, the struggle for the acceptance of the battered husbands phenomenon also challenged popularly held views regarding traditional gender images (Lucal 1995). Similar to COYOTE's attempt to change the public's view of prostitution from a deviant practice to a legitimate occupation (Weitzer 1991), constructing males as victims of serious domestic violence at the hands of females was a difficult endeavour (Lucal 1995). As such, claims regarding battered husbands rarely progressed beyond debates over the validity of the problem's existence

(Lucal 1995). Also similar to COYOTE, the battered husbands movement lacked participation from those directly affected by the condition (Lucal 1995). As studies on successful social problems have shown, a strong typifying example involving a particularly sympathetic battered husband could have been effective at propelling this fresh and exciting problem further (Best 2008). However, without their involvement, the media coverage of battered husbands was intense but short lived, and like the media, the public too quickly forgot about this social problem (Lucal 1995).

#### A CONSOLIDATED SOCIAL PROBLEMS THEORY: CRITIQUES AND RESPONSES

The constructionist approach to the study of social problems has not been without critique. A particularly influential critique of social problems theory is presented by Steve Woolgar and Dorothy Pawluch (1985) in their discussion of “ontological gerrymandering”. Woolgar and Pawluch’s (1985) primary concern with Spector and Kitsuse’s theory of social problems was its inconsistent application of subjectivity. The authors argued that while the claims of claims-makers were labelled by researchers as socially constructed, the claims of the researchers themselves were not subject to the same theoretical caution (Woolgar and Pawluch 1985). When researchers make claims about the objective reality of a condition to expose the subjective claims-making activities surrounding that condition, they are applying theory only when it suits their needs (Woolgar and Pawluch 1985). The blatant and implied use of objective definitions, according to Woolgar and Pawluch (1985), not only prevents constructionists from achieving epistemological and theoretical consistency, but also allows researchers to engage in “boundary work” by skewing conceptions of reality in favour of their own arguments. Woolgar

and Pawluch (1985) argue that these lapses into objectivism are unavoidable when applying social problems theory.

Ibarra and Kitsuse (1993) address this critique by clarifying where researchers using social problems theory should be focusing their attention to avoid ontological gerrymandering. To avoid the use of selective relativism, researchers should adopt a reflexive approach that involves vigilance in protecting against lapses into objectivist statements. It is suggested that social problems theorists focus upon language exclusively, drawing an understanding of the phenomena from the rhetorical language present in claims, while being sure not to stress the validity of some claims (statistics or science) over others (Ibarra and Kitsuse 1993). By focusing exclusively on the vernacular constituents of claims, the authors assert ontological gerrymandering can be avoided and that epistemological consistency will be preserved.

Focusing exclusively on language however, may not protect researchers from ontological gerrymandering. As Best (1993) points out, language is a social entity and, as such, it is dependent upon the social context it is presented within; therefore, it follows that focusing on language still requires some acknowledgement of social context, and by extension, the objective world (Best 1993). Best (1989; 1993) refers to theorists who insist on eschewing even the most implicit references to the objective world as “strict constructionists”, and argues that this stance is neither desirable nor fully possible. As Best (1993) aptly notes, by severely limiting the types of questions that researchers can conceive of, strict constructionists render case studies nearly impossible to execute, leaving constructionist literature to become dominated by abstract philosophical debates.

Although Best (1989; 1993) does agree that flagrant displays of objectivism should be avoided in constructionist work, he maintains some implicit acknowledgement of reality is necessary for social problems theorists to completely understand their topic of choice. Researchers must be able to appreciate the differences between claims that are unfounded and outrageous, and those that are more reasonable in order for their work to be relevant outside of an armchair, and so they may draw conclusions regarding the acceptance of these claims in public arenas such as media and politics (Best 1989; 1993). Inflexible epistemological consistency should not be pursued at the expense of the ability to conduct sociological studies with substance that are able to offer newfound knowledge about the social world (Best 1989; 1993). It is for these reasons that Best (1989; 1993) suggests the use of “contextual constructionism”, a theoretical stance that allows researchers to acknowledge that certain claims about objective conditions can be trusted with reasonable confidence to be imperfect representations of objective reality (Best 1989; 1993). With the freedom to recognize social context, researchers are able to appreciate the differences between problems and better understand the social world. After all, as Best (1993) states, “Isn’t it time for constructionists to worry a little less about how we know what we know, and worry a little more about what, if anything, we do know about the construction of social problems?” (p. 124).

Pawluch’s (1996) work on pediatrics concedes to many of Best’s (1989; 1993) criticisms of strict constructionism. Following her discussion of the formation of the “new pediatrics”, which medicalizes many non-physical child attributes in an effort to expand the profession, Pawluch (1996) confesses to her own use of ontological gerrymandering. Thoroughly documenting each of her assumptions of objectivity, Pawluch (1996) argues that flawless theoretical consistency should not be the primary goal of social problems research. Agreeing

with Best (1993) that complete relativism is likely not an attainable goal, she concludes that this should not detract from the enjoyment of the interesting questions and issues that can be investigated using social problems theory (Pawluch 1996). Theorists once critical of social problems theory now support the use of the contextual analysis of social problems despite its occasional reliance upon selective relativism.

## CONCEPTUAL MODELS

From the earliest applications of constructionism to social problems, theorists have been using conceptual models to assist in forming an understanding of the social problems process. Fuller and Myers (1941) were the first to suggest this approach with their unveiling of the natural history model of social problems. The purpose of this and subsequent variations of the natural history model is to provide researchers with a common template of the stages that *most* social problems progress through (Fuller and Myers 1941; Blumer 1971; Spector and Kitsuse 1977; Best 2008). A natural history can be used to organize data and serve as a preliminary guide to the process that “typical” social problems experience (Fuller and Myers 1941; Best 2008). As Best (2008) notes, natural history models are unlikely to “fit” every social problem’s evolution, and Fuller and Myers (1941) observe that in the practical world, different stages of the model may occur simultaneously. Spector and Kitsuse (1977) preface their natural history model by reiterating that this type of model is purely conceptual, and is unlikely to withstand empirical analysis.

As social problems theory itself has matured over time, so too have natural history models. Fuller and Myers’ (1941) conception of the model involved three stages: awareness,

policy determination, and reform. Blumer's (1970) five stage natural history model provided more detailed stages, most notably splitting the emergence and the legitimation of claims into their own separate stages. Spector and Kitsuse (1977) propose a four stage natural history model that places emphasis on the exchange between policy-makers or official agencies and claims-makers. The last two stages of this model discuss how claims-makers react to the established responses for dealing with their alleged problem, and account for situations where dissatisfied claims-makers attempt their own alternative responses (Spector and Kitsuse 1977).

Joel Best (2008) presents one of the most recent and well developed natural history models that social problems research has seen. In stage one of Best's (2008) model, claims-makers emerge to denounce a particular condition. At this time claims-makers are most concerned with having their chosen condition recognized as problematic by having their claims heard and by recruiting other activists to join in their struggle (Best 2008). Stage two of Best's (2008) model deals with the involvement of the media. In this stage, claims are modified from their original form due to the organizational and practical needs of media organizations (Best 2008). Despite these changes, the interests of claims-makers are greatly advanced in stage two, as claims are distributed amongst a significantly larger audience by the media (Best 2008). Stage three addresses the public's reaction to these widely publicized claims; this reaction is often measured using public opinion polls (Best 2008). If a problem successfully completes stage three, then policy-makers will respond to public outcry, which is the hallmark of stage four (Best 2008). Here agencies and/or standards are created to address the newly recognized social problem (Best 2008). These policies and standards are put to work in stage five where social problems work is practiced in practical settings (Best 2008). Finally, Best (2008) concludes his natural history model with a stage that acknowledges reflections on policy outcomes. In stage

six, efforts are made to measure the effectiveness of policy actions, and if claims-makers are unsatisfied with the results, this is where the claims-making process regenerates and starts anew (Best 2008). In addition to the model itself, Best (2008) also stresses the ability of changes in resources and shifting rhetoric to influence how claims progress through these stages. By combining past natural history models, Best (2008) advances a modern conceptual tool that offers today's researchers a relevant outline of a typical social problem's hypothetical progression.

Not all researchers, however, believe the natural history model represents a compelling conceptual model. Hilgartner and Bosk (1988) criticize the inability of natural history models to account for the importance of competition in the "life" of a social problem. These authors endeavour to move beyond natural histories to a new conceptual model that conceives of claims-making activities existing in a series of highly competitive public arenas (Hilgartner and Bosk 1988). Hilgartner and Bosk (1988) begin their explanation of this model by acknowledging the vast array of potential social problems in existence, each championed by claims-makers with ranging levels of power, social significance, and financial and intellectual prowess; this includes claims-makers advocating the alternative frames that exist for any given condition (Hilgartner and Bosk 1988). Competition first occurs between rival frames struggling to become their problem's primary construction (Hilgartner and Bosk 1988). Following this, potential social problems are also constantly competing against one another for places in what Hilgartner and Bosk (1988) term "public arenas". Public arenas are institutional forums that facilitate the entrance of previously unknown issues into public discourse, such as various forms of media, the courts, or political agendas (Hilgartner and Bosk 1988). Each public arena has a "carrying capacity" that limits the number of social problems it can entertain at any given time (Hilgartner

and Bosk 1988). The presence of carrying capacities increases the competition amongst problems once they have entered a public arena, as they must then compete to remain relevant within the arena and to avoid being expelled from it (Hilgartner and Bosk 1988). Maintaining a constructionist perspective, Hilgartner and Bosk (1988) argue that the success of problems in this highly competitive process is dependent on the compelling claims and convincing rhetoric of claims-makers. The public arenas model aptly shifts the view of social problem development from that of a natural progression to an incessant struggle to become and remain relevant in constantly changing and highly competitive social environments.

Similar to carrying capacities, the characteristics that will lead claims to succeed differ by arena as well (Hilgartner and Bosk 1988). Certain characteristics such as dramatic value and simplicity are consistently and predictably valued across many public arenas; however, Hilgartner and Bosk (1988) insist that to fully understand a claim's performance in a public arena, that arena's organizational and cultural characteristics must be understood.

Agenda setting literature points to three main public arenas which are often used by social problems claims-makers to effect change: the media agenda, the public agenda, and the policy agenda (Mead 1994; Dearing and Rogers 1996; Best 2008). Claims-makers seeking institutional responses to their social problem must find a way to alter the policy agenda in their favour (Dearing and Rogers 1996). Insider claims-makers have direct access to policy-makers and are able to use their pre-existing contacts within government agencies to advance their claims and lobby for change (Best 2008). Most claims-makers, however, do not possess these convenient connections and must find alternative approaches to influencing the policy agenda, from the outside (Best 2008). As Hilgartner and Bosk (1988) predicted, competition between

outsider claims-makers for access to the policy arena is intense, leaving those without adequate resources and effective strategies behind (Best 2008).

Claims-making individuals are more effective at infiltrating public arenas such as the media, public, or policy agendas, when they band together in groups (Dearing and Rogers 1996; Best 2008). The larger the number of people in a claims-making group, the more likely that group is to draw media coverage to their cause, to have members involved who possess diverse skills and talents, and the greater the available personnel for conducting fundraising initiatives (Best 2008). As funding is another important claims-making resource, having a large number of individuals to complete this work is an asset (Best 2008). Well-funded claims-making groups can afford to organize large events that are likely to draw media attention, to lobby the government more directly, and to otherwise promote themselves to increase their membership base and disseminate their claims (Best 2008). Claims-making groups who are able to attract influential or celebrity allies to their cause are also more likely to successfully enter public arenas. When studying *The Charlotte Observer's* ability to keep the consolidation of Charlotte and Mecklenburg County on the political agenda for decades, Mead (1994) found that the occasional recruitment of elected officials to the paper's cause helped the consolidation issue to continuously reappear on the policy agenda. Enlisting high profile members allows claims-making groups to instantly draw greater attention from the media and the public, and at times the polity as well (Best 2008). In addition to, or in lieu of, powerful and popular members, claims-making groups also greatly benefit from the presence of "experts". Audiences are relieved to defer to the opinions of individuals who are viewed as having specialized knowledge of a given topic, as they are seen to be highly credible (Loseke 2003; Best 2008). When these experts are able to present scientific information audiences assume that their claims are based on facts and

are supported by robust evidence (Best 2008). Claims bolstered by perceived authority and reliability are among those most likely to reach the media, public, or policy agendas (Best 2008). Accumulating some or all of these resources will provide claims-makers with the competitive edge that may allow their claims to enter public arenas.

While possessing ample resources is of great benefit to claims-making groups, research has also found that timing and persistence are two strategies that can help claims-makers compete for access to public arenas. Mead (1994) notes that *The Charlotte Observer's* greatest asset in working to keep county consolidation on the policy agenda was their unyielding persistence and their willingness to repackage their arguments as time progressed. Having made consolidation claims starting in the 1970s and continuing to do so at the time of the study (1994), the newspaper prevented their message from becoming out of date and overused by periodically reorienting their claims (Mead 1994). This strategy allowed *The Charlotte Observer* to keep their claims fresh as they maintained their position until the political climate became more favourable to change (Mead 1994). For claims-makers attempting to influence the policy agenda, times of political change may be the best opportunity for claims-making. As Best (2008) argues, when political priorities are in flux claims-makers are able to capitalize on shifts in policy-maker priorities and on the possibility that those who typically challenge their claims are likely to be preoccupied with other dealings. As Nelson's (1984) study on the progression of child abuse as a social problem shows, if the political climate is such that claims are easily accepted, policy responses can occur in a rapid and widespread manner. Unfortunately in the case of child abuse, these policy responses occurred so quickly that the systemic causes of this problem have largely been overlooked by policy-makers (Nelson 1984).

The child abuse claims-makers of the 1960s and 1970s achieved access to the policy arena with considerable ease in comparison to the majority of claims-makers. In most cases resources and strategy will still not be sufficient to access the policy agenda directly, leaving claims-makers to direct these efforts elsewhere. Accessing the media agenda is a more attainable goal for most claims-makers (Mead 1994; Dearing and Rogers 1996; Best 2008; Wolfe, Jones, and Baumgartner 2013). By successfully entering the media arena, claims-makers have the opportunity to affect the public agenda (Dearing and Rogers 1996; Best 2008; Wolfe et al. 2013; McCombs 2014). If mediated claims are able to change what the public is concerned about, the media thereby indirectly holds power over the policy agenda (Dearing and Rogers 1996; Best 2008; Wolfe et al. 2013; McCombs 2014). As the most accessible agenda, entering the media arena is of the utmost importance for burgeoning social problems; a theme that is also reflected in Best's (2008) natural history model. Hilgartner and Bosk (1988) also specifically identify the news media as a public arena in which organizational and cultural norms are particularly pertinent to the ability of claims-makers to successfully promote their causes.

#### MEDIA COVERAGE AND SOCIAL PROBLEMS

For social problems to successfully progress through the stages of their natural history, it is essential that claims are able to reach an ever expanding audience. The ability of the media to disseminate claims to a vast number of people quickly and easily is immensely valuable to claims-makers. In presenting a variety of different claims, the news media has the power to invalidate or substantiate views and opinions regarding social phenomena (Ericson, Baranek, and Chan 1989; Sacco 1995; 2005; Dearing and Rogers 1996; Best 2008; Wolfe et al. 2013;

McCombs 2014). Due to the power of this particular arena to make or break social constructions, it is in the best interests of claims-makers to seek out media coverage and to do so with a media savvy understanding of what will make their claims as appealing to news organizations as possible (Hilgartner and Bosk 1988; Sacco 1995; 2005; Dearing and Rogers 1996; Best 2008; McCombs 2014).

In a world of grass roots independent media organizations and the continuing popularity of weblogs and social media, claims-makers are now able to reach audiences at the click of a button. Proponents of citizen journalism often refer to this phenomenon as the “democratization of media” claiming that information sharing by independent citizens liberates news from the corporate and organizational demands faced by the traditional news media, allowing new voices and stories to be heard (Allan 2006; Maratea 2008). In the case of independent media organizations, citizens write, record, and produce their own news reports via the Internet, often taking radical stances or unearthing deviance perpetrated by authorities that would otherwise have been overlooked by the mainstream media (Allan 2006). While the structure of independent news varies by organization, many encourage the participation of a variety of citizens on anonymous forums (Allan 2006). This practice, while ensuring optimal democratic participation, often leads to unreliable and unedited reports rife with misinformation and exaggerations (Allan 2006). While independent media’s support of citizen investigative reporting provides claims-makers with an unedited public forum to voice their concerns, the audiences reached by this type of media is limited and therefore not an especially effective means for attaining widespread concern for newly emerging social problems.

Many similar criticisms are regularly leveled against weblogs (“blogs”). Updated frequently, not always edited, and openly opinionated, blogs lack the appearance of objectivity and professionalism that allows traditional news its authority (Maratea 2008). Bloggers substantiate their claims through providing a variety of links to other blogs and websites that provide further information (Allan 2006; Maratea 2008). However, while some blogs offer unique claims, it is far more common for bloggers to comment on issues that the mainstream media is already reporting on, completing their posts with hyperlinks to websites of popular news organizations (Maratea 2008). Bloggers have scooped the mainstream press in the past, but these instances have been rare and are often in reference to the fallout of significant disasters, or exposing media scandals involving the misreporting of information (Allan 2006; Maratea 2008). The traditional news media has been known to use these sources for this reason and because blogs, much like social media, are popularly understood amongst news workers and public officials as indicators of the public’s interests and opinions; however, this use is usually limited to a small number of blogs understood to be particularly reliable and of high quality (Maratea 2008; Paulussen and Harder 2014). Citizen audiences are also likely to frequent a select few blogs rather than seeking out new sources of information in a blogosphere that is becoming increasingly intimidating to navigate (Maratea 2008). The blogs most often chosen by audience members are likely to have become popular due to their exposure in the mainstream media (Maratea 2008). Despite the ability of blogs and other forms of citizen journalism to allow claims-makers greater access to audiences, as Maratea (2008) states, “the traditional press still functions as the primary gatekeeper of public discourse” (p. 144).

Official news organizations often claim that their coverage of current events is an unbiased reflection of the objective world (Epstein 1973). As previously mentioned, the ability

of journalists to maintain an air of objectivity is essential to avoiding accusations of journalistic bias, and allows mainstream news to continue to be viewed by audiences as the authoritative reporting of “the facts” (Gans 1979). In reality however, both traditional and citizen reported news is much less a mirror of the objective world than it is a search light (Epstein 1973:18; Maratea 2008). The reality of official news reports as time and space sensitive products designed for public consumption in a highly competitive capitalist environment, necessitates complex organization-specific procedures for deciding which sources and stories should be invested in by news workers (Epstein 1973; Gans 1979; Ericson et al. 1989; Sacco 2005; Best 2008). Despite the more informal nature of citizen journalism, these reports must make similar choices, and often do so in comparable ways (Maratea 2008).

### *Newsworthiness*

News organizations assess the newsworthiness of events and stories based upon organizational understandings of what audience members find compelling. Beyond functioning as versatile filler for news products, crime stories are also inherently newsworthy. The primary reason that crime is seen as especially valuable to the news has to do with the importance that the media places on drama and action. Because media organizations must market their news product to the public, they are obliged to inflate its entertainment value to make it more appealing to consumers (Epstein 1973; Gans 1979; Ericson et al. 1989; Sacco 1995; Davey 2013). As Epstein (1973) shows, it is imperative that news organizations keep audiences interested in their programming, as losing uninterested viewers is more common than gaining new viewers. For bloggers and other citizen journalists the drive to maintain an audience base replaces financial

gain as the motivation for producing appealing news (Allan 2006; Maratea 2008). Journalists are aware that audience members prefer action and excitement, and quickly tire of broadcasts that largely consist of “talking heads” (Epstein 1973; Allan 2006). The ability of citizen journalists to offer raw, unedited video steeped in authenticity adds a unique level of dramatic value to their reports (Allan 2006; Maratea 2008). When the mainstream press references blogs, independent journalism, and/or social media (particularly YouTube), it is frequently to piggyback on the drama these citizen videos are able to create (Allan 2006; Maratea 2008; Paulussen and Harder 2014). In the absence of, or perhaps in tandem with these dramatic images, crime stories can be made increasingly dramatic though depicting situations in terms of “good versus evil” or “victim versus villain” (Sacco 1995; Best 1997; Loseke 2003). Unfortunately for those involved in the event, this often is achieved by greatly simplifying complex criminal justice issues.

News events that are already simple, or are easily simplified, are also seen as especially newsworthy (Sacco 1995; 2005). With the goal of appealing to large audiences, mainstream news workers are aware that it is ill advised to present stories that are difficult for the average audience member to understand (Gans 1979). Simplistic stories also benefit traditional journalists dealing with tight deadlines, as stories lacking complexity are faster and easier to produce (Sacco 1995; 2005). More elaborate stories may have their context removed to accommodate this occupational preference, as is often seen in crime reports that fail to explore important criminal justice policy issues in favour of more straight forward law-and-order explanations (Sacco 2005). Crimes that are more complicated may be ignored completely by the traditional news media, which is notorious for preferring to report on street crime rather than more complex stories, such as those involving white collar crime (Sacco 2005).

Because bloggers and other citizen journalists are more likely to choose the stories they cover based on passion and personal convictions, the amount of complex detail their accounts will possess is varied (Allan 2006; Maratea 2008). Detail can be added, however, quickly and easily to blogs through the use of hyperlinks that take readers to source websites, social media accounts, and other blogs as sources of further information (Allan 2006). Despite the limited size of most blogs, links allow audiences to control the amount of depth and complexity they wish to experience on any given issue (Allan 2006). While this practice is convenient and theoretically conveys more information than the simplistic reports of the mainstream media, it assumes that audience members with limited time and attention spans will follow the links at all (Maratea 2008). Blogs and independent media are also likely to provide accounts of reality that are ideologically simplistic, as unlike traditional journalists, they are not required to provide a balanced viewpoint (Allan 2006; Maratea 2008; Davey 2013). Although factual simplicity creates attractive accounts in mainstream news, ideological simplicity leaves blog reporting more attractive to those who prefer to have their pre-existing beliefs confirmed rather than confronting the complex ideological realities of most social issues (Davey 2013).

The journalistic preference for simplicity in stories and explanations also applies to the beliefs and values underpinning these stories. Gans (1979) observes “enduring values”, such as individualism, altruistic democracy, and responsible capitalism, reappearing throughout various newscasts on US networks. Media presentations of these values simultaneously affirms and reinforces widely held societal beliefs (Gans 1979). This media support of the status-quo is also noted by Sacco (2005), specifically in reference to the tendency for crime reporting to depict poor and degenerate criminals pursued by effective and efficient police officers. Journalists are largely aware of events and ideas that are inappropriate to cover as well. Ericson et al. (1989)

note that journalists sometimes refrain from writing certain stories because they are cognizant of their ability to propagate unsavoury social views and values. Best (2008) adds that sometimes ideas that substantially deviate from the status-quo are not reported simply because they are deemed to be too controversial, radical, or unpopular. Large mainstream media organizations are most likely to avoid topics that appear controversial or challenge the status-quo to prevent offending the widely varied beliefs of their diverse audiences (Sacco 1995; Allan 2006; Best 2008). Contrary to traditional journalists' attempts to avoid offense, bloggers and citizen journalists often question the status-quo in their reports, as many of these organizations were originally born out of a dissatisfaction with the traditional media's handling of radical issues (Allan 2006; Maratea 2008). Claims-makers with provocative messages are likely to find a more welcoming atmosphere for their radical claims in the blogosphere or amongst non-traditional media outlets than in the mainstream media.

Traditional journalists not only hope to find consonance with the status-quo in their writing, but also with popular news themes. Grouping news stories by theme facilitates the organization of the news product (Fishman 1978; Stallings 1970; Sacco 2005). When elite bloggers, citizen journalists, or social media users present stories or opinions that fit a popular news theme, their claims are more likely to infiltrate the mainstream media as news stories or as examples of public opinion (Allan 2006; Paulussen and Harder 2014). Once a theme has been successfully introduced in one media arena, it is likely to spread to other organizations hoping to capitalize on this sensationalism and align with the public's current focus (Fishman 1978; Hilgartner and Bosk 1988). Whether a news theme is new and drawing increasing levels of attention, as is the case with crime waves (Fishman 1978), or is a reusable and reliable plot line (Epstein 1973), categorizing a story into a news theme leaves it more likely to receive news

coverage and therefore more newsworthy for both traditional journalists as well as citizen journalists wishing to gain access to the popular press (Allan 2006; Best 2008; Paulussen and Harder 2014).

### *Structural and Practical Requirements of News Work*

Perhaps one of the most predictable constraints mainstream journalists face in their day-to-day work involves consolidating the complexities of true to life news stories into compact news reports designed to fill the limited time or space that they have been allotted. As Sacco (1995) indicates, one of the biggest advantages of crime news is its ability to fill almost any given “news hole” due to the quantity and variability of these stories. The time and space available for stories outside of the news product’s primary focus will contract and expand depending upon the number of significantly newsworthy events being covered in that issue or broadcast (Epstein 1973; Sacco 1995). In these cases, crime news makes good “filler”; however, adapting less flexible stories to fit allowed news holes requires the simplification and reorganization of complex realities (Epstein 1973). With the Internet’s seemingly limitless capacity for content, it could be assumed that ensuring stories adhere to time and space requirements is a problem experienced exclusively by print and broadcast journalists; however, this is not the case. Bloggers attempt to keep their posts as concise as possible as they are expected to post multiple times a day to keep their pages current and interesting (Allan 2006; Maratea 2008). When traversing the blogosphere, audiences are expected to take responsibility of their own fact finding by investigating hyperlinks or past blog posts if they wish to apply context to more recent posts (Maratea 2008). It follows then, that while online media such as

blogs use limited news holes more efficiently, their carrying capacities are not boundless, as they remain space restricted forums.

The restricting deadlines that traditional journalists face in completing their work also affects how the news is produced. News workers often do not have time to become familiar with the claims they are reporting and are left to rely upon their sources and other “experts” to fill in the gaps for them (Best 2008). This reality is in contrast to the popular belief that much of news reporting is investigative. In practice, investigative reporting is a rare occurrence in the popular press where it is considered an expensive and time consuming endeavour that cannot be guaranteed to ultimately produce usable stories (Gans 1979; Ericson et al. 1989; Sacco 2005). Investigative reports in mainstream media are usually reserved for highly newsworthy events meriting extra coverage (Sacco 1995), while day-to-day journalism remains dependent on a small number of reliable sources (Gans 1979; Sacco 2005). Alternatively, citizen investigative reporting is the mainstay of blogging, independent news media reporting, and some social media posting. Citizen reporting, in contrast, is not an institutional endeavour, and therefore the only time restrictions independent journalists and bloggers experience are the restrictions they place on themselves (Allan 2006; Maratea 2008). If they are interested in maintaining their audience base however, it is in the best interests of bloggers and citizen journalists to update their content frequently, in many cases decidedly more often than the mainstream press is expected to publish content (Allan 2006; Maratea 2008). Deadlines then, whether officially or personally imposed, are an occupational constraint that both traditional and non-traditional journalists must navigate.

Claims-makers interested in becoming regular, trusted sources of the mainstream news media would benefit from becoming aware of news workers’ preferences. The predictability of

access to sources for example, is a preferred characteristic that will greatly increase the likelihood that a claims-maker will have their story covered by the traditional news media (Epstein 1973; Best 2008). News organizations, particularly those that must coordinate film crews, favour scheduled press releases as they allow them to manage their schedules with the knowledge that they will be receiving source information at a set time, relative to their respective deadlines (Epstein 1973; Gans 1979; Best 2008). As Gans (1979) suggests, strategic claims-makers with the means should be capitalizing on the journalistic preference for stories that can be anticipated. Due to the less regimented structure of blogging and citizen journalism, source selection in these arenas is a less stringent and time dependent process (Allan 2006; Maratea 2008).

Beyond assistance with deadlines, there are a variety of other desirable characteristics that traditional journalists look for in potential news sources. Sources that are easily accessible by journalists and their film crews, or are eager to come forward to share their information help journalists complete their work tasks with ease (Gans 1979; Stallings 1990). In addition to simplifying a journalist's duties, however, sources must provide convincing and authoritative accounts to remain newsworthy. As Ericson et al. (1989) argue, in order for news organizations to maintain their status as authorized knowers, they must be sure to base their reports on information from sources that represent reliable expert knowledge. In the blogosphere, audience members are encouraged to check hyperlinks to validate source information; however, many blogs still suffer from unsubstantiated claims, misleading information, and rumours (Maratea 2008). The tendency for some blogs to lack reliable and verifiable sources has in many ways tarnished the reputation of blogs as news resources, thereby helping to secure the role of the traditional news media as the gatekeepers to public discourse. For traditional journalists working

in high pressure environments, the most efficient way to find authorized knowers is to refer to official departments and problem owners (Gans 1979; Ericson et al. 1989; Gusfield 1989; Stallings 1990; Best 2008). Established sources such as this characterize objectivity and authority, reinforcing news organizations' own desires to appear objective and authoritative (Sacco 2005). The relationship between traditional news organizations and their sources is a symbiotic one in which each entity has vested interests in enabling the other (Sacco 2005). While the news is reliant on respectable sources, these sources are also able to utilize the media to distribute their claims and attain public support for their own views and initiatives.

Despite the dominant preference of the mainstream media for objective and authoritative sources, as social media becomes increasingly popular, quotations, clips, and ideas found on Twitter, Facebook, and YouTube pages are beginning to break into the traditional press as sources. To maintain their position as authorized knowers, traditional journalists do not represent social media posts as authoritative facts, but most often as indicators of trends and popular opinion, or to add public interest to facts gathered from more reliable sources (Paulussen and Harder 2014). It is now common for popular news organizations to maintain their own social media pages to assist in monitoring public perceptions, to interact with viewers directly, and to promote their many news platforms (Ju, Jeong and Chyi 2014). The use of social media by traditional news organizations represents an opportunity for unconventional news sources to be heard; however, this exposure is unlikely to represent a legitimate claims-making opportunity.

Unfortunately for those claims-makers who are not already perceived to be "knowers", pre-existing ties between traditional news organizations and established sources can represent a significant boundary to meaningful media exposure. For audiences as well, media reliance on a

select number of news sources can prevent alternative representations of conditions from accessing public consciousness (Fishman 1978; Sacco 2005). The claims-makers who are most likely to be excluded from media coverage are the poor, the powerless, and those of low status (Best 2008). Often these populations are only noticed by the mainstream news media when their stories are exceptionally dramatic or involve civil disturbances (Gans 1979). The media preference for authorized knowers over dispossessed sources with alternative views is particularly visible in the reporting of crime news. Traditional journalists favour the police as official sources, and as both Fishman (1978) and Sacco (2005) note, generally perpetrators and victims are not consulted, despite their firsthand experience with events. Due to their unofficial status, their inexperience with providing satisfactory news accounts, and the difficulty news workers have in accessing victims and offenders, these populations do not represent desirable crime news sources (Sacco 2005). To ease problems of source access in crime reporting, mainstream news organizations have historically assigned reporters to specialized “beats”, such as courts or police beats, making access to these officials direct and routine (Ericson et al. 1989). However, insofar as many news organizations are now struggling financially, dwindling staff rosters have required them to discard specialized beat reporters in favour of more generalist journalists (Mawby 2010). The following section will discuss areas of reporting once known as “beats” that continue to represent important areas of media coverage.

### *Policing and the News*

The traditional media’s deference to the police as news sources has led some scholars to refer to crime news as “police news”, indicating the power police services have over the

construction and framing of criminal justice issues (Fishman 1978; Ericson et al. 1989; Sacco 1995). To the media, police officers represent “impartial experts” on crime (Sacco 2005:94), who are not only popularly regarded as objective and authoritative sources of information, but are also especially media savvy and remain highly accessible (Fishman 1978; Ericson et al. 1989; Sacco 1995; 2005). By embracing their status as the gatekeepers to crime news, the police ensure that journalists are able to quickly and easily collect the stories they need, and are often the most reliable sources of convenient sound bites (Sacco 2005). Policing organizations, aware of the power the media has to construct crime, criminals, and law enforcement initiatives, recognize the media as a useful tool that can assist them in their everyday work (Ericson et al. 1989; Chermak and Weiss 2005; Mawby 2010). The symbiotic relationship that exists between these two institutions, however, is not a balanced one as policing organizations are also aware that as the primary gatekeepers to crime news they hold power over the news media (Mawby 2010). Yet the media resist this control to a degree because they cannot afford to become known as merely police propaganda outlets (Chermak and Weiss 2005; Mawby 2010). This dynamic is described by Chermak and Weiss (2005) as involving struggle, but as rarely hostile.

To manage traditional media outlets most police services have hired Public Information Officers (PIOs) to engage in both proactive and reactive media management using their skills in packaging information in ways that appeal to journalists working under the aforementioned organizational constraints (Sacco 1995; Mawby 2010). Policing organizations are also able to influence traditional media outlets through the use of a news wire that transmits crimes considered to be newsworthy directly from the police station to the newsroom (Fishman 1978; Sacco 1995). New York City’s 1976 wave in crime against the elderly is an example of what can happen when the information presented over a police news wire is tailored to fit popular news

themes (Fishman 1978). At a time when other avenues for the gathering of police news were few, even good intentioned wire manipulation, when combined with a lack of critical journalism, produced an epidemic of misinformation and misplaced fear (Fishman 1978). Thankfully today traditional media is only one of many ways citizens consume news and information.

Policing organizations, wary of news media that cannot be trusted to accurately report on policing issues, are increasingly favouring more direct interactions with the citizenry (Mawby 2010; Crump 2011). Now hiring social media specialists and web designers, police organizations are taking control of their public image through web pages, Facebook pages, Twitter accounts, and YouTube channels (Mawby 2010; Crump 2011). Social media is being used by police services to manage their images, promote themselves, broadcast public service announcements, educate the public, request public assistance with cases, and report incidents (Crump 2011). Although the direct reporting by police effectively removes the ability of media organizations to perform their role as watchdogs, Crump (2011) argues that the increased incidence of citizen recording and reporting ensures that public accountability will be maintained.

### *Courts and the News*

The challenges faced by the courts in dealing with the media are becoming increasingly similar to the challenges faced by policing organizations. The courts have historically been seen as an important institution for news reporting because the issues discussed in the courts are important to citizens, and often involve dramatic storylines that add to newsworthiness (Ericson et al. 1989; Davey 2013). Despite the inherent newsworthiness of courts news, the amount and quality of coverage that the courts have been receiving is continuously decreasing (Davey 2013).

The same shortage of journalists that killed the police beat has also put an end to the courts beat, a news beat that benefited significantly from reporters familiar with this highly specialized professional area (Davey 2013). While Ericson et al. (1989) have noted that crime beat reporters often struggled to understand the complex legal ideas they were expected to report on, Davey (2013) warns that generalist journalists are even more uninformed than their predecessors. Coverage of the courts today is likely to report Supreme Court rulings, and controversial cases at the exclusion of most others (Davey 2013). Compounding this marginal coverage is the likelihood that these issues will be discussed in reference to public opinion rather than judicial reasoning (Davey 2013). Reports of this nature are likely to lead to negative public views of the courts, as judicial rulings do not always initially appear to be in line with popular “common sense”. Davey (2013) argues that the more information citizens are given regarding judicial decisions, the more likely they are to view the courts in a positive light, judging decisions less harshly.

In response to increasing disappointment with media coverage of the courts, much like policing organizations, judicial branches are beginning to take information sharing into their own hands through the use of social media (Davey 2013). Certain U.S. courts have begun tweeting accounts of oral arguments, with some also operating Facebook pages and YouTube channels (Davey 2013). While these activities are similar to the recent trends in policing, it can be argued that these actions are additionally important for the courts, as traditional news coverage of criminal justice issues has continuously focused on the beginning stages of the process (Ericson et al. 1989). This imbalance in news coverage taints the public’s construction of criminal justice issues, seriously hindering the popular understanding of the justice system that should be present in democratic societies.

While understanding journalists' organizational constraints and preferences is important to fully appreciate how and why the news is constructed as it is, treating these realizations as comprehensive explanations would be a mistake. Although the claims produced by traditional news media are fundamentally shaped by organizational norms, the news workers involved in this process remain professional individuals who possess free will and decision making abilities. As such, it would be overly simplistic to claim that journalists are puppets for their sources, or worse yet, involved in an elaborate conspiracy to shape constructions of reality favouring authorized institutions (Ericson et al. 1989; Sacco 2005). The organizational constraints and preferences noted here represent the day-to-day reality of traditional news workers attempting to provide their audiences with the most accurate portrayal of reality that they can under these conditions (Sacco 1995). That certain realities tend to be produced in a predictable fashion is simply a reflection of news making and claims-making processes, as can be seen in the reoccurrence of these trends in less structured weblog and citizen journalism situations (Sacco 1995; Allan 2006; Maratea 2008). To reiterate this point, Best (2008) differentiates the "primary claims" of claims-makers from the "secondary claims" of media organizations that must attempt to represent primary claims within their organizational restraints.

Primary and secondary claims are juxtaposed in O'Neal's (1997) study of crimes motivated by the acquisition of fashionable items of clothing. Primary claims-makers are identified as teens, parents of victims, survivors, school officials, law enforcement, politicians, academics, psychiatrists, and activists, while secondary claims are propagated by journalists and newspaper and magazine editors (O'Neal 1997). The main themes found in the claims of primary claims-makers involved violence and drugs, materialism, and gangs or the imitation of them (O'Neal 1997). While the news reports of secondary claims-makers were likely to mention gang

activity as a potential cause of assaults and killings over desirable clothing items, O'Neal (1997) found that this was the only area of overlap between primary and secondary claims. Other explanations given by the media involved attributing power to certain objects to entice individuals into committing crimes, and deficits in individual character and cultural values (O'Neal 1997). Secondary claims-makers also engaged in blaming victims for wearing desirable items and leaving themselves vulnerable to attack, a theme unlikely to have been presented by primary claims-makers (O'Neal 1997). Examining the disjunction between the primary and secondary claims presented in the case of crimes committed for clothing illustrates Best's (2008) distinction between these two stages of claims-making.

Understanding the fundamental changes that occur between primary and secondary claims is imperative to understanding the claims-making process as it occurs at this level. Whether discussing Best's (2008) second stage of the natural history of social problems, or Hilgartner and Bosk's (1988) competitions for access to and success within media arenas, it is clear that an understanding of the journey of a social problem is incomplete without an appreciation for the structural and organizational requirements that shape the claims of the news media. Claims-makers who require the amplification that media organizations offer are more likely to find success if they are able to accommodate some of the organizational demands that journalists regularly manage. Claims-makers who succeed in the media arena are believed to have an enormous advantage over those who are unable to successfully negotiate this transition.

## IMPLICATIONS FOR THE CURRENT STUDY

Social problems literature as it stands today is visibly lacking in case studies regarding failed social problems. Hilgartner and Bosk's (1988) public arenas model indicates that due to the highly competitive nature of the social problems process, the number of failed social problems should be far greater than the number of successful social problems. If failed claims are more typical than successful claims then this gap in the literature represents a significant inadequacy. The current study will help to fill this void by asking: Why are Mr. Big sting investigations not considered a social problem in Canada? With no constructionist studies addressing Mr. Big stings hitherto, a second gap in the literature will also be filled by this research.

To fully understand how the Mr. Big sting investigative tactic is being framed in public discourse, it will be necessary to adopt a contextual constructionist approach (Best 1993). Allowing the contextual background of the phenomenon to play a role in the analysis will expose the significance of claims, claims-maker identities, and the rhetorical strategies in play. This approach allows a deeper analysis of these claims-making activities, and opens the research to a more interesting line of questioning. Without the use of contextual constructionism, the literature regarding media practices could not be applied; as previously stated, it is essential to understand media preferences in order to fully appreciate the claims-making process as it navigates the news arena.

The following section will address what can reasonably be known about the condition "Mr. Big sting investigations". Without lapsing into unrestrained objectivism, a brief outline of the condition will help to provide a contextual foundation upon which this study will be based.

## CHAPTER TWO: CONDITION OVERVIEW

While strict constructionism condemns any reference to the objective world as ontological gerrymandering, contextual constructionism recognizes the benefits that mindfully acknowledging the empirical world can have on social problems research (Best 1989; 1993). To allow for research studies that are able to draw conclusions about the social world and address some of its most interesting questions, social problems researchers search for compromise between the theoretical consistency of the study and the social significance the results may provide (Best 1993). The claims upon which contextualists base their understanding of the objective world are viewed as imperfect approximations; however, if these claims are supported by reliable evidence, a reasonably accurate portrayal of the objective world is attainable (Best 1989; 1993). It is with this skeptical caution in mind that the following chapter will place Mr. Big sting investigations in a social context. The information used to describe the Mr. Big tactic will be drawn from scholarly articles and judicial decisions in an attempt to present claims that reflect the objective world as accurately as possible. Although the claims of credible journalists are likely to be accurate reflections of the objective world, these journalists still work in the media arena which, as previously discussed, is home to a variety of structural and organizational constraints that can affect how information is constructed. This is not to suggest that academics and judges are without biases, or that their respective public arenas are not equipped with their own limiting characteristics; however, it may be argued that the unique limitations experienced by members of the media are more likely to result in misrepresented or inaccurate information than those experienced by judges and academics. In discussing judicial decisions particular emphasis will be placed upon the case of Nelson Hart (*Hart* 2014), as this benchmark case is the Supreme Court of Canada's first systematic review of the Mr. Big tactic.

Despite police tactics similar to the Mr. Big technique recorded as early as 1901 (*Todd* 1901), the crime boss scenario as we know it today has been in regular use in Canada since the early 1990s (Moore, Copeland, and Schuller 2009; *Hart* 2014: para. 56). While claims regarding the frequency of this sting's use vary greatly, during the *Hart* (2014) case, the Supreme Court of Canada endorsed the British Columbia RCMP's claim that as of 2008 the sting had been used over 350 times (para 56). This technique is particularly useful, as the RCMP also reports that Mr. Big stings boast a 75% success rate with a 95% conviction rate once that evidence is submitted in court (Smith, Stinson, and Patry 2010; Milward 2013). The Supreme Court also acknowledges the potential successes of the Mr. Big technique in *Hart* (2014), stating that in many cases the investigations have been responsible for leading the police to previously undiscovered human remains (para. 61). The Court is quick to qualify these successes, however, by noting that statements made to Mr. Big may be overstated or entirely unreliable, using the case of Kyle Unger as an example (*Hart* 2014: para. 62). The murder charge against Unger was dropped when forensic evidence was able to clear his name, after he had already spent 14 years in prison (*Hart* 2014: para. 62). The Mr. Big tactic is most often used in cases where a suspect is known but evidence is lacking, cases that have gone cold, or when the police have few options and are under considerable pressure to make arrests (Puddister and Riddell 2012; Milward 2013). While all Mr. Big operations are not created equal, similar storylines and themes help distinguish them from other undercover policing operations (Moore et al. 2009; Smith et al. 2010; Milward 2013; *Hart* 2014: para 57).

## MR. BIG: THE TYPICAL SCRIPT

Before the sting commences, targets are placed under police surveillance, enabling officers to gather information regarding the suspect's habits and lifestyle (Moore et al. 2009; Hart 2014: paras. 23, 57). This intelligence provides undercover officers with important background information which will alert them to possible challenges they may encounter during the sting, such as an overbearing fiancé, as in the case of *R. v. Proulx*, or weaknesses the target may have, such as alcohol dependence, as in the case of *R. v. Cretney* (Moore et al. 2009). Collecting information on the suspect's personality and lifestyle preferences also helps to ease the forming of the close relationships that are central to the success of a Mr. Big sting.

A variety of techniques have been used by undercover officers for initiating first contact with targets, including meeting at or after work, during or following a period in police custody (Smith et al. 2010), at a store or a nightclub (Hart 2014: para 24; Mack 2014: para 6), or during a staged vehicle breakdown (Kassin et al. 2010). Once first contact has been made, the target finds he/she has something in common with his/her new acquaintance and a friendship begins to develop (Moore et al. 2009; Smith et al. 2010). Over the following weeks and months, this friendship will receive significant attention from undercover officers as targets will be drawn increasingly into a world of expensive restaurants, posh hotels, free flowing alcohol, gifts, entertainment, and travel (Moore et al. 2009; Smith et al. 2010; Hart 2014: para. 27). Once the target's primary contact notices the strengthening of their friendship, the target is introduced to the criminal organization, and an increasing number of undercover officers join the ruse as fellow gang members (Moore et al. 2009; Smith et al. 2010). The target quickly learns the

criminal organization provides lucrative employment opportunities in addition to an elite lifestyle (Moore et al. 2009; Smith et al. 2010; *Hart* 2014: para. 1, 57-58).

Typically targets will be asked to perform minor, low risk tasks for the organization in exchange for handsome compensation (Moore et al. 2009; Smith et al. 2010; *Hart* 2014: para. 57). Most targets find it difficult to resist these financial rewards as they are often unemployed or otherwise economically disadvantaged (Moore et al. 2009). As Smith et al. (2010) report, it is not uncommon for Mr. Big targets to receive thousands of dollars over the course of a single week for performing tasks such as acting as a lookout or counting large sums of money. During the sting that targeted Cory Grandinetti, for example, the feigned criminal activities included money laundering, theft, acquiring illegal firearms and selling drugs (*Grandinetti* 2005: para. 8). For Clayton George Mentuck the work included counting money and delivering packages (*Mentuck* 2001: para. 4). As time goes on these lawless activities advance in supposed magnitude, creating the impression the target is becoming increasingly drawn into the criminal organization (*Mentuck* 2001: para. 4; *Hart* 2014: para. 57-58).

During the course of the suspect's initial employment with the fabricated criminal organization, he/she becomes immersed in the gang's values and culture. At this time targets will be exposed to staged violence including assaults and mock executions (Puddister and Riddell 2012). This culture of violence is designed to convince targets of the gravity of the situation they have found themselves in, and is a popular point of contention for critics of these stings (Kassin et al. 2010; *Hart* 2014: para. 9, 59). This is also the stage of a sting where undercover officers begin underscoring the organization's devotion to honesty and loyalty through verbal repetition and staged acts of violence against those said to have violated these ideals (Moore et al. 2009;

Kassin et al. 2010; *Hart* 2014: para. 59). With the values of honesty and violence as a backdrop, targets are encouraged to talk about violent crimes they have committed or have been accused of committing in the past (*Grandinetti* 2005: para. 9; *Mack* 2014: para. 7). This stage of the sting may last many months (*Hart* 2014: para. 57).

Once the target has convinced undercover officers that he/she is devoted to the criminal organization, an enticing opportunity arises (*Puddister and Riddell* 2012): a promotion within the organization that promises greater financial rewards, more power, and a higher degree of acceptance and respect among the target's "criminal" colleagues (*Smith et al.* 2010). The target, however, must first attend an interview-style meeting with the head of the organization, "Mr. Big", before he/she will be permitted to take part in the next career enhancing, large scale assignment (*Kassin et al.* 2010; *Smith et al.* 2010; *Hart* 2014: para. 60). Upon meeting Mr. Big, targets discover their promotions will be delayed until they are able to account for their respective criminal histories (*Hart* 2014: para. 60). Mr. Big demands a full confession to past crimes as proof of the target's loyalty to the gang, as assurance the target will not expose the gang, and/or so that Mr. Big can prevent the crime from attracting unwanted police attention (*Grandinetti* 2005: para. 10; *Moore et al.* 2009; *Smith et al.* 2010; *Puddister and Riddell* 2012; *Hart* 2014: para. 60). In many cases, targets are informed that their arrest for these past crimes is imminent because of new witness testimony or new found physical evidence that Mr. Big has learned of through his many clandestine connections within the criminal justice system (*Grandinetti* 2005: para. 9; *Moore et al.* 2009; *Hart* 2014: para. 60). Targets are reassured that should they provide Mr. Big with a detailed account of how they committed the crime, Mr. Big can make evidence disappear, bribe witnesses not to testify, or have someone else confess to the crime (*Mentuck* 2001: para. 4; *Moore et al.* 2009; *Smith et al.* 2010; *Milward* 2013; *Hart* 2014:

para. 60). As the Supreme Court confirms in *Hart* (2014), all denials of guilt are branded as lies and only serve to intensify Mr. Big's anger (para. 60). As Mr. Big becomes increasingly agitated, veiled threats and intimidation tactics continue to escalate and the acquisition of more lucrative employment with the gang seems less likely (Moore et al. 2009; Kassin et al. 2010; Smith et al. 2010; *Hart* 2014: para. 5). If the target confesses to the crime at this point, as most do, the pressure subsides for the time being, and Mr. Big is satisfied (*Hart* 2014: para. 2). The target is later arrested for his/her involvement in the crime that the sting was designed to investigate.

#### MR. BIG IN COURT

Over time Mr. Big investigations have been interpreted differently by a variety of legal actors in numerous courts. This tactic is also unique in that recently in *R. v. Hart* (2014) the Supreme Court created an entirely new evidentiary procedure for dealing with these cases after years of patchwork precedent making. This has completely changed how cases involving these investigations are understood legally, and likely how police services will execute these stings in the future. Pre-*Hart* jurisprudence, however, remains largely responsible for much of the opposition to these investigations, and as such, is essential to explore in pursuit of a complete understanding of the tactic. Before discussing the current state of the law, the legal history of Mr. Big sting investigations will be presented as a backdrop and to clarify many of the reasons why Mr. Big sting investigations are so often referred to as “controversial”.

## *Pre-Hart Jurisprudence*

When confessions extracted using this technique are admitted in court, their reliability becomes a central issue. Statements made by the accused to Mr. Big are often said to be fabrications meant to impress the organization's members, to access inducements, or to avoid the negative consequences the target is led to believe will result from his/her continued denial of involvement (Moore et al. 2009). Indeed, a primary concern for civil rights activists, academics, and legal professionals continues to be the risk of false confessions that accompanies the threats and inducements common to Mr. Big sting investigations (Moore et al. 2009; Kassin et al. 2010; Smith et al. 2010; Milward 2013). For those confessions occurring in a custodial setting, *Charter* protections help to ensure unreliable evidence will be excluded from trial proceedings. Before the *Hart* decision dealt with this issue directly, the Mr. Big technique had been notoriously successful at bypassing these protections, despite their persistent use in defence arguments, leaving many defendants without legal recourse. In *Hebert* (1990), the Supreme Court of Canada ruled that the section 7 right to silence does not apply to individuals unless they are detained by the state, explaining:

In an undercover operation prior to detention, the individual from whom information is sought is not in the control of the state. There is no need to protect him from the greater power of the state. After detention, the situation is quite different... (para. 131)

This precedent was directly applied to Mr. Big cases in both *McIntyre* (1994: para. 1) and *Osmar* (2007: paras. 46-47). Should defence counsel successfully show the accused was detained at the time of his/her confession, then the defence must also show the confession was given to someone the accused understood to be a *person in authority* at the time the statements were made

(*Hodgson* 1998). This emphasis on persons in authority is discussed at length in *Hodgson* (1998), where confessions made to state officials are distinguished from those made to other individuals. Should a person in authority receive the confession, a *voir dire* will be held to determine the voluntariness of the inculpatory statements (*Hodgson* 1998: para. 41). The Court does not, however, find it desirable for the Crown to meet this evidentiary burden for *all* statements indicating guilt and, as such, confessions made to private individuals are to be treated differently:

...I would suggest that in circumstances where a statement of the accused is obtained by a person who is not a person in authority by means of degrading treatment such as violence or threats of violence a clear direction should be given to the jury as to the dangers of relying upon it. (*Hodgson* 1998: para. 30)

It was argued in *Grandinetti* (2005) that despite the target being unaware that he was speaking with police officers, he still held the impression that Mr. Big could influence criminal justice outcomes through his illicit connections, thereby making Mr. Big a person in authority (para.41). In response to these arguments, the Supreme Court ruled that Mr. Big did not qualify as a person in authority, as his alleged connections within the criminal justice system were admittedly illegitimate and lacked state backing (*Grandinetti* 2005: para.15, 44). The Crown, therefore, is not required to prove that confessions in Mr. Big sting investigations are given voluntarily. While the decision in *Hodgson* acknowledges that procedures are required for dealing with confessions given to those who are not believed to be persons in authority, the Court saw an expansion of this doctrine better suited to review and drafting by the legislature (*Hodgson* 1998: para. 29). The legislature has yet to address this issue.

When Mr. Big confessions are presented in court they are accompanied by descriptions of the investigations used to extract them. This supporting evidence, however, describes the

defendant joining what he/she believed to be a criminal gang and taking part in simulated criminal activities. When presented to a jury, this inadvertently becomes evidence of the accused's bad character which may have a prejudicial effect on jurors' views of the defendant, resulting in an unfair trial (*Hart* 2014: paras. 73-77). As Moldaver J. states in *Hart* (2014), if unreliable evidence were to be combined with the prejudicial effects of this bad character evidence, a miscarriage of justice would be likely to result (para. 77). Judges have long had the ability to exclude evidence when the prejudicial effect of its admission outweighs its probative value (reliability) (*Hart* 2014: para. 88). Before *Hart*, however, evidence in Mr. Big cases was rarely excluded (Puddister and Riddell 2012).

Allegations of threats, overwhelming inducements, violence, and intimidation are commonly made against police officers involved in Mr. Big stings and as a result claims that an abuse of process has occurred are customary. Due to the absence of oversight and police accountability in Mr. Big investigations, academics, legal professionals, and the courts have agreed that these investigations are prone to becoming abusive and are likely to facilitate police misconduct (Moore et al. 2009; Puddister and Riddell 2012; *Hart* 2014: paras. 79-80). As Puddister and Riddell (2012) note, having confessions excluded due to an abuse of process is extremely rare in pre-*Hart* Mr. Big cases, as the courts were reluctant to identify police misconduct unless cases were extreme. Alternatively, the defence may choose to attack the sting as a whole, arguing that the sting the accused experienced amounts to police "dirty tricks" that would shock the conscience of the community and should therefore be excluded. Defence teams have not been successful in utilizing this approach, as the courts have repeatedly ruled the tactic would not generally shock the conscience of the community, while leaving open the possibility

that extreme behaviours therein may do so in the future (Moore et al. 2009; *McIntyre* 1994: para. 1; *Osmar* 2007: para. 48).

For over two decades the courts waited in vain for Parliament to address Mr. Big sting investigations, leaving the tactic in legal limbo for the interim. The years preceding *Hart* produced controversy and opposition amongst those who were aware of the tactic, yet curiously not amongst the greater public. The Supreme Court's ruling in *Hart* (2014) has finally taken up this challenge and provided comprehensive instructions for what conduct is appropriate during these investigations and which practices will not be tolerated by the courts at trial.

#### *R. v. Hart: A Turning Point*

At first glance the Mr. Big sting launched against Nelson Hart is not especially unique in comparison to other investigations of this kind. The sting followed the usual script, beginning with “lifestyle surveillance” and progressing to first contact outside of a convenience store where Hart was paid \$50 for helping to find an operative's sister (*Hart* 2014: paras. 23-24). Undercover officers offered Hart a trucking job and began isolating him from his wife, who he depended upon greatly (*Hart* 2014: para. 24-25). Hart would later discover the trucks he drove contained smuggled alcohol and stolen credit cards, and that he was driving them for a criminal organization that his new friends were a part of (*Hart* 2014: para. 26). Hart received approximately \$15,720 for his work during the sting, in addition to free travel around Canada, hotels, and dinners with his new friends, who he claimed to love like brothers (*Hart* 2014: paras. 27-28, 137). As a socially isolated, unemployed epileptic on social assistance, Hart's new life was in stark contrast to the one he had left, making the process of drawing him into the fictitious

gang a relatively effortless task (*Hart* 2014: paras. 23, 133, 134). In fact, he had been so drawn in that, upon his arrest on June 13, 2005 for the murder of his twin 3 year old daughters, when given the opportunity to place a phone call, he called one of the undercover officers for help (*Hart* 2014: para. 37). Hart's confession and the subsequent re-enactment of the drownings were rife with inconsistencies, leading Moldaver J. writing for the Supreme Court majority to declare, "...the next question is whether these confessions contain *any* indicators of reliability. In my view, they do not" (para. 141; emphasis added). Despite this lack of reliability and the abundance of powerful inducements present in this case, Hart was convicted at trial. He then successfully appealed his conviction in light of a section 7 right to silence violation, and the trial judge's unwillingness to accommodate his request to testify outside of the courtroom for health reasons (*Hart* 2014: paras. 46, 48). The Crown appealed the decision, leading to the Supreme Court's involvement in this case.

Early in the *Hart* decision the Supreme Court majority identified its intention to finally examine the Mr. Big tactic and principles of the admissibility of this evidence (*Hart* 2014: para. 3). In so doing, they would attempt to find a balance between their responsibility to help prevent wrongful convictions and allowing police officers as much latitude as possible to successfully complete their duties (*Hart* 2014: para.3). Thus, the Supreme Court designed a two pronged approach to determine the admissibility of Mr. Big sting evidence (*Hart* 2014: para. 87). According to Lisa Dufraimont, the creation of a specialized legal protocol in an area that already possesses other legal protections and exclusionary rules is extremely rare in Canadian law; however, the unique concerns presented in Mr. Big sting investigations made such an approach preferable (*Mack* 2014: Comment). One prong of this test addresses a new common law rule of

evidence, while the other addresses the use of the abuse of process doctrine (*Hart* 2014: para. 84).

The primary rule regarding undercover investigations appearing to be similar to the Mr. Big tactic declares this evidence to be presumptively inadmissible (*Hart* 2014: para. 85). For the Crown to overcome this limitation, they must be able to show during a *voir dire* that the probative value, understood as the confession's reliability, outweighs the prejudicial effect created by the admission of bad character evidence (*Hart* 2014: paras. 85, 89). The reliability of confession evidence is derived from the amount of detail contained in the confession, whether information known only to the police is referred to, or if it includes information that it is likely to be known only by the killer, such as the location of remains or weapon (*Hart* 2014: para. 105). The prejudicial effect caused by the admission of character evidence increases with the number of simulated crimes the target is asked to perform and as the violent nature of these tasks increases (*Hart* 2014: para. 106). The prejudicial effect is also increased in longer investigations, as this usually results in a higher number of scenarios that must be detailed in court, absorbing an inordinate amount of court time, and leaving the impression the accused displays a stronger propensity to committing crime than a shorter sting might show (*Hart* 2014: para. 106). If the Crown is unable to prove the admissibility of the confession against this test, all evidence emanating from the investigation also becomes inadmissible (*Hart* 2014: para. 85). As previously noted, the ability of a judge to exclude evidence based upon the weighting of prejudicial effect versus probative value has been a long held power of the courts, but these additions allow the Supreme Court to clarify and intensify the importance of these elements. The Court adds, however, that it may be possible to pass this test without having addressed all possible fairness concerns (*Hart* 2014: para. 88).

Where the onus of the first prong is upon the Crown, in part to encourage better record keeping during investigations and increase police accountability, the onus of the second prong is upon the defence (*Hart* 2014: paras. 93, 113). By strengthening the abuse of process doctrine, the Court hopes to ensure that these stings will be scrutinized appropriately, taking into consideration that Mr. Big stings may very easily lapse into threats or inducements that are coercive (*Hart* 2014: para.113). The Court adds that physical violence or threats thereof will not be tolerated regardless of the probative value of the confession, denouncing this type of police behaviour as patently intolerable (*Hart* 2014: para. 116). Conduct that exploits the vulnerabilities of a suspect, such as his/her mental health problems, addictions, or age, is also considered to be coercive police behaviour for the purposes of this test (*Hart* 2014: para. 117).

The Supreme Court found the sting involving Nelson Hart to be “a lengthy and intense operation” (*Hart* 2014: para. 133). The inducements provided to Hart changed his life, separated him from his wife, and promised him friendships he deeply valued; this presented him with an “overwhelming incentive to confess” (*Hart* 2014: para. 140). Hart’s confessions evolved from confirming the story he had given the police, to admitting an accident had occurred, to claiming that he had murdered his daughters intentionally (*Hart* 2014: para. 142). Furthermore, the re-enactment that he provided did not match statements made in his confession, leading the Court to seriously question the reliability of these statements (*Hart* 2014: para. 142). The confession’s probative value was further diminished by a complete lack of confirmatory evidence, as all of the details provided were easily drawn from his presence at the scene that day, a fact which had never been disputed by Hart (*Hart* 2014: para. 145). The *Hart* case so egregiously offended the first prong of this test that the Court did not find addressing the second prong to be necessary at all; in their July 31, 2014 ruling, the Supreme Court Justices excluded all three of the confessions

entered into evidence and endorsed the Court of Appeal's call for a new trial (*Hart* 2014: para. 150-151). Without the use of the confessions gathered during the Mr. Big sting investigation, the Crown was forced to withdraw all charges due to want of evidence.

In the months that followed this decision critics of the Mr. Big tactic rejoiced, proponents expressed concern, and the media speculated the ruling likely meant the end of the investigative technique's tenure in Canada. Fortunately for the supporters of the sting, only a few months later the Supreme Court ruled on another Mr. Big investigation designed to clarify their position on the admission of this type of evidence. The case of Dax Richard Mack was different from that of Nelson Hart in a number of ways, resulting in an opportunity for the Court to show how the two pronged approach laid out in *Hart* might be applied in other situations. The Court found that the inducements in *Mack* were less compelling than those in *Hart*, leaving the *Mack* confession with a high probative value (*Mack* 2014: para. 33). Mack had access to legitimate work that paid well, and did not appear to be threatened by police officers, as evidenced by his refusing to discuss his former roommate with Mr. Big upon their first meeting, despite Mr. Big's insistence (*Mack* 2014: para. 33). There was also overwhelming confirmatory evidence in this case, with Mack leading undercover officers to a fire pit where shell casings matching his gun were found, as well as the remains of his former roommate (*Mack* 2014: para. 34). Mack had also given matching confessions to other civilians whose testimony added to the mass of confirmatory evidence in this case (*Mack* 2014: para. 34). The probative value of the confession in *Mack* outweighed the prejudicial effect of the character evidence associated with it, which was found to be relatively minor (*Mack* 2014: 34-35). The first prong of the new approach to Mr. Big evidence was therefore satisfied. Moldaver J., again writing for the Supreme Court majority, took this opportunity to note that when character evidence *is* admitted at trial, judges should still

be sure to instruct juries that the evidence is intended to provide context only, and that they should avoid drawing conclusions about the accused and their participation in the crime they are charged with from this evidence (*Mack* 2014: para. 55). The second prong of the test was also satisfied, as there was no evidence that undercover officers had made any threats of violence that might have been considered an abuse of process (*Mack* 2014: para. 36). Having passed the two pronged test of admissibility, the Supreme Court dismissed Mack's appeal leaving his murder conviction intact (*Mack* 2014: para. 69).

*Mack* provides an example of when evidence gleaned from a Mr. Big sting investigation is acceptable for use in court, providing contrast to the *Hart* decision and demonstrating that the Court is not completely opposed to these investigations. Taken together, *Hart* and *Mack* outline how this tactic might be used responsibly, and in doing so the Court achieves their initial intention to balance the ability of police officers to solve serious crimes with protecting the rights of the accused and preventing wrongful convictions. While opposition to Mr. Big stings persists in some circles, the Court has now addressed many of the primary concerns mounted against this tactic by claims-makers, and as a result, significantly altered the social context of this condition.

#### CONCLUDING CAVEATS

The portrayal of Mr. Big sting investigations presented here is based upon claims made by various actors with wide ranging personal and professional biases and agendas. These statements should not be considered unequivocal explanations of the objective reality of the Mr. Big tactic, but rather an imperfect collection of reasonably accurate claims referencing it. Attempts were made to avoid claim sources that engaged in blatant moralistic claims-making,

claims from dubious sources, or those likely to be based upon rumour. In an effort to minimize the effects of the organizational and structural constraints of media discourse, academic research and legal proceedings were preferred, keeping in mind their respective ideological predispositions. With these caveats in mind, this contextual backdrop will permit insight into the rhetorical structures present in representations of the Mr. Big sting in public discourse. Access to this rich level of meaning is unique to the contextual approach, remaining hidden to those employing a strict constructionist perspective (Best 1993).

With the theoretical and contextual backdrop set, more practical matters regarding the current study demand exploration. The following will discuss the methodological procedures that will be implemented in this study.

## CHAPTER THREE: METHODS

To investigate why Mr. Big stings have failed to become a social problem, a methodological stance that compliments constructionist theory must be adopted. This chapter addresses this requirement by exploring those methodologies which have often been used in past constructionist case studies of social problems, comparing and contrasting these approaches to draw out the most suitable procedure for the current study. Selecting a qualitative analysis of documents using Ethnographic Content Analysis (ECA), this method will be differentiated from other, similar methods, and described in terms of its theoretical reasoning and practical application. How this research applied ECA to the study of Mr. Big investigations and claims-making is then outlined, including detailed accounts of the sampling and coding techniques used. Finally, this chapter will conclude with a brief explanation of how this analysis can inform more general questions regarding the construction of social problems.

### STRUCTURING A CONSTRUCTIONIST INQUIRY

To study the social processes used to construct social problems, constructionist researchers typically choose a specific social problem to explore as a case study (Best 2001). The application of social problems theory to “real world” social problems draws constructionist theory out of the abstract, providing tangible support for its theoretical stance. Indeed, the conceptual models designed and redesigned by a variety of influential theorists were intended to assist future researchers with the important task of applying social problems theory to cases of actual social problems (Spector and Kitsuse 1977; Hilgartner and Bosk 1988; Best 2008). Best’s (1991) analysis of the freeway shooting problem in California during the late 1980s is an

example of how case studies can be used to both substantiate and develop theory. By charting the nature and progression of claims-making regarding highway violence as presented by national media sources, Best (1991) discovers why the problem was short lived. The intense media coverage of freeway shootings failed to rally the support of non-media affiliated claims-makers who could have helped to advance the problem once media coverage had been exhausted (Best 1991). The Los Angeles freeway violence problem was both initiated and perpetuated by the news media, without the help of outside claims-makers, leaving this problem unable to progress in its natural history to stages requiring more pointed and enduring advocacy (Best 1991). As such, this social problem, like many media championed problems, quickly faded from public view (Best 1991). Best's (1991) work illustrates how the application of social problems theory to putative conditions in the form of a case study is able to test and substantiate the propositions of constructionist theory as well as make use of its conceptual tools. In his later work, however, Best (2001) does caution against the growing tendency for case studies to become too narrow in focus, preventing more general discussions regarding social problems and their connections to one another. Remaining mindful of this criticism, this research uses Mr. Big sting investigations as a case study of a failed social problem.

While Best's (1991) study of freeway shootings illustrates why it is important for problems to have a strong base of claims-makers outside of the media, accessing the media at all is a more common obstacle for burgeoning social problems (Hilgartner and Bosk 1988). As both Best's (2008) natural history model and Hilgartner and Bosk's (1988) public arenas model suggest, the most effective way for outsider claims-makers to succeed in bringing their condition to the public's attention is through media exposure. Case studies of failed social problems often confirm this assertion, as is the case in Weitzer's (1991) study of the prostitute's rights

movement, and Lucal's (1995) study of battered husbands, where ineffective or inconsistent media coverage helped prevent these issues from becoming social problems. Particularly in the case of criminal justice issues, which audience members are unlikely to have encountered themselves, the media's ability to construct reality is unparalleled. As Bromley's (1991) study of the Satanism scare of the 1980s and 1990s illustrates, the media is able to construct problems without requiring the corresponding condition to exist at all. In light of this significant power over problem construction, the present analysis focuses on media representations of Mr. Big sting investigations. Studying the rhetorical strategies of claims-makers in the media will help to unearth how Mr. Big-style policing operations have been, and are being, constructed for public consumption.

As news sources continue to proliferate and advance technologically, constructionist researchers studying media trends are faced with myriad data sources to choose from. While any item available in public discourse may play some part in constructing a social problem, this study focuses on print media, in the form of newspaper and magazine articles, as they are both practical and valuable sources of information. Constructionist research has a long history of analysing print media sources to discover how situations have been constructed for public consumption. For example, in 1941 Fuller and Myers sampled three Detroit newspapers to study how the city's residence trailer problem had been constructed. Similarly, Vickovic, Griffin, and Fradella (2013) studied 489 articles from major US newspapers to identify how correctional officers and their work were being framed in print media. Despite an ever increasing number of media outlets, print media has continued to represent a valuable and enduring data source for constructionist researchers.

The accessibility of print media may provide part of the reason for its popularity amongst constructionist researchers over time. While consistently locating relevant copies of television or radio broadcasts is likely to prove time consuming, if possible at all, print media records are often readily available through a variety of easily searchable online databases. The accessibility of these documents leaves print media a more practical medium for the current study. In addition to accessibility, Hesse-Biber and Leavy (2006) describe textual documents as static reserves of social activity which provide researchers with the opportunity to study social processes “frozen” in their natural state. As Jernigan and Dorfman (1996) found in their study of television media’s portrayal of America’s war on drugs, studying visual media can be an arduous process. To analyse their visual media sources, researchers were required to watch each news story a minimum of four times, recording different variables during each viewing (Jernigan and Dorfman 1996). While their research filled a gap in the literature where visual media had yet to be addressed, Jernigan and Dorfman (1996) refer to their method as “extremely labour intensive” (p. 175), and cite this as a likely reason for the existence of this gap. The use of print media is therefore a more practical choice for the present study.

#### CHOOSING A CONSTRUCTIONIST METHODOLOGY

Content analysis is a well-established method used under a variety of disciplines and theoretical frameworks (Bernard, Futrell, and Harper 2010). As such, there is a wide array of approaches available to researchers interested in completing an analysis of documents. A researcher must first decide whether he/she will adopt a quantitative or qualitative methodological approach, as documents can be analysed using either method. The quantitative

approach to content analysis emphasizes the counting of relevant terms within a document to produce numerical measurements of a document's "objective" content (Berelson 1952).

Quantitative content analysis is positivistic, uses a deductive, linear research design, and places emphasis primarily on reliability (Altheide 1987; Hesse-Biber and Leavy 2006). The quantitative approach is useful for confirming preconceived theories and testing hypotheses rather than exploring new concepts because the research design is inflexible and heavily guided by preconceived research protocols (Altheide 1987; Guest, Namey, and Mitchell 2013).

In contrast, qualitative approaches to content analysis are more flexible, allow the research process to be guided by the content of the data itself, and are therefore more appropriate for exploratory research (Altheide 1987; Strauss 1987; Hesse-Biber and Leavy 2006; Guest et al. 2013). Qualitative approaches to content analysis are often described as "spiral" or "circular" research designs because they advocate ongoing interactions with the data to allow the research process to be guided by emerging concepts (Altheide 1987; Hesse-Biber and Leavy 2006; Guest et al. 2013). Rather than searching for the quantifiable "objective" characteristics of content, qualitative approaches seek the subjective meanings imbedded in text, appreciating how context may affect the data and drawing out major themes (Strauss 1987; Hesse-Biber and Leavy 2006; Guest et al. 2013).

The qualitative focus on drawing meaning from text makes this approach most suitable for use with constructionist theory. In the search for trends in the structure, style, and rhetoric used by claims-makers, qualitative approaches provide the flexibility and appreciation for subjectivity that constructionists require. To better inform researchers' impressions of these trends, qualitative approaches encourage context be taken into account (Strauss 1987; Hesse-

Biber and Leavy 2006; Guest et al. 2013). Contextual features such as the impact, importance, or visibility of claims provide more information on the nature of a condition's social construction than the frequencies of words or phrases found using quantitative methods. This appreciation of context leaves qualitative approaches particularly useful for contextual constructionists and those conducting exploratory research.

Analysing documents using a qualitative approach is a common practice in constructionist case studies of social problems; however, the methodologies used in these studies still vary widely. Despite common characteristics, a common philosophy, and similar methods of data collection and analysis, slight differences in goals and focus have led some scholars to distinguish their methods from other forms of qualitative content analysis. Discourse analysis, grounded theory, and ECA, are three different yet similar ways to qualitatively analyse documents. As a form of qualitative content analysis, discourse analysis remains focused on discovering how documents construct and communicate meaning (Hesse-Biber and Leavy 2006; Guest et al. 2013). This method focuses on the language used in documents, including words, sentences, and phrases to reveal how meaning has been constructed (Hesse-Biber and Leavy 2006; Guest et al. 2013). Although this study addresses meaning construction in public discourse, a linguistically oriented approach may overlook variables important to claims-making, such as timing, context, and the identity of claims-makers. For this reason, a broader thematic approach to document analysis is more suitable to this inquiry.

According to Guest et al. (2013), inductive thematic analysis (ITA) is the most common form of qualitative content analysis, and is used by a variety of disciplines (Bernhard et al. 2010). Bearing a striking resemblance to the more general understanding of qualitative content

analysis, ITA focuses on the identifying, coding, and interpreting of themes presented in documents (Guest et al. 2013). Both grounded theory and ECA are forms of ITA, and as such are often mistaken for one another (Altheide and Schneider 2013; Guest et al. 2013).

Grounded theory, as presented by Glaser and Strauss (1967), is unique from other forms of qualitative content analysis, including general forms of ITA, due to its emphasis on repetitious comparison (Guest et al. 2013). Although most qualitative approaches do not advocate rigid methodologies and allow the flexibility to return to the data if necessary, grounded theory places increased emphasis on doing so continuously (Glaser and Strauss 1967; Guest et al. 2013). Sampling, coding, and analysis all occur throughout the research process, allowing each step to be informed by the data as much as possible (Glaser and Strauss 1967; Strauss 1987; Breckenridge and Jones 2009). Emergent themes are continuously refined and reconstructed as more information is collected and analysed (Glaser and Strauss 1967; Breckenridge and Jones 2009). The sampling procedure used in grounded theory is also driven by the data, as developing theories and concepts are used to determine which cases will be sampled as the study proceeds. This use of theoretical sampling ensures that the sampling process is also amenable to new discoveries as research continues (Glaser and Strauss 1967; Coyne 1997). This emphasis on constant comparison and reflexivity is meant to produce theories that are relevant and reflective of the data from which they were derived (Glaser and Strauss 1967; Strauss 1987; Breckenridge and Jones 2009).

Although ECA is in many ways similar to Glaser and Strauss' (1967) grounded theory, Altheide (1987) notes key differences that distinguish the two methods. Despite ECA's emphasis on constant comparison and reflexivity, and its use of theoretical sampling, Altheide (1987)

suggests the two approaches differ in their overarching goals. While Glaser and Strauss' (1967) approach aims to generate theory grounded in data, ECA favours the generation of *concepts* over testable *theories* (Altheide and Schneider 2013). In this way ECA is conceived of as more flexible and exploratory than grounded theory, which, according to Altheide and Schneider (2013), prevents ECA from disregarding those emergent findings that do not support the theory being generated.

The similarities between the different types of qualitative content analysis discussed here should not be ignored. Overall, each of these approaches share similar characteristics, underlying philosophies, and general methods, and are often informed by one another in the literature. The slight differences in approach however, may allow researchers to select methods which are more in line with their study's purpose. With this in mind, the current study adopts Altheide's (1987) ECA.

#### CONTENT ANALYSIS AS ETHNOGRAPHY

For Altheide (1987), the feature that most distinguishes ECA from other forms of qualitative content analysis is the position of the researcher as central to the research process. This focus on the researcher as the primary instrument of inquiry, as opposed to a protocol or theory, is due to Altheide's (1987) interpretation of content analysis as a form of ethnographic fieldwork. Ethnography is a type of data collection born in anthropology that emphasizes the immersion of researchers in the communities they study so they may witness culture in its raw form, from the perspective of an insider (Guest et al. 2013). If ethnography's emphasis on deciphering the meaning underlying everyday human action can be used as a methodological

orientation in and of itself, as Altheide (1987) suggests, then it can also be applied to methods outside of ethnography. ECA approaches content analysis using an ethnographic methodological orientation, suggesting researchers immerse themselves in documents, as an ethnographer would a culture, to better understand how meaning is being communicated (Altheide 1987; Altheide, Coyle, DeVriese, and Schneider 2008; Kraska and Neuman 2012; Altheide and Schneider 2013). For researchers using this method, context, rhythm, style, and other seemingly subtle nuances of the process of information exchange are all examples of symbolic human action replete with social significance, making them appropriate items to study (Altheide 1987; Altheide and Schneider 2013). Documents are viewed as cultural microcosms, where ECA researchers are required to pay the same attention to detail, be as reflexive, and maintain a similar appreciation of context as an ethnographer studying more dynamic forms of human interaction might (Althiede 1987; Altheide et al. 2008; Altheide and Schneider 2013). In return, ECA researchers receive the same level of rich, complex, and insightful data from their textual social artifacts as an ethnographer would from his/her fieldwork.

Placing a researcher and his/her interpretations at the center of an investigation often leads to questions regarding the validity of studies using the ethnographic ethic, such as ECA. Quantitative scholars often contend that the most effective way to ensure the validity of a study's results is to maintain structured and reliable research methods (Altheide and Johnson 1994). Ethnography's flexible and unstructured research design, however, requires a different approach to ensuring the validity of its findings. For Altheide and Johnson (1994), the solution to this is maintaining a form of self-reflexivity that they call "analytic realism". Appreciating that all items in the social world are under constant construction, including academic research and various research methods, analytic realism recommends that researchers take a reflexive approach to

their own processes and perspectives to account for these constructions (Altheide and Johnson 1994). Similar to Ibarra and Kitsuse's (1994) recommendations for avoiding selective relativism or ontological gerrymandering, Altheide and Johnson (1994) underscore the importance of researchers maintaining an awareness of their own social constructions to ensure the validity of their conclusions; this appreciates one of the concepts most central to constructionist theory- that all knowledge is dependent upon the perspective of the knower, as opposed to existing as exterior objective truth (Schwandt 1994).

Altheide (1987) conceptualizes ECA as the reflexive analysis of documents where researchers are expected to continually compare and contrast new information with what is already understood, thereby allowing concepts to inform one another. Similar to an ethnographer immersed in a culture, when an ECA researcher studies documents, he/she will draw the most robust and well informed conclusions when data is viewed in the context of other findings and knowledge (Glaser and Strauss 1967; Altheide 1987; Strauss 1987; Altheide et al. 2008; Altheide and Schneider 2013). ECA's emphasis on the constant comparison and contrast of concepts is similar to that suggested in Glaser and Strauss' (1967) grounded theory, which also advocates flexible methods that allow continually returning to the data (Altheide 1987; Strauss 1987; Altheide et al. 2008; Altheide and Schneider 2013). This reflexivity is facilitated by ECA's spiral research design which encourages sampling, coding, and analysis to occur on an ongoing basis during the research (Altheide 1987; Altheide et al. 2008; Altheide and Schneider 2013). For Altheide (1987), reflexivity should be maintained at all stages of the research process, including sampling.

## *Sampling*

Inductive research that places a strong emphasis on reflexivity, as ECA does, must select a compatible sampling strategy. Many of the probabilistic sampling strategies favoured by positivists are inappropriate for use with ECA because they do not allow for reflexivity and ignore context, both elements central to ECA (Berelson 1959; Altheide 1987; Altheide and Schneider 2013). Random sampling for example, has the potential to misrepresent the situation being investigated, as it is possible that random selection could overlook especially important or instrumental cases (Altheide 1987; Altheide and Schneider 2013). As Altheide (1987) notes, probability sampling could be particularly detrimental to studies of claims-making in news coverage. A single instance of especially effective or expertly timed claims-making could mark a turning point in a problem's trajectory or popularity. Selecting cases at random may prevent a researcher from sampling important cases like this at all (Altheide 1987; Altheide and Schneider 2013). Random sampling also prevents researchers from evaluating the impact of popular news themes (Altheide 1987; Altheide and Schneider 2013). Probability sampling may allow researchers to generalize their findings to a wider population, but often for qualitative researchers generalizability is not the primary goal (Altheide and Schneider 2013; Guest et al. 2013). Indeed, as Altheide and Schneider (2013) note, "conceptual adequacy" (p.61) is the main objective of ECA and other forms of qualitative document analysis, leaving non-probability sampling's capacity to appreciate context particularly suitable for use with these methods (Guest et al. 2013). Altheide (1987) suggests theoretical sampling, as a form of non-probability sampling, is most compatible with ECA.

Theoretical sampling is the type of purposive sampling that is central to Glaser and Strauss' (1967) grounded theory (Coyne 1997). Where in purposive sampling researchers select cases that are central to the *purposes* of their studies, theoretical sampling narrows this further, selecting cases that reflect the needs of the study's emergent *theories* and *concepts* (Glaser and Strauss 1967; Coyne 1997; Breckenridge and Jones 2009; Altheide and Schneider 2013). To ensure that sampling is directed by the concepts arising from the data, theoretical sampling advocates a spiral design much like ECA as a whole, where sampling, coding, and analysis of data occurs continually throughout the research process (Glaser and Strauss 1967; Coyne 1997; Breckenridge and Jones 2009). This sampling approach ensures that thematic categories are fully explored, preventing the possibility of overlooking key contextual elements due to insufficient sampling in certain areas (Glaser and Strauss 1967; Coyne 1997; Breckenridge and Jones 2009). Glaser and Strauss (1967) argue that the continual reformatting and refining of sampling parameters allows for misinterpretations of the data to be corrected, producing greater confidence in results. Tailoring sampling rationale to fit the theoretical demands of the study results in the development of more integrated and complete categories and concepts than a structured, rigid sampling strategy could attain (Glaser and Strauss 1967; Altheide 1987; Altheide and Schneider 2013).

Until sufficient data has been collected to base a theoretical sampling model upon, some other sampling method must be used. Purposive sampling, which requires researchers to select cases based on the general purposes of the study, is useful in this early stage of data collection (Coyne 1997; Breckenridge and Jones 2009). These initial cases are coded and analysed, providing the information required for establishing a theoretical sampling strategy (Coyne 1997; Breckenridge and Jones 2009). This begins the spiral sampling design whereby future data

collection is continually directed and informed by what the study has already found (Glaser and Strauss 1967; Coyne 1997; Breckenridge and Jones 2009; Altheide and Schneider 2013). Glaser and Strauss (1967) suggest researchers keep track of these preliminary findings by memo writing as the research process continues. These memos provide the researcher with a written record of gaps or inconsistencies in concept development, indicating where sampling should next be directed (Glaser and Strauss 1967). This process of case selection, coding, analysis, and memo writing continues cyclically until conceptual categories are saturated (Glaser and Strauss 1967; Coyne 1997; Breckenridge and Jones 2009). Although Glaser and Strauss (1967) note that it is often difficult to determine theoretical saturation, they encourage researchers to strive to fill all conceptual gaps in the categories that form the core of the analysis. If theoretical saturation has not been reached the concepts produced will not be well integrated, will exhibit gaps that have not been accounted for, and will result in insubstantial theory (Glaser and Strauss 1967).

### *Coding*

When performing ECA, researchers make use of coding protocols (Altheide 1987; Altheide and Schneider 2013). While these protocols are not as structured and generally much shorter than those used in quantitative document analysis, ECA protocols provide a loose guideline for what information should be recorded when documents are reviewed (Altheide 1987; Altheide and Schneider 2013). Altheide and Schneider (2013) suggest these protocols should include categories for recording descriptive information such as the source, location, and length of an article, as well as more open categories that allow for the collection of both descriptive and narrative data. Categories should be minimal at first as they will be continually

refined and reformatted to reflect concepts arising from the data; this allows coding to be somewhat structured without becoming trapped by preconceived notions of what the data might show (Altheide 1987; Altheide and Schneider 2013). While protocols become increasingly structured as data collection progresses, ECA protocols should continue to remain largely open to allow for free conceptual coding throughout the process of data collection (Altheide and Schneider 2013).

Conceptual coding, or open coding for conceptual and/or thematic trends, allows researchers to record as much data as possible, remaining unrestricted (Strauss 1987; Berg and Lune 2012). Berg and Lune (2012) conceptualize the coding process as a funnel, where open coding is the initial collection of as much information as possible, to be sorted and analysed at a later stage. Open coding is in line with the conceptualization of content analysis as a form of ethnographic fieldwork, as initially, an ethnographer would also take in as much information as possible about the cultural phenomena he/she was experiencing. To help make sense of this vast amount of incoming information, ethnographers include their impressions of the data in their field notes as they collect it (Altheide and Schneider 2013). Similarly, ECA researchers are encouraged to write memos to keep track of their impressions, preliminary analyses, and questions for future data collection (Glaser and Strauss 1967; Altheide 1987; Altheide and Schneider 2013). This memo writing is an integral part of the spiral research design as the preliminary findings noted in memos will instruct future sampling, protocol reconstruction, and coding (Altheide 1987; Altheide and Schneider 2013).

Once theoretical saturation has been reached and open coding is complete, a more in depth examination of the dominant trends in the data is in order (Altheide 1987; Berg and Lune

2012; Altheide and Schneider 2013). During this stage of the investigation data recorded through open coding is refined, compared, and integrated to reveal broader thematic trends (Stauss 1987; Altheide and Schneider 2013). To accomplish this task, data collected during open coding is re-read and analysed reflexively before being sorted into larger cumulative categories (Strauss 1987; Berg and Lune 2012; Altheide and Schneider 2013). While Altheide and Schneider (2013) view this stage of ECA as a deeper analysis, others have termed this process “axial coding”, as this analysis involves the re-coding of data (Strauss 1987; Berg and Lune 2012). The sorting and comparing required during axial coding allows researchers to discover relationships in the data that point to broad thematic trends (Strauss 1987; Berg and Lune 2012; Altheide and Schneider 2013); the identification and description of these dominant trends will comprise the study’s results (Altheide 1987; Altheide and Schneider 2013).

### *Weaknesses*

As a qualitative method, ECA inherits many of the same criticisms that have been leveled against a variety of different methods that do not follow the positivist tradition. One of the primary concerns for positivists is whether or not a method will allow studies to be replicated in order to verify findings and increase reliability (Kraska and Neuman 2012). Qualitative methods that embrace an interpretive approach to data collection and allow for flexible research designs are difficult to replicate in detail (Altheide et al. 2008). ECA requires researchers to interpret their findings without strict protocols or guidelines constraining their interpretations, allowing for the possibility that different researchers might interpret the same data differently (Altheide et al. 2008). Berelson (1952) argues that this lack of structure also leads to the identification of

categories which are not systematized and are poorly defined in comparison to those identified using quantitative content analysis. Although quantitative content analysis may result in well-defined frequencies, Altheide et al. (2008) contend that the “symbolically dense” (p. 149) findings of ECA are often able to demonstrate more about the social world and better address conceptual adequacy (Altheide and Schneider 2013).

Qualitative content analysis allows researchers to cost effectively study the social phenomena held static in documents over long periods of time (Berg and Lune 2012). Johnson (1989) for example, used ECA to study the nature of child abuse horror stories presented in news media from 1948-1980. Collecting data over this period allowed Johnson (1989) to create an integrated account of how child abuse had been constructed over time. Unfortunately, whether or not a topic can be investigated at all depends upon the preservation and availability of the documents needed to address the research question (Berg and Lune 2012). This limits the number of studies that ECA and other forms of qualitative content analysis are compatible with. ECA’s utility is further limited by the method’s inability to address causality (Berg and Lune 2012). Although it is tempting to infer the motives of claims-makers, this temptation must be resisted, as ECA and other forms of qualitative document analysis are unable to conclusively assess the rhetorical intentions of claims-makers (Berg and Lune 2012).

Perhaps one of the most common criticisms of ECA and other forms of qualitative content analysis is that the flexible nature of the research design cannot ensure that researchers have not chosen their cases or data selectively to fit their own needs (Berg and Lune 2012). With the researcher as a central component of an ECA, his/her own biases could distort the sampling, coding, or analysis stages, leaving important information ignored or irrelevant information

gathered. This limitation is best addressed through transparent and reflexive research practices, as suggested by Altheide and Johnson's (1994) analytic realism. Unfortunately, even the most self-aware and well documented reflexivity is unlikely to prevent this criticism from arising (Berg and Lune 2012).

## STUDYING MR. BIG USING ECA

### *Sampling*

The cases selected for this inquiry were drawn from Proquest and Factiva databases. These search engines were chosen because they are readily accessible, well maintained, and provide access to a vast collection of both current and historical news articles from across Canada. Search terms such as "Mr. Big sting" and "RCMP sting" were used in conjunction with year parameters to narrow results to articles published in the specific time periods being sampled. As articles became more difficult to locate, searches were further refined; for example "RCMP AND undercover AND murder" in an attempt to filter out (non-Mr. Big) police stings related to drug investigations and direct results to the type of crimes Mr. Big investigations are most often used to investigate.

Initial sampling was completed using a purposive approach, as suggested by Coyne (1997) and Breckenridge and Jones (2009) to provide the first impressions of the data required to begin theoretical sampling. The first sampling installment attempted to select 50 cases spanning the years Mr. Big sting investigations have been actively used and were likely to have been reported on (i.e.,1991-2015). For certain years however, particularly in the early 1990s, articles

became increasingly difficult to locate. Where suitable articles could not be found, years with more abundant news coverage of Mr. Big investigations were revisited in their stead.

Once these first 50 cases had been read, coded, and analysed, a theoretical sampling strategy was designed. The data collected during the first stage of purposive sampling indicated that articles reporting on Mr. Big sting investigations prior to 2001 were unlikely to use the label “Mr. Big” to differentiate this type of undercover operation from others. Claims made during this period were therefore less likely to meaningfully contribute to the social construction of the condition. Thus, the following 44 cases were theoretically sampled from 2001-2015, as these stories were more likely to include the identifying moniker “Mr. Big”, and therefore demonstrate more influential claims-making.

After reviewing these cases and reflecting on new impressions of the data, the sampling procedure was further refined. The final selection of cases focused upon articles published from 2005-2015 as the amount and intensity of claims-making appeared to increase as time progressed. This phase of case selection also favoured articles that appeared to support Mr. Big investigations, as pro-sting rhetoric was underrepresented in the sample to that point. The final sample looked at 56 articles from a variety of news organizations across Canada, favouring those publications with larger audiences and influence over smaller regional operations. While not extensive in size, this sample allowed for the saturation of dominant themes while also remaining practical for a project with limited timelines.

### *Open coding*

Once the first 50 cases had been purposively sampled, 10 of these articles were reviewed to provide the initial impressions of the data upon which the first coding protocol could be based. Using Altheide and Schneider's (2013) guidelines for constructing ECA protocols, Protocol 1 (*see Appendix*) recorded information to categorize each article, such as case number, source, date, author, length, and type of report. Other than this identifying information, the protocol called for the article's title, main focus, and perceived stance on Mr. Big sting investigations. The remainder of Protocol 1 was dedicated to open coding and the recording of notable quotations. The open coding performed during this first stage of data collection recorded noteworthy claims-making approaches, rhetorical strategies, and issue framing. As open coding progressed, emergent trends, pertinent questions, and reflexive observations were recorded in research memos.

The observations and preliminary analyses noted in the research memos from the first stage of coding were used to inform both the theoretical sampling of the next 44 cases, and the reformatting of the coding protocol. The coding protocol was updated to reflect an emerging trend for reporting on Mr. Big sting investigations to provide insufficient or inconsistent grounding claims. A section was added to Protocol 2 (*see Appendix*) where notes on grounds and diagnostic frames would be recorded as a sub-group of the open coding section. Much like the first phase, coding using Protocol 2 was primarily open and made extensive use of memo writing to facilitate reflexivity.

Prior to reviewing the final 56 cases, the coding protocol was adjusted once more. Protocol 3 (*see Appendix*) involved an updated measure of an article's perceived celebration or

denunciation of the Mr. Big tactic and the intensity of these claims. True to Altheide's (1987) proposal that researchers should revisit coded data when necessary, all articles were recoded to account for this updated measure. The coding of the final 56 cases proceeded in a similar fashion to the application of Protocols 1 and 2. Once complete, the open coding of these 150 articles resulted in a mass of rich, informative, yet uncoordinated data in need of sorting.

### *Axial Coding*

To make sense of the large number of diverse observations noted during open coding, axial coding was required. At this stage the information recorded during open coding was reviewed, compared, and resorted. Using word processing software, different files were created for each emergent theme and the observations from each article were sorted into appropriate theme files. Sorted observations were accompanied by hyperlinks that connected them to the original, article specific, open coding files. This helped to ensure individual observations were easily traced once sorted and also helped to maintain a reflexive appreciation for the contextual background of each observation. Theme categories were then also compared, contrasted, and in some cases collapsed into other categories. This process continued until it became clear which themes were the most saturated and dominant. The trends noted included the simplistic and emotional framing of claims promoting or defending Mr. Big stings, and in contrast, the complex and legal-rational framing of claims opposing the tactic. While problem claims-makers were found to discuss the various forms of harm the use of this sting might cause, counterclaims efficiently framed these anti-sting claims as biased and/or misinformed. The failure to sufficiently ground the condition or to do so consistently was found to be a particularly salient

trend as well, among both problem and counterclaims-makers. Descriptions of, and evidence supporting, these dominant themes and trends constitute the results that will be discussed in the following chapter.

## CONCLUSION

To investigate why Mr. Big sting investigations have failed to become known as a social problem in Canada a method was required that could satisfy the needs of constructionist theory. By conceptualizing this qualitative content analysis as a form of ethnographic field work, ECA has allowed this inquiry the exploratory freedom, contextual appreciation, and depth of social analysis necessary to adequately address this research question. The rhetorical trends discovered through this qualitative analysis of documents provide useful reference points and evidence for the discussion of how or why this social problem has failed, and why other social problems may fail as well. In line with many past constructionist case studies, the results of this research will be used to illustrate and reflect upon the often abstract theoretical components of social problems theory more generally.

## CHAPTER FOUR: RESULTS

By analysing print media reports on Mr. Big sting investigations using ECA, striking weaknesses in claims-making became visible. The first section of this chapter discusses the most notable of these weaknesses; a profound lack of consistent explanations and descriptions of the tactic itself. Despite this deficiency, claims regarding the sting's justness and utility endured, splitting into two distinct arguments with unique claims and claims-makers. Those wishing to frame Mr. Big sting use as a social problem were not only faced with the challenge of constructing a successful social problem, but were also pitted against those wishing to frame the tactic as an acceptable policing tool. This chapter goes on to describe these two directions in claims-making, citing the notable differences between both the quality of claims and quality of claims-makers. Juxtaposing the trends in claims-making presented by those wishing to problematize Mr. Big stings and those wishing to normalize them will provide a basis for the discussion of failed social problems presented in subsequent chapters.

### GROUNDING THE CONDITION

There does not appear to have been a shortage of reporting on Mr. Big investigations in national and regional print media sources from 1991-2015. Of the 150 news articles sampled from this time period, 87% appeared to be written in "report" style rather than an editorial, op-ed, letter to the editor, or other format. This seemed to indicate that the vast majority of articles written on Mr. Big stings were presented more as fact than opinion, increasing the perceived legitimacy of the authors' secondary claims. In terms of content, 31% of articles presented specific cases exclusively, 20% discussed the tactic itself, and 44% were a combination of the

two, discussing the tactic as well as cases. Articles that did not explain or discuss the tactic itself, instead discussing cases alone, were unable to add to collective claims-making either for *or* against Mr. Big stings. Despite the considerable proportion of articles not actively adding to Mr. Big claims-making, a much larger proportion *did* address the tactic directly; 64% of the articles analysed in this study focused on the tactic itself or the tactic in addition to case examples. This coverage, however, did not lead to widespread public discussion and only marginally increased the tactic's presence in public discourse as time went on. What claims referencing Mr. Big stings lacked was detailed and consistent grounding claims; this left the condition poorly described by both claims-makers promoting and claims-makers denouncing the technique. Without grounds such as an identifiable label for the condition, a sufficient explanation of what the condition entailed, and an indication of its scope, it is not surprising that the coverage of Mr. Big sting investigations failed to capture widespread public interest.

### *Labels*

Giving a condition a name or label allows multiple sets of claims to be easily connected by audience members, creating a more complete picture of the condition (Best 1987; 2008). The coverage of Mr. Big sting investigations was found to be considerably lacking in this area. The label "Mr. Big" was not used in any of the 20 articles sampled from 1991-2000. Prior to 2001, publication bans were routinely sought in Mr. Big cases, preventing the media from describing the tactic in detail and naming the officers involved. This was addressed by the Supreme Court of Canada in *R v. Mentuck* (2001), where a trial court's decision to limit publication bans was upheld, thereby allowing the media to publish details of the stings. The Court agreed that the

public should be made aware of police investigations that use deception, so that they may critique these practices and provide some level of public oversight (*Mentuck 2001*). After this ruling, reporting on Mr. Big stings became more frequent and detailed, however these claims often continued to lack important grounding information. After 2001 the term “Mr. Big” began to surface, although its rise to regular use was sluggish; articles lacking the label were found in this sample as late as 2012. Without a unique or identifiable name the construction of the condition was stalled, leaving other claims explaining or arguing aspects of the condition to appear isolated and case specific. This damaged the ability of these claims to impact the overall construction of the issue in any meaningful way.

### *Descriptions*

The construction of this condition was further disadvantaged by vague and/or inconsistent descriptions of what constituted a Mr. Big sting operation. Descriptions of the tactic ranged from a lack of any explanation at all, to full and often lengthy descriptions. While comprehensive explanations were less common than nonexistent ones, the average description was likely to fall somewhere between these two extremes. Rodney Venis of the Prince George Citizen described the tactic by saying:

The so-called “Mr. Big” ruse is designed to convince its target, usually a suspect in a long-running homicide investigation, they are being recruited into an international criminal organization. It usually culminates with the subject meeting the fictional head of the organization – Mr. Big – and being asked to confess to a past crime. (Venis 2010)

This type of description was common; although mentioning the essential outline of the ruse, it was too brief to explain why this type of police work might be seen as controversial by some.

Leaving a condition's construction this basic is likely to lead audience members to wonder what all the fuss is about when claims for or against it clash in public discourse.

Misleading descriptions of the sting operation further added to the confusing picture of what actually constituted a Mr. Big sting. The Vancouver Sun's Glenn Bohn described the tactic used in the investigation of Mark Therrien and Robert Moyes in a misleading way, writing:

But the man Mark Therrien met in a Vancouver hotel turned out to be an undercover police officer working a "Mr. Big" police ploy – part of a \$4 million RCMP surveillance operation that used hidden video equipment in hotel rooms to gather evidence.  
(Bohn 2004)

This was the extent of the grounding information provided in this specific article and while not entirely incorrect, it remained incomplete and therefore misleading. An article published in the Windsor Star offered another example of oversimplified and misleading grounds, when it described the sting against James Gerald Skinner:

Police used an undercover agent who won the suspect's trust, partly with a made-up story in which the agent confessed to Skinner that he had been responsible for his brother's death. The idea was to prompt Skinner to unburden his own soul and admit his involvement in Middleton's death and it worked, the prosecutor said.  
(The Windsor Star 1992)

Without previous knowledge of Skinner's case involving a Mr. Big sting, this statement left it unclear what type of undercover operation was used at all. There was no indication of what the ruse entailed, or that the tactic used was anything more than a maneuver unique to this specific case. Brief and unclear or misleading descriptions of the stings would have made it difficult for audience members to construct an informed understanding of the tactic's nature. This lack of understanding would have impacted how well other claims were received, such as whether the

condition constituted problematic or acceptable police behaviour.

### *Scope*

In addition to naming and explaining what the sting entailed, providing information regarding the scope of its use would have further helped to ground the condition (Best 1987; 1994; 2008; Loseke 2003). This descriptive information was yet another area where the news coverage of Mr. Big sting investigations was found wanting. To assist audience members in assessing the scope of the condition, claims were made regarding the total number of investigations completed, and the time at which they began being used. An awareness of the extent of the tactic's use could have affected the urgency of other claims associated with it. In the few cases where the scope of the sting's use *was* addressed by claims-makers, estimates were rarely consistent. Some articles suggested the RCMP began using Mr. Big in the 1970's, while others claimed the tactic originated in the early 1990's. The lowest estimate of its use was presented by a University of Manitoba professor in a *Globe and Mail* article where he claimed a mere 20 stings had taken place in Canada prior to 2005 (Kari 2006). The highest estimate was presented four years later in 2009 by Mr. Big co-creator, Staff Sgt. Al Haslett, who claimed it had been used "in excess of 500 times" since its creation in the early 1990's (Lazaruk 2009). After the publication of Keenan and Brockman's (2010) book, "Mr. Big: Exposing Undercover Operations in Canada", these figures were stated more consistently as 350 uses since the early 1990's. Many articles, however, continued to make vague claims of the sting having been used "on several occasions" (see for example *The Winnipeg Free Press* 2007) rather than offering more specific estimates.

A lack of labels, explanations, and consistent estimates of scope left the condition poorly defined overall, regardless of whether claims attempted to problematize or normalize this type of police activity. Without an adequate understanding of the nature of the condition, as presented in grounding claims, the condition was not sufficiently constructed to provide a solid foundation for problem *or* acceptability claims. As will be shown, however, this profound lack of grounds proved to be *more* detrimental to the case for Mr. Big stings as problematic, than to the case for their acceptability.

#### PROBLEM CLAIMS

Although Mr. Big sting investigations remained poorly defined in public discourse, claims-makers continued to construct the condition as either problematic or acceptable for continued use in Canada. Of the 150 articles analysed, 51% denounced the tactic, while 25% celebrated its use. The remaining 24% of articles were a balanced representation of positive and negative claims (12%), or neutral in their assessment of the condition (12%). With 51% of the articles examined making attempts to problematize the use of Mr. Big stings, it became clear that claim quality rather than claim quantity was responsible for the failure of this condition to become a social problem. The following section explores trends in problem claims-making, elements impacting the effectiveness of these claims, and the claims-makers behind attempts to construct the use of Mr. Big stings as a social problem.

### *Claims-Making Trends*

Claims-making problematizing the use of Mr. Big stings tended to focus upon the various ways this condition could cause harm. Similar to studies of anti-drug (Reinarman and Levine 1989) or anti-Walmart (Best 2008) campaigns, these claims suggested that the condition was responsible for societal and institutional harm, in addition to the harm of individuals. Mr. Big sting investigations were portrayed as harmful to society as a whole by endangering its core values, harmful to institutions of justice, particularly law enforcement, and harmful to the individuals caught in its snare. These categories of harm have been separated here for the sake of explanation, but were not always found to be mutually exclusive in practice.

### *Societal harm*

The most extreme form of harm suggested by problem claims-makers was that the continued use of Mr. Big investigations had the potential to cause a breakdown in societal values. This was seen clearly in the repetitive use of Justice Iacobucci's statements made in the Supreme Court decision in *Mentuck* 2001:

The improper use of bans regarding police conduct, so as to insulate that conduct from public scrutiny, seriously deprives the Canadian public of its ability to know of and be able to respond to police practices that, left unchecked, could erode the fabric of Canadian society and democracy. (Also cited in Hall 2001)

The implication that undercover operations, such as the Mr. Big sting used in the *Mentuck* case, might “erode the fabric of Canadian society and democracy” (Hall 2001) when left unchecked is an extreme position. This powerful claim indicates that irresponsible and secretive police

practices could cause profound harm to Canadian society as a whole, destroying our democratic way of life. The influence of an extreme claim such as this, particularly when made by a Supreme Court Justice, was not lost on other problem claims-makers as the quote appeared in multiple news reports. In an article titled “RCMP ploy tramples suspects’ rights: Mounties risk wrongful convictions with dubious sting method” Ian Mulgrew wrote, “I believe, as Iacobucci warned, such unchecked undercover operations erode the fabric of Canadian democracy” (Mulgrew 2005a). This statement rounded out Mulgrew’s scathing article by ensuring his audience was aware of the severity of the problem he had presented. By constructing the problem as one with grave consequences for society as a whole, claims-makers attempted to frame their condition as in need of urgent and serious attention from all members of that society, or at minimum those who valued democracy.

### *Institutional harm*

The threat of harm to the institution of justice was also a dominant theme found among problem claims. These claims referenced broad threats to the administration of justice, or more specific harm that the use of Mr. Big stings could have had on the institution of policing. Similar to claims that the sting might harm society or democracy, claims that the tactic threatened the administration of justice as a whole were both vague and extreme. Again writing for the Vancouver Sun, Ian Mulgrew claimed, “This “ends-justifies-the-means” approach is anathema to our judicial heritage” (Mulgrew 2005b), titling the article with this sentiment as well. This claim suggested that the use of Mr. Big stings might blemish the history of our judicial system by insulting the values this system has historically stood for. This expands the harm Mr. Big might

cause beyond that of the current judicial system, to include insulting the values embodied by the whole of Canadian judicial history.

At times harm rhetoric was specifically directed at the institution of policing, by suggesting that the use of Mr. Big investigations facilitated unsavoury police behaviour which served to damage the legitimacy of the institution itself. Concerns regarding the use of violence, coercion, and deceit were common themes, in addition to claims that legal protections were being circumvented by police. Similar claims implied the threat of individual harm, but here claims focused upon the harm caused to policing by considering police accountability, oversight, and what behaviours ought to be publicly condoned. Tony Blais for EdmontonSun.com reported, “Timothy Moore, chair of psychology at Toronto’s York University, has also done extensive research into the Mr. Big technique and calls it a “fundamentally deceitful exercise” which is not reliably documented”(Blais 2013). Moore’s concern for this lack of oversight was echoed in Kouri Keenan’s claims made to Postmedia News, ““Unchecked, the Mr. Big tactic encourages a police culture of violence and corruption, and not the pursuit of justice”” (Cooper 2010). These critiques framed the problem as one of harmful policing, and directed audiences to question the behaviour of police officers when accountability was removed. Claims such as these were buttressed by those referencing the sting’s ability to circumvent legal protections. Independent online newspaper The Tyee, wrote, “Mr. Big came about as a way to get around certain laws governing coercive confessions, Keenan says” (Elbein 2012). This accusation was repeated by a variety of claims-makers, including Paula Simons writing for the Edmonton Journal, who described the investigation of the Boenke and Trudel murders as an RCMP attempt to “end-run around the Charter that protects us all” (Simons 2013). These claims suggest that the Mr. Big tactic allows for behaviour that threatens the legitimacy of Canadian policing, making the

continued use of this type of sting harmful to the institution of policing itself.

### *Individual harm*

Mr. Big stings were most often framed as problematic due to their propensity to cause harm to individuals. The primary concerns of this problem frame were false confessions and wrongful convictions, and often involved claims of coercion, inducements, and other forms of unethical treatment of sting targets by undercover officers. For example, in a Maclean's article detailing the case of Nelson Hart, journalist Charlie Gillis explained:

A social outcast, Hart may have been particularly susceptible to the police method of building up a suspect's self-esteem, treating him to expensive meals, putting him up in fancy hotels – then threatening to take it all away unless he tells “The Boss” about his notorious past. (Gillis 2013)

This excerpt clearly depicts the ways Hart was exploited and unfairly treated in order to extract a confession. A similar description of the tactic was given by Brian Hutchinson of the National Post, when he described the tactic's culminating interview:

...these meetings are often booze-fueled affairs and result in the crime boss- Mr. Big - making dire warnings and intimations of harm, and demanding from the target a confession to clear the air about the past. Only with a confession, the target is told, can he participate in the big score. (Hutchinson 2009)

Problem claims often cited the exploitation of targets' vulnerabilities, the presence of alcohol, and the creation of a violent, fear provoking atmosphere as ways Mr. Big stings could harm individual targets. For these claims-makers, this mistreatment was most concerning because it

could lead to false admissions of guilt. In a Vancouver Province article, Sandra McCulloch presented one such claim from a surprising source:

An undercover police operation where officers pose as criminal kingpins can sometimes backfire and scare suspects into admitting to crimes they never committed, a B.C. Supreme Court jury heard yesterday. “I’ve been in 40 to 50 operations in different roles... and sometimes these result in false confessions,” testified an undercover officer who posed as an underworld figure in April 2005. (McCulloch 2008)

A police officer as a claims-maker affirming a common problem with Mr. Big sting investigations is a powerful soundbite; however, this specific claim was not replicated by any other articles in the sample.

The increased risk of false confessions and wrongful convictions as a result of Mr. Big sting use was frequently cited by claims-makers seeking to problematize this condition. However, audience members were unlikely to find claims of individual harm compelling unless they had sympathy for the victims, and/or they perceived themselves to be at risk of harm (Loseke 2003)<sup>1</sup>. That said, targets of Mr. Big stings rarely represented the media’s ideal victims and audience members were unlikely to believe they were in imminent danger of becoming Mr. Big targets themselves. Thus, claims of individual harm lacked the urgency required to successfully problematize the condition.

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<sup>1</sup> Albert’s (1989) case study of the media’s coverage of AIDS illustrates how the perception of victims as deviant others can inhibit the progression of a social problem.

### *Effectiveness of Problem Claims*

The claims of individuals attempting to problematize Mr. Big investigations presented significant weaknesses. The tendency for problem claims to rely upon non-traditional viewpoints, to lack emotional significance, and to communicate complex concepts, had a negative impact on the ability of claims to resonate with audience members. These characteristics further weakened claims that the use of Mr. Big sting investigations in Canada ought to be viewed as a problem.

### *Non-traditional viewpoints*

Claims that do not make use of traditional world views are at a disadvantage in claims-making arenas, as audience members are forced to move beyond “common sense” to accept these arguments. Indeed, when studying battered husbands as a failed social problem, Lucal (1995) found the use of non-traditional gender images to play a notable role in the failure of problem claims. For those claims-makers framing the use of Mr. Big stings as a problem, requiring audiences to move beyond traditional views of the police and/or those accused of crimes negatively impacted the effectiveness of these claims. Many problem claims portrayed law enforcement as driven to produce confessions and convictions at any cost, even at the expense of public safety. The police were rarely presented by problem claims-makers as particularly trustworthy or reliable, and in some cases stings were constructed as crusades against specific targets. An example of this is seen in the claims of Theresa Olson, lawyer for Sebastian Burns, referencing the ordeal her client had been through: ““They were very stressed out by these undercover cops who were pressuring them into confessing to a crime they didn’t commit””

(Berry 2002). Brian Hutchinson writing for the National Post also put forth claims of coercive police officers intent upon securing confessions:

Then the all-powerful crime boss – the gun-toting, well-connected Mr. Big – enters the picture. He offers the target a terrible choice: Admit to a murder and receive his protection, more money, or endure his wrath. Transcripts of these encounters, entered as evidence in courts, reveal that Mr. Big does not like to take “no” for an answer. (Hutchinson 2007)

These claims are in conflict with the roles police officers are traditionally expected to fulfill, that of trustworthy and reliable protectors of justice. Challenging the traditional view of what the police stand for, and what their conduct might consist of prevents audience members from understanding claims using a “common sense” view of the world, leaving these arguments less streamlined and more painstaking to consume.

Problem claims often required audience members to reserve their judgment of the accused despite information presented by the police and/or Crown indicating their guilt or bad character. It was essential for these claims-makers to prevent audience members from writing off sting targets as criminals or thugs instead of viewing them as unfortunate individuals exploited by agents of the state. To accomplish this, problem claims-makers needed to counteract “common-sense” views of the police and Crown as inherently more trustworthy than those targeted by the stings. For claims-makers to convince audiences that the accused’s confession had been coerced and was unreliable, the target’s version of events must be believed, at least in part. Many examples of various targets proclaiming that their confessions had been fabrications were found: “Unger confessed to the killing to the officers, who he believed to be drug dealers. But he told the court he was lying in order to get a job in their crime syndicate.” (Johnson 1992). “Hart’s lawyer, Derek Hogan, told the jury in opening arguments that Hart’s confession was a lie

because he was intimidated by RCMP officers he believed were actually gangsters.” (Brautigam 2007a). “In reality they were Durham police officers. The suspect felt he had to impress them and told them he had been involved in a murder.” (Powell 2010). As Moore, Copeland, and Schuller (2009) show, it is a commonly held belief among members of the public that individuals do not confess to crimes they have not committed, leaving admissions of guilt some of the most persuasive forms of evidence presented at trial. Claims suggesting Mr. Big stings can and have led to false confessions conflict with the public’s trust of this type of evidence, and require audiences to favour the accused’s version of events over the police and Crown’s version. Claims asking audiences to trust “criminals” over law enforcement appear counterintuitive and are therefore unlikely to prove particularly persuasive.

#### *Weak emotional motivational frames*

In addition to the difficulties presented by constructing non-traditional characters such as unreliable police officers and trustworthy crime suspects, in many cases problem claims were left bland and emotionless as well. To give audience members compelling reasons to care about a condition, claims-makers typically design moving emotional motivational frames (Best 1987; 2008; Loseke 2003). Where strong emotional motivational frames are presented, such as particularly sympathetic victims or especially hated villains, claims are more likely to resonate with audiences (Loseke 2003). By failing to provide audience members with compelling constructions of victims or villains, claims were left emotionless and unmoving, seriously inhibiting their ability to capture the public consciousness.

Weak emotional frames were particularly visible when claims attempted to assign blame, a situation where constructing a hated villain could prove especially effective. In a large number of cases blame was assigned to the sting itself, seeming to absolve the officers involved and/or the departments approving the tactic of responsibility for the problem. In his comments to Postmedia News, Kouri Keenan states: ““Unchecked, the Mr. Big tactic encourages a police culture of violence and corruption, and not the pursuit of justice.”” (Cooper 2010). Thus, he appears to suggest the tactic itself has a souring effect on otherwise upstanding police officers, thereby directing blame away from the officers who actually execute the sting and placing it on the sting itself.

While not villainizing the police by failing to assign blame was common, occasionally claims-makers *did* direct blame toward law enforcement, however, these claims were no more effective at constructing villains. In these cases, the police were often framed as good intentioned, if overzealous. The misdeeds of officers were explained as a result of their tireless commitment to justice, rather than a result of malicious intent and/or negligence. Thus, without villainizing the police, problem claims-makers were unable to bolster their claims against Mr. Big stings by constructing an emotional reaction against those who used it.

Without hated villains, the construction of sympathetic victims became ever more important for the success of problem claims (Loseke 2003). Targets of Mr. Big investigations, however, were difficult to cultivate sympathy for and were therefore challenging to construct as compelling victims. As individuals known to have participated in simulated criminal activity during the stings and to have eventually confessed to a serious crime, targets appear to be of bad character and at fault for their own circumstances. Even for cases frequently used by problem

claims-makers as atrocity tales, constructions of sympathy required audiences to interpret the target as entirely powerless and coerced for the whole of the undercover operation. In a Maclean's article Nicholas Köhler explained the circumstances leading Nelson Hart to participate in the RCMP's simulated criminal activities:

The couple was often hungry and could not even afford a headstone for Krista and Karen's graves... With his earnings, he bought aheadstone engraved with two angels for Krista and Karen laying down \$4,000. "That's the first thing he bought of it," says Jennifer..." (Köhler 2006)

While these claims likely cultivated *some* sympathy for Hart, audience members still had to wrestle with the possibility that he had drowned his twin daughters, and had confessed to doing so. In an editorial written for the Vancouver Sun, Rubin "Hurricane" Carter explained why Sebastian Burns and Atif Rafay deserved sympathy despite their admissions of guilt: "These young people were no match for the seasoned professional interrogators who presumed they were guilty." (Carter 2008). Each of these examples required audience members to believe that the actions of the targets were reasonable given their respective situations. Audience members were unlikely to interpret committing crime (albeit simulated crime) as a reasonable reaction to poverty, or to believe that interrogators were so skilled that they could have induced false confessions from the innocent, leaving these claims to require further explanation. Similar to other non-traditional claims, attempts to construct victims and villains were prone to becoming longwinded or to be found wanting.

### *Complex arguments*

In addition to presenting unconventional claims that lacked convincing emotional motivational frames, claims-makers seeking to problematize the Mr. Big tactic also struggled

with the complexity of their claims. Many of the most compelling arguments against the use of Mr. Big investigations related to Charter rights and legal precedents that required complicated and specialized explanations. Some claims-makers did not shy away from these complex discussions and continued to present legal issues of importance to the condition, such as those presented by Alan Mettrick in the Prince Rupert Daily News:

...a stay of proceeding is available to a person convicted of an offence “if that person can demonstrate that illegality in the police investigation which led to the charges constitutes conduct which shocks the conscience of the community and is so detrimental to the proper administration of justice it warrants judicial intervention.” (Mettrick 2002)

Although claims that made use of legal language and reasoning explained issues more accurately and completely, they continued to result in weak problem constructions. Specialized and complicated claims are unlikely to significantly impact audience members with limited time and attention spans (Hilgartner and Bosk 1988), leaving the most well informed Mr. Big problem claims to remain ineffective. This complex information was not commonly presented however, as most problem claims-makers preferred arguments that were over-simplified and that glossed over legal issues important to the condition. In this excerpt from the Edmonton Journal, journalist Chris Purdy (2006) attempted to avoid discussing complex legal issues by writing, “...difficult legal issues had bogged down the trial” without adding information on what these issues entailed. Later in the same article he writes, “The jury began hearing evidence two weeks ago, but sat idle for more than a week while lawyers argued about the admissibility of some evidence” (Purdy 2006). Again, Purdy (2006) avoided complex claims by failing to explain why the evidence was being argued. By simplifying complex legal issues secondary claims-makers present claims that require less effort for audiences to consume, and stories that are more easily

produced under the media's unique occupational constraints (Gans 1979; Sacco 1995; 2005). As a complex legal condition, this media preference for simplicity hindered effective Mr. Big problem claims-making. Many of the claims most stressed in other claims-making arenas, such as academia and/or legal circles, were left unmentioned in news claims as they were simply too complex to accommodate the occupational preferences of media workers.

### *Weak Claims-Makers*

The data showed a variety of individuals engaged in problem claims-making regarding the use of Mr. Big stings. These individual claims-makers could be grouped into predictable categories, including defence attorneys, sting targets, the families and friends of these targets, judges, academics, and celebrity advocates. Although many of these claims-makers were educated, influential, or otherwise compelling, each possessed weaknesses that were easily exploited to discredit their claims. Ineffective and/or easily dismissed claims-makers further disadvantaged the already struggling effort to frame the use of Mr. Big stings as a social problem.

Defence attorneys were the most notable primary claims-makers in opposition to Mr. Big sting investigations. Indeed, for much of the tactic's media coverage, defence lawyers were presented as Mr. Big's sole opposition, as seen in this example from the [WinnipegSun.com](http://WinnipegSun.com):

“Mr. Big” stings are the subject of ongoing controversy. Police insist they are an essential investigatory tool responsible for clearing many previously stalled cold cases while defence lawyers argue the tactic induces targets to confess to crimes they didn't commit. (Pritchard 2014)

Juxtaposing the claims of the police with claims of defence lawyers exposes why attorneys, despite being well versed in dealing with the media and being of high status and intellect, do not make strong advocates. Especially in comparison to the police, the negative reputation of defence lawyers as the unsavory defenders of criminals and degenerates leaves their claims greatly disadvantaged. Culturally assumed to be untrustworthy and to place the interests of their clients above those of the rest of society, the claims of defence attorneys appear self-interested and biased, leaving them easily discredited. In an article written by Mike McIntyre for the Winnipeg Free Press, accomplished attorney Greg Brodsky's claims against Mr. Big are strikingly discredited. Defending Christopher Shewchuk at the time, Brodsky made claims regarding the propensity for the Mr. Big ruse to produce unreliable confessions. Following these claims, audiences were reminded of Brodsky's involvement in the notorious Michael Bridges case years before:

Brodsky challenged the sting operation at the time and claimed police induced Bridges to tell them an exaggerated tale. Queen's Bench Justice John Menzies rejected the bid and said RCMP made painstaking efforts to ensure they didn't elicit a false confession from Bridges. The Manitoba Court of Appeal later upheld the verdict. (McIntyre 2011)

Bridges' confession to Mr. Big led to the discovery of human remains, and as a result, this case quickly became a potent atrocity tale used to support Mr. Big sting investigations on many occasions. By reminding audiences of Brodsky's defence of this guilty man, his claims regarding the Shewchuk case are undermined. With some of the most vocal, informed, and intelligent problem claims-makers so easily discredited, attempts to construct the use of Mr. Big investigations as a social problem were greatly disadvantaged.

While those targeted in Mr. Big investigations were more likely to address the media through their attorneys, at times those targets would speak out about their experiences themselves. Individuals targeted by these investigations, however, made weak claims-makers for their cause. Often poor, uneducated, and/or unrefined, sting targets were not media savvy and their claims could be easily dismissed as unsophisticated and heavily biased. This was avoided in some cases by journalists paraphrasing a target's claims rather than quoting him/her directly. More difficult to avoid, however, was the impression that targets were self-interested individuals of poor character. Through the publishing of character evidence presented at trial, or quotations drawn from videotaped confessions, targets were depicted as untrustworthy and sometimes evil. In an Edmonton Journal article reporting on Jason Dix's civil case claiming malicious prosecution, the former Mr. Big target was easily discredited despite his innocence. In this article Kent Gordon (2001) wrote, "Jason Dix told an undercover RCMP officer that the proper way to kill someone is to "twenty-two" him in the forehead, a civil trial heard Tuesday" and later, "He also explains how to make a simple wooden gun "if you're gonna whack a guy."'" (*sic*). The charges against Dix were dropped in 1998 for want of evidence and yet his claims of malicious prosecution remained easily discredited when his conduct during the sting was discussed. Therefore, problem claims were greatly disadvantaged by the absence of credible claims-makers with sympathetic first-hand accounts of the Mr. Big phenomenon.

The friends and families of sting targets were also found to occasionally make claims against Mr. Big stings. Emotional claims-making by family members was most common in controversial cases used as atrocity tales, such as that of Shawn Hennessey and Dennis Cheeseman, charged in relation to the 2005 police shootings in Mayerthorpe, Alberta. A Globe and Mail (2007) article reports, "Mr. Hennessey's wife, Christine, who is Mr. Cheeseman's

sister, was in tears as she left the courthouse. Many of her friends lashed out at the RCMP, saying the charges are trumped up and an attempt to place blame on anyone but the senior commanders who failed to protect their officers.” (Friesen 2007). While these and other claims made by the loved ones of sting targets invited sympathy, it was this heightened emotion that also left them easily discredited. The claims of family members and friends could be easily dismissed as having been made out of emotion and/or blind faith. As a result, the claims of sting targets’ loved ones, while emotionally moving at times, were unlikely to substantially influence audience members’ perception of the investigatory tactic.

Taken from comments made during trials or in written decisions, the claims of judges were articulate and well informed, much like those of defence attorneys; however, they were not specially formatted for optimal media use. Without having been appropriately packaged for the media, these claims occasionally made use of technical legal language not readily accessible to the general public. As well informed and authoritative claims-makers, judges were often framed as “experts” on what was permissible when it came to the use of Mr. Big investigations. When quoted directly, however, their claims risked becoming too technical and complex to be compelling to the average reader; for example, Brian Hutchinson’s opinion piece for Nationalpost.com states: “Mr. Moldaver added that the Crown should presume a Mr. Big confession is inadmissible until it “can establish on a balance of probabilities, that the probative value of the confession outweighs its prejudicial effect”” (Hutchinson 2014). When simplified, however, these claims may become incomplete or misleading. Reporting on the case of Wesley Evans, Fabian Dawson writing for the Vancouver Province left the Supreme Court’s reasoning to appear unrealistic:

The Supreme Court of Canada threw out the convictions last week because police lied to Evans about finding his fingerprints at the crime scene and did not ensure he understood his legal right to counsel, making his confession invalid. (Dawson 1991)

This explanation leaves the impression that the Court threw out Evans' conviction on a "technicality" when this specific case involved significant ethical and practical concerns (see *R. v. Evans* 1996). When judges were framed as impractical or unfair their claims were more likely to be viewed with scepticism than respect. The media arena and its preference for simplicity prevented the effective communication of judges' claims, undermining their expertise and leaving them weak claims-makers.

Much like members of the judiciary, academics were also framed as impractical at times, despite their wealth of specialized knowledge. Various academics made claims against Mr. Big sting use, seeking to educate the public on issues such as false confessions and police accountability. In an article for the Postmedia Newswire, Timothy Moore, a psychology professor at York University, discussed false confessions:

A controversial made-in-Canada police tactic designed to elicit confessions from suspects in murders and other serious crimes is "ingenious" but also carries a "high risk of incriminating the innocent," says Canadian professor... It is possible, they say, that innocent suspects may end up confessing to a crime just to stay in the good graces of the big boss. Moore stressed in an interview that he is not dismissing Mr. Big as a police tool. (Quan 2012a)

Although some of these claims are highly relevant criticisms, these statements as a whole do not take a solid stance against the tactic. By describing the tactic as "ingenious" and not dismissing it as a police tool, Moore helps to defuse his own problem claims. This tendency to soften problem claims was noted among the claims of many academic claims-makers. While avoiding extreme

positions and appearing neutral is important in academia, constructing social problems in competitive problem arenas requires strong claims (Hilgartner and Bosk 1988). A notable exception to the tendency for academics to present weak problem claims was Kouri Keenan, a PhD candidate and author who was vocally against Mr. Big sting use. After the publication of his book, “Mr. Big: Exposing Undercover Operations in Canada” (2010) Keenan’s strong claims were reproduced in a variety of news sources and were even cited by the Supreme Court of Canada (see *Hart* 2014).

Although there were no film stars or famous musicians found among those making claims against the use of Mr. Big sting investigations, there were two advocates found to have some degree of celebrity. Tiffany Burns, Canadian news anchor and documentary producer, and Rubin “Hurricane” Carter, a famous advocate for the wrongfully convicted, periodically made claims denouncing the use of the Mr. Big tactic. Though both of these claims-makers made statements regarding the dangers of the stings in general, they tended to focus primarily on the case against Sebastian Burns and Atif Rafay. As Sebastian’s sister, Tiffany Burns’ claims were as easily discredited as the family members of other sting targets, with her accomplishments in journalism often mentioned only after her status as the sister of a suspected murder. An article in the *Prince George Citizen* (2010) began, “The sister of a West Vancouver man convicted of a bloody triple-homicide says the RCMP’s controversial “Mr. Big” stings should be the first thing reviewed by the country’s new civilian watchdog.” This particular article did not mention Burns’ professional background at all, undermining the research and investigation her claims had been based upon. In comparison, the celebrity that Rubin Carter brought to claims against Mr. Big stings was more effective. As someone who had undergone a high profile wrongful conviction himself, Carter’s legitimacy made him a difficult claims-maker to discredit. As a passionate,

intelligent, and articulate claims-maker, Carter could have been a strong voice of opposition to Mr. Big sting investigations had he spoken out against more of these cases. Overall, it did not appear that the presence of these two celebrities in the claims-making arena had much of an impact on the overall construction of Mr. Big stings as a social problem.

Weak and easily discredited claims-makers further disadvantaged already struggling Mr. Big problem claims. Indeed, some of the most well-articulated and well-informed claims-making against Mr. Big stings was defused, and therefore unlikely to have had much impact on audiences. A profound lack of grounding claims, ineffective problem claims, and weak claims-makers combined to leave attempts to frame the use of Mr. Big stings as a social problem woefully inadequate.

#### ACCEPTABILITY CLAIMS

As an investigation tool that was already in use in Canada, Mr. Big stings were considered acceptable police conduct by default. It was for this reason that the condition's lack of grounds and poor definition was not as damaging to acceptability claims as it was to problem claims. Those in agreement with the tactic's use were not explicitly required to make claims regarding its acceptability; however, counterclaims did surface in response to mounting problem claims. Unlike those seeking to construct the condition as a social problem, those attempting to maintain its acceptability used effective claims-making and strong claims-makers to convince audiences that Mr. Big stings should *not* be considered a social problem at all. In comparison to those seeking to problematize Mr. Big stings, both the claims and the claims-makers for the

acceptability camp were of noticeably higher quality.

### *Claims-Making Trends*

Claims arguing for the acceptability of Mr. Big investigations tended to remain simple and straightforward by presenting black-and-white reasoning. Framing the issue as one of good versus evil and of claims as informed versus biased greatly simplified the concerns leveled against Mr. Big investigations. By juxtaposing seemingly straightforward concepts, acceptability claims did not require the time consuming consideration that problem claims did, leaving them easier to accept and ultimately more effective (see Hilgartner and Bosk 1988).

### *Good vs. evil*

Mr. Big sting investigations were often claimed to be a necessary tool to allow police officers to capture dangerous criminals. Once articles described the crime under investigation with varying levels of detail and drama, the need to punish the perpetrators of the crime was constructed with great urgency. As an investigatory tool documented as being extremely effective, the Mr. Big tactic was left as the next step in fighting evil-doers. In a Vancouver Province article, Sam Cooper (2009) wrote, “However, supporters of “Mr. Big” say the technique is used with great caution and there are times when it is the only tool left to police to get justice.” This ends-justifies-the-means reasoning was also seen in the Nanaimo Daily News’ report on the case of Willy Peterffy, “... but be sure that particular deception has resulted in solving numerous cases of murder and assault in the Island” and then later, “Were it not for the Mr. Big scenario, Peterffy would have likely got away with murder” (Walton 2010). These

claims framed the issue as a simple choice: either let evil murderers roam free or allow Mr. Big to procure justice. With claims set up as black-and-white, depth of thought was not required for audience members to decide which side of the argument they would prefer to support (Hilgartner and Bosk 1988; Loseke 2003). Simplifying the issue using good versus evil rhetoric was an effective tool for acceptability claims-makers (see also Bromley 1991).

### *Informed vs. biased*

A second rhetorical strategy was the juxtaposing of “informed” and “biased” claims. Claims-makers in favour of Mr. Big stings (most notably the police) would routinely cast themselves as authorized, unbiased and informed spokespersons (Gans 1979; Ericson et al. 1989; Gusfield 1989; Stallings 1990; Best 2008), leaving problem claims-makers to appear as nothing more than conspiracy theorists that relied upon conjecture while serving the interests of defence attorneys and Mr. Big targets. In fact, the police, with their first-hand, unbiased knowledge of Mr. Big operations, emerged as the “owners” (Gusfield 1989) of the condition. In a Vancouver Sun article, RCMP commissioner Bob Paulson claimed, ““I’ve got to say that sometimes these experts that pop out of cakes that make these broad declarations about what’s best for policing don’t stand the test of a challenge”” (Quan 2012b). He went on to state, “[the Mr. Big] technique has solved many homicides and is used responsibly by investigators” (Quan 2012b). Likewise, in a 2014 globeandmail.com article Inspector Scott Sheppard reassured audiences: “...the biggest misconception about the operations is that the RCMP cares only about getting a confession. “It’s about uncovering the truth,” Inspector Sheppard said.” (LeBlanc 2014). While not as brusque as Paulson’s comments, Sheppard also appeared to claim expert, unbiased knowledge of the sting

and used his expert status to refute the tactic's critics. These claims clearly position the police as the primary sources of authorized and accurate information regarding Mr. Big investigations, to the exclusion of other so-called "experts".

### *Effectiveness of Acceptability Claims*

Trends disadvantaging problem claims were reversed by acceptability claims, leaving these accounts strong where problem claims were weak. Arguments presented by acceptability claims-makers demonstrated "common-sense" beliefs that reflected traditional or "common sense" understandings of the world. Similarly, acceptability claims displayed strong emotional motivational frames, as hatred was easily constructed for those framed as villains, and sympathy easily constructed for victims (Loseke 2003). The strength of acceptability claims was further reinforced by the quality of claims-makers involved, leaving this side of the argument more in line with media conventions.

### *Traditional claims*

Claims presented by those seeking to frame the Mr. Big sting as an acceptable policing tool capitalized on "common sense" understandings of how the criminal justice system works. Acceptability claims were often found to hinge on the assumption that the police were trusted and skilled professionals, leaving it unnecessary to question their motives or behaviours. In response to concerns the stings may lead to false confessions, an RCMP lawyer told Canwest News Service,

“That’s why we’re very careful with the technique,” said the lawyer. “We know a lot of these individuals are not the sharpest knives in the drawer. We can exploit their naiveté to get to the truth. But what we have to be careful about is that we do get to the truth,” he said. “We build mechanisms into the technique so that we discourage fabrication, and obviously, wrongful admissions.” (Baron 2008)

Here audiences were asked to trust that the police are constantly on the lookout for false confessions, preventing them by being “careful” and “discouraging fabrication”. Despite remaining vague, and failing to address the specific concerns of critics, these acceptability claims were effective because they built upon well-established popular viewpoints. This kept acceptability claims-makers from having to explain their claims to the same extent that problem claims-makers did. By satisfying traditional popular beliefs regarding the criminal justice system, these claims could be readily accepted by the public.

### *Strong emotional motivational frames*

The emotional motivational frames used by acceptability claims-makers also took advantage of traditional beliefs. Hatred could be constructed by simply describing the grizzly facts of a case Mr. Big was used to solve, or by quoting the chilling confession it elicited. As journalist Bob Beaty reports, “Accused murderer Steven Beirnes told an undercover officer he should have put Dilleen Hempel’s body through a meat grinder to ensure the corpse was never found, court heard Wednesday” (Beaty 1994). This graphic statement was referred to multiple times throughout this article, effectively creating drama and hatred for Beirnes. By referring to Beirnes as an “accused murderer”, a habit seen frequently in articles reporting on Mr. Big cases, claims-makers were able to brand the accused a “murderer” before a conviction was attained. When this branding was combined with an explanation of the facts of the case, guilt could be

attributed to the accused, quickly making him/her the hated villain of the story. The emotional power attached to heinous acts such as murder or graphic statements made to a “crime boss” created strongly hated villains for acceptability claims-makers to exploit.

With hated villains constructed, sympathetic victims were the next step in acceptability claims-making. The facts of the case often evoked sympathy for crime victims immediately, leaving acceptability claim-makers to focus on the friends and family of those killed as secondary victims. In a 1992 Windsor Star article, sympathy for the victim’s mother was palpable:

The case was every parent’s nightmare. The slightly built blond-haired boy had gone skating one evening at the local rink and later phoned home asking his mother for a ride. But with five younger children at home and her husband out of town, Henrietta Middleton told her son to make the 15-min walk on his own. “I just said no, he was to walk home on his own two feet,” she testified Tuesday. The boy never made it. (Windsor Star 1992)

In addition to arousing immense sympathy for the Middletons, these claims helped to construct hatred for the perpetrator of this crime and an ardent wish for his/her capture and punishment. Claims-making that is able to construct strong emotional reactions, as these sympathetic victim and hated villain claims had, are likely to leave audiences desperately searching for solutions (Loseke 2003). With these constructions in place, the presentation of ends-justify-the-means style policing was less likely to be met with much resistance.

### *Simplistic arguments*

Brevity and simplicity were trends noted throughout acceptability claims-making. Unlike claims that attempted to problematize Mr. Big stings, acceptability claims did not require excessive explanation, evidence, or convincing. Relying upon dominant cultural beliefs, these claims were more likely to fit comfortably into audience members' "common sense" assumptions about law enforcement and crime fighting. Unlike problem claims, acceptability claims rarely commented on legal rules and precedents, thereby simplifying the issue to a question of "catching" or "not catching" criminals. This sentiment was clearly seen in journalist Paul Henderson's claims: "Mr. Big may be ethically borderline, but I see nothing wrong with an officer lying to a criminal to get a confession" (Henderson 2015). This reasoning removed many of the points of contention cited by problem claims-makers, resulting in strong black-and-white style claims which did not require much depth of thought. Brian Hutchinson lamented the power this reasoning has had in the Supreme Court writing:

Despite all of the red flags and potential for trouble identified – the "significant risk of false confessions" being the worst – Mr. Big operations will continue to be tolerated and used in this country. Why? Here's the Supreme Court's bottom line: The technique works. Of course it does. It relies on coercion, inducements and threats.  
(Hutchinson 2014)

Despite Hutchinson's and other problem claims-makers' objections, when paired with simple and/or emotional claims that made use of dominant cultural beliefs, acceptability claims were more likely to appear convincing. Indeed, these characteristics of the pro-sting argument left simply claiming the tactic "worked" as effective claims-making.

### *Strong Claims-Makers*

A unique feature of the claims in support of Mr. Big stings was the absence of those who could have been the primary voices in defence of the technique, i.e., the police. For the majority of the time this tactic has been in use in Canada the RCMP refused to pass comment on it, preferring to keep their methods as covert as possible. Countless articles reported that the RCMP declined to comment, with one including, ““Please note: calls to RCMP media relations on this matter will not be returned.”” (Weber 2013). Without claims from the authorities on Mr. Big stings, journalists interested in supporting their own acceptability claims or providing balance to problem claims were forced to look elsewhere. In some cases, police claims were gleaned from court proceedings, along with claims made by the Crown, judges, and victim impact statements. These claims were often specific to the case at hand, and did not provide much commentary on the tactic in general; however, they were frequently used by acceptability claims-makers in the construction of victims and villains. Statements from the family members of crime victims were also available to journalists outside of court proceedings. Although police refused to comment when charges were dropped against the teenager accused of the Boenke and Trudel murders, the families of the victims were happy to:

Anger at the outcome spilled from the courtroom to the sidewalk outside. “This is bullshit and we all know it’s bullshit,” said Judy Brietkrietz, Boenke’s former wife. “And if we don’t start doing something and start making these damn lawyers responsible for their actions...” “It is truly horrifying. Not only is it disgusting, it’s absolute idiocy. The police did an outstanding job and nobody supports them.” (Weber 2013)

These emotional declarations of support for the RCMP and their Mr. Big tactic made powerful acceptability claims. While the claims of victims’ families provided drama and emotion, at times

journalists still searched for claims with more professional legitimacy. This legitimacy was frequently found on the RCMP's website, where the Mr. Big tactic is described. One such reproduction was given in a 2013 Macleans.ca article:

An RCMP spokesperson declined to comment on operational techniques and matters before the courts. On its website, the force says its objective in Mr. Big operations is learning "the truth." "Charges are always supported with corroborating physical evidence and/or compelling circumstantial evidence, in addition to any admission that may have been obtained through the undercover operation," reads the website. "This technique is not only important in bringing criminals to justice, but often leads investigators to bodies of missing persons – bringing closure to families of victims. It can also be just as successful in clearing a person of interest as it is in convicting him." (Kauri 2013)

These claims reproduced from the RCMP's website were particularly strong because they had been designed in advance by trained media professionals, with their viewing audience and popular criticisms of the sting in mind. In the absence of RCMP press conferences, these strategies for gathering acceptability claims, while more arduous, remained effective.

As time went on, and problem claims began to intensify, members of the RCMP occasionally broke their silence to either refute problem claims directly, or make their own pro-sting claims. Officers (usually former sting participants), RCMP spokespeople, RCMP lawyers, and the RCMP Commissioner all made claims regarding the acceptability of the Mr. Big tactic. An example of police claims-making appeared on the Canadian Press Newswire in 2007:

“As police at the time, we just thought it would be an excellent way of solving murders,” said the officer who played the role of Mr. Big in the sting that led to Hart’s conviction. “It took some thinking outside the box.” Police who participate in the sting are well-trained and always on guard for a false confession, he said in an interview. “It’s always on our mind during these investigations, we are very alive to the fact, and we have checks and balances in place,” said the officer, who cannot be identified by court order. He said divulging those checks and balances, however, could harm the integrity of their investigations. (Brautigam 2007b)

As this excerpt illustrates, police officers as well as their spokespeople are strong claims-makers. Trained in how to navigate the media, articulate their position, and culturally understood to be trustworthy, claims made by the police are bolstered by their professional status (Fishman 1978; Ericson et al. 1989; Sacco 1995; 2005). Thus, despite the majority of newspaper claims denouncing the use of Mr. Big, the issue failed to emerge as a full-fledged social problem, in part because of the strong opposition mounted by the aforementioned counterclaims-makers.

## CONCLUSION

Despite a substantial lack of grounding claims, the media discourse on Mr. Big sting investigations continued to present a variety of claims both for and against the use of this tactic. Although fewer in number, pro-sting claims-makers presented stronger constructions than problem claims-makers could. The prominent claims-makers opposing the use of Mr. Big stings were easily ignored or discredited, leaving their claims of harm further disadvantaged in the media arena. In contrast, acceptability claims greatly benefited from the status of their claims-makers, leaving these constructions the stronger of the two. The following chapter will interpret these findings in light of past research concerning social problems and constructionist theory,

prompting a discussion regarding why the use of Mr. Big sting investigations has failed to become a social problem in Canada.

## CHAPTER FIVE: DISCUSSION AND CONCLUSION

The results of this inquiry into the construction of Mr. Big sting investigations reflects what is already known about failed social problems and also adds to this area of scholarship. This chapter begins by noting the ways the findings presented here are both reflective of and unique to the literature. Following a discussion of the role that complexity has played in the success of problem claims-making, it is suggested that the failure of the Mr. Big problem is largely due to a failure to effectively simplify complex claims. The implications of this proposition are then explored. The chapter concludes by noting the limitations of this analysis and suggestions for future research.

### REFLECTIONS ON THE LITERATURE

#### *Similarities*

Many of the trends in Mr. Big sting problem claims-making have also been noted in other studies of failed social problems. Failing to provide audiences with adequate grounding claims is a common occurrence found in studies of failed problems. Past studies have also shown the difficulties associated with presenting non-traditional arguments that lack emotional persuasion, and the difficulties experienced by claims-makers who are not well organized or funded. While the experience of this problem condition does not follow exactly the same trajectory as other case studies, similarities can be drawn between the limited number of studies pertaining to failed social problems and the findings presented here.

### *Inadequate grounding claims*

The presentation of inadequate grounding claims is a weakness in claims-making that is well-represented among case studies of failed social problems. Ball and Lilly's (1984) study of the clandestine motel was one of the first to apply constructionist theory to a condition that was not widely considered a problem. By studying how the motel managed to avoid becoming problematized, Ball and Lilly (1984) discovered important road blocks to problem claims-making. The primary reason members of the media were unable to publicly villainize the motel in the same way they had with similar motels in the same area, was their inability to access the information required to make supported claims (Ball and Lilly 1984). Members of the media were unable to form consistent and/or convincing grounding claims without access to the dirty secrets of the motel, thereby undermining the formation of effective problem claims (Ball and Lilly 1984). For the owners of the clandestine motel, limiting grounding descriptions of their operation was essential to staying out of the social problems arena (Ball and Lilly 1984); however, for those claims-makers *wishing* to construct a condition as problematic, a lack of reliable grounding information can be just as paralyzing. In the case of the battered husbands problem, for example, claims-makers failed to present the grounding information required for problem typification (Lucal 1995). Claims-makers spent an inordinate amount of time discussing whether or not the condition existed at all and if it did, what the scope of it was (Lucal 1995). These grounding discrepancies, in addition to disagreements over an appropriate label for the condition, were the primary factors behind the condition's failed emergence as a social problem (Lucal 1995).

Claims-making regarding Mr. Big stings followed a similar trend to these past case studies, showing a substantial lack of grounding claims. Much like the media studied by Ball and Lilly (1984), journalists reporting on Mr. Big investigations were rarely able to present reliable grounding descriptions of the condition for want of information. In addition to inconsistencies in descriptions of the condition and its scope, the Mr. Big condition spent much of its presence on the media agenda without a recognizable label. As in the case of battered husbands, this damaged the Mr. Big condition's notoriety and left the severity and/or urgency of the problem uncertain (see Lucal 1995). As the case study literature on failed social problems has suggested, a lack of grounding claims is highly detrimental to a burgeoning social problem; the failure of the Mr. Big problem offers further evidence of this.

#### *Unconventional claims and weak emotional frames*

Lucal's (1995) study of battered husbands claims-making offers additional similarities to the Mr. Big sting condition studied here. Lucal (1995) notes that the battered husbands problem had a difficult time entering the social problems arena in part because it did not comport with pre-existing societal biases. Directly conflicting with popular gender roles that suggest men are inherently strong and aggressive, and women inherently weak and passive, the battered husbands problem challenged traditional beliefs (Lucal 1995). These claims-makers encountered strong opposition to their claims partially because they required audiences to entertain possibilities outside of their "common sense" understanding of the world (Lucal 1995). Compounding this limitation was the lack of vocal, visible examples of battered husbands stepping forward to tell their stories and claim audience sympathy (Lucal 1995). This resulted in a condition that both

conflicted with commonly held beliefs and lacked the effective emotional claims that may have persuaded audience members to move beyond these traditional views (Lucal 1995).

COYOTE (Call Off Your Old Tired Ethics) and their fight for the legalization of prostitution is another example of failed claims-making in relation to a condition countering traditional wisdom and lacking emotional persuasion (Weitzer 1991). As sex work has existed on the fringe of North American society for hundreds of years, claiming these activities ought to be legalized is indeed an argument challenging traditional beliefs. Claims contradicting traditionally held beliefs are at a disadvantage in claims-making arenas, thereby increasing the need for claims-makers to appear as persuasive as possible. Much like battered husbands, prostitutes were also rarely found to participate in claims-making on their own behalves, thereby depriving their condition of visible sympathetic victims. Weitzer (1991) contrasts COYOTE with the gay-rights movement, as a strong example of how the active participation of those affected by a problem can greatly enhance the effectiveness of associated problem claims. When contrasted with the considerable success achieved by the gay-rights movement, the movement for prostitute-rights appears flimsy and underrepresented.

Similar to claims-making regarding battered husbands and the rights of prostitutes, the Mr. Big problem also struggled with challenging traditionally held beliefs and being emotionally ineffective. Requiring audience members to suspend their view of traditional roles, the Mr. Big problem claims asked audiences to believe that those accused of crimes were telling the truth, while police officers were the ones behaving underhandedly and abusively. Again, uncommon viewpoints such as these may have benefited from claims offering emotional persuasion; however, as was the case with battered husbands and prostitute's rights, Mr. Big claims-making

lacked visible sympathetic victims.

### *Weak claims-making movements*

COYOTE's movement to legalize prostitution was both disorganized and underfunded, which greatly impacted the ability of claims-makers to offer a unified voice and consistent claims (Weitzer 1991). Weitzer (1991) notes that sporadic member participation and the movement's inability to raise funds for claims-making efforts were both instrumental in this condition's failure to win public support. Similarly, claims-makers attempting to problematize Mr. Big sting investigations did not often act as an organized group. Indeed, much claims-making was executed on an individual basis in reference to specific cases or by independently concerned claims-makers rather than on behalf of an organized, funded group. Much like COYOTE, without the benefit of an organized, united, and well-funded claims-making group, claims were robbed of the strength often experienced by groups without these limitations (Weitzer 1991; Best 2008).

Case studies of failed social problems are uncommon in social problems literature. This limitation makes drawing comparisons between the construction of Mr. Big stings and other conditions difficult; however, the comparisons that can be made show that much like successful social problems, failed problems share a number of characteristics. Exploring what failed social problems have in common has the potential to expand what is currently known about claims and claims-making.

### *Unexpected Findings*

While the claims-making surrounding Mr. Big investigations is similar in many ways to that of other failed social problems, unique findings also set this case study apart from past research; specifically, it is uncommon for failed social problems to experience the extended media coverage that this condition has had. It is also unusual for constructions presented by powerful, articulate, and intelligent members of society to fail, especially when counterclaims are both infrequent and reserved. The Mr. Big problem condition experienced each of these would-be benefits, foreign to most failed social problems, and yet remained unsuccessful. According to the social problems literature, these features should have greatly improved the chances of claims-making success (Best 1989; 2008; Weitzer 1991; Lucal 1995; Loseke 2003).

### *Media access*

The importance of gaining access to the media arena is well established in both the literature on social problems and agenda setting (Hilgartner and Bosk 1988; Best 1989; 2001; 2008; Mead 1994; Dearing and Rogers 1996; Loseke 2003; Wolfe et al. 2013; McCombs 2014). Indeed, having media access means claims can be delivered to vast audiences across wide distances, greatly increasing the reach of claims-makers' constructions (Hilgartner and Bosk 1988; Best 1989; 2001; 2008; Loseke 2003). Not surprisingly, many case studies of failed social problems cite the *inability* of claims-makers to gain media access as being instrumental to the failure of their claims-making efforts (Ball and Lilly 1984; Weitzer 1991; Lucal 1995). Hilgartner and Bosk's (1988) public arenas model states that due to cross-arena communication, such as that occurring between the courts and the media, claims presented in certain arenas are

able to gain indirect access to others. Claims regarding Mr. Big investigations were often presented in the courts, leading to their reproduction and discussion in the media. This access to the media *should* have allowed Mr. Big claims to reach wide audiences and stir public debate; however, Mr. Big investigations continued to languish in obscurity.

Accessing the media in this indirect way may have also played a role in the failure of Mr. Big claims-makers to make their mark on the public consciousness. Traditional access to the media arena requires claims to be carefully crafted to first convince news workers that they deserve coverage *before* receiving an opportunity to convince larger audiences (Loseke 2003; Best 2008). Eased access to the media arena may have prevented claims-makers from feeling the pressure that could have improved the quality or strength of their claims, instead leaving much of the work to secondary claims-makers. Mr. Big claims-making may well have proven more effective had the quantity of its coverage increased significantly; however, the continued, modest access to the media arena that this condition *did* enjoy could have been more effective had the quality of these claims improved. The experience of Mr. Big claims demonstrates that, the *quantity* of media coverage a condition receives is often only as effective as the *quality* of the claims presented in that coverage. This is an important caveat that should be more explicitly stressed in the social problems literature.

### *Credible claims-makers*

In many cases, who the claims-makers are is just as important as the content of their claims. As Loseke (2003: 36) explains, claims-makers exist in a “hierarchy of credibility” which places the claims of scientists and professionals above the poor and the powerless in the eyes of

the public. Many of the loudest voices in opposition to Mr. Big investigations were that of defence attorneys, members of the judiciary, and academics; all individuals who would rank high on the hierarchy of credibility (Loseke 2003). While sting targets themselves would commonly rank low in this hierarchy due to their alleged criminality and tendency to be poor and uneducated, it was rare for targets to make claims themselves as this was usually left to their attorneys. The power, wealth, education, and articulate way of speaking characteristic of attorneys, judges, and academics *should* have given these claims-makers an influential advantage, but instead their claims were often discredited. Thus, this case-study suggests that having claims-makers at the top of the hierarchy may not guarantee a successfully constructed social problem and that using the hierarchy of credibility to, in a sense, predict problem success may be more difficult than originally theorized.

### *Reserved counterclaims*

Counterclaims are an additional hurdle for social problems to overcome when attempting to enter public arenas (Hilgarner and Bosk 1988). For claims-makers referencing battered husbands, for example, backlash was felt from battered wives claims-makers who feared diminishing attention to their social problem should the battered husbands condition succeed (Lucal 1995). The resistance felt from these counterclaims was a noteworthy barrier to the construction of the battered husbands problem (Lucal 1995). Attempts to problematize Mr. Big stings encountered some resistance from law and order and policing claims-makers, but these counterclaims were slow to arise and few in number. Preferring to preserve the integrity of the investigation strategy, those who approved of the sting's use kept details of the tactic as

undisclosed as possible. Indeed, mounting an aggressive campaign of counterclaims would have drawn more attention to an investigative tactic that depended on secrecy for its effectiveness. As time went on, claims in support of the tactic did increase, but they remained primarily reactive in nature and offered few details regarding what actually went on during a Mr. Big sting. Although lengthy and aggressive counterclaims *could* have further disadvantaged problem claims, the absence of effective counterclaims does not appear to have benefitted those seeking to construct Mr. Big stings as a social problem.

Notwithstanding the many similarities between the claims-making trends of failed social problems and that of Mr. Big stings, the failure of this condition to emerge as a social problem has been anything but average. As a condition that enjoyed extended media coverage, articulate claims-makers, and freedom from aggressive counterclaims, the failure of the Mr. Big problem merits a second look. Why were these would-be strengths ineffective in helping the condition to succeed in social problems arenas?

#### PROBLEM FAILURE AND THE ROLE OF COMPLEXITY

As an issue involving police procedures, legal precedents, and social science findings, the Mr. Big problem was unlikely to resonate with audience members relying upon “common knowledge” to make sense of claims. Many of the most moving arguments against the sting required prior knowledge of the legal system, applicable precedents, and research findings on confession evidence. Without this specialized knowledge, audiences required lengthy, complex explanations in order to make sense of the problem claims being presented. Without these explanations, claims were left vague and the condition difficult to typify. It is argued here that

the complexity of the Mr. Big issue was a deciding factor in the failure of this condition to become known as a social problem.

Despite the multifaceted nature of most social conditions, it has been well established that simplistic claims are often more compelling than complex claims (Sacco 1995; 2005; Loseke 2003; Best 2008). Members of the general public are commonly unwilling or unable to devote the time and energy required to fully understand complex and/or specialized claims (Hilgartner and Bosk 1988; Loseke 2003; Best 2008). Indeed, Loseke (2003) suggests that complex claims may only find appropriate audiences in “college classrooms, on PBS television, and in magazines with small audiences” (p. 61). Where the general public are the targeted audience, straightforward claims that are easily consumed are preferred (Hilgartner and Bosk 1988; Loseke 2003; Best 2008). Predictably, the salience of this principle increases in the media arena where time and space are at a premium and holding audience attention is central to the success of the business (Gans 1979; Sacco 1995; 2005; Best 2008). It is more profitable for news organizations to present simple and sensational stories than to produce long, dry articles explaining complicated conditions and their backgrounds (Gans 1979; Sacco 1995; 2005).

The repackaging of specialized news stories into simplified, reader-friendly articles, or what Best (2008) would call “secondary claims”, was once completed by journalists working specific “news beats” (Ericson et al. 1989). Beat reporters accumulated specialized knowledge through their experience on a given beat, leaving them well equipped to simplify and explain the complicated issues specific to their area of expertise (Ericson et al. 1989). As news agencies experienced financial instability, they began to replace beat reporters with generalists who were/are more versatile, but who lack this hard-won knowledge (Mawby 2010). If complicated

criminal justice issues must be simplified by journalists to fit news-making guidelines, and if those journalists are unfamiliar with the reasoning or vernacular norms of the courts (for example), complicated issues run the risk of misrepresentation (Sacco 2005). The oft used strategy of simplifying complex claims for more successful public consumption becomes problematic if this process is not undertaken with a full understanding of the concepts involved. Unskilled claim simplification and context removal risks the pruning of essential details in favour of less pertinent ones. Therefore, problem claims of a complex and/or specialized nature are at a disadvantage in a system that requires their simplification.

### *Mr. Big as a Failure of Simplicity*

Despite the literature's emphasis on simplicity, case studies of failed social problems have yet to address the significance of complexity. This study of claims-making and Mr. Big stings, as a failed social problem of considerable complexity and legal specialization, addresses this literature gap. Although some of the news articles examined did present well rounded explanations of what a Mr. Big sting might entail, the majority lacked the grounding claims required for audiences to typify or even recognize the condition. The inability of audience members to typify the condition was a primary factor in the failure of Mr. Big sting investigations to emerge as a social problem.

As a lengthy, undercover policing tactic, Mr. Big investigations involve a variety of different scenarios and procedures played out over various timelines. The secrecy of undercover policing has led the RCMP and other police services to withhold as much information on these stings as possible. Over time, however, the typical script has been pieced together through court

records and first hand reports. For those claiming the tactic is acceptable for use, details of the investigation style are of little importance; a general description coupled with the motive to “catch bad guys” often results in effective acceptability claims-making. In contrast, for problem claims-makers, the coercive elements of the investigations were only visible when exploring the details of the stings. Fear tactic examples, interrogation descriptions, and research showing the fallibility of confession evidence were needed for convincing claims on the risks of false confessions and wrongful convictions. The complexity of these subjects meant each could require long explanations to adequately describe the nature, importance, and effect they have on the reliability of sting evidence. For problem claims-makers, the *less* detail included in descriptions of the tactic, the *more* difficult it was to construct the condition as problematic.

For problem claims to resonate with audiences they required lengthy, complex explanations, inconsistent with the short, simplistic stories favoured by news workers. In this way, the failure of the Mr. Big problem was, in large part, due to the incompatibility of these claims with the norms of the media arena. When well informed journalists took the time to skillfully present the condition including as many pertinent grounding claims as possible, problem claims benefited. As both time and specialized knowledge are in short supply among modern news agencies, however, problem claims were rarely presented in this effective manner.

The lack of grounding claims continued to disadvantage problem claims-makers as emotional motivational frames became part of the discourse on Mr. Big stings. The effective construction of sympathetic victims and hated villains depends on the ability of claims-makers to present convincing emotional motivational frames (Loseke 2003). As non-traditional victims, sting targets did not readily evoke sympathy from members of the public, particularly if the

details of the coercion and distress they had experienced were removed from grounding claims. The friends and families of murdered innocents, however, were sympathetic victims no matter how few grounding claims had been presented, also offering added dramatic value to these news stories (Sacco 1995; Loseke 2003; Gruenewald et al. 2013). This preference for effective and dramatic predictable emotional frames further disadvantaged claims-makers attempting to problematize this complicated and unconventional condition.

With claims-making on Mr. Big stings impaired by the condition's own complexity, the ineffectiveness of seemingly advantageous circumstances, such as increased media coverage, credible claims-makers, and reserved counterclaims, is more easily explained. For problem claims-makers, the simplification of this condition was an impediment to both fully grounding the issue and constructing convincing emotional frames for its unconventional victims. Claims in favour of Mr. Big stings, however, continued to thrive on vague grounding claims and resilient emotional framing, leaving the impact of the condition's complexity primarily detrimental to problem claims. After they had been simplified for popular consumption, problem claims were left compromised and unable to take advantage of their increased media exposure and/or the credibility of their claims-makers. In contrast, simplification provided pro-sting claimants an advantage so effective that they were not required to put forth aggressive or frequent counterclaims to propagate their own constructions. Counterclaimants benefited from the simplification of the condition to the extent that their relative silence did not impair their pro-sting position. In these ways the complex and specialized nature of the Mr. Big condition is able to explain the unexpected findings of this study; extended media coverage, credible claims-makers, and reserved counterclaims, while unusually favourable, were rendered ineffective once problem claims had been robbed of their detail and context. The complexity of the Mr. Big

condition left problem claims incompatible with the media arena, leading to the failure of this would-be social problem.

Although the findings of this study do reflect many of the same claims-making trends found in other case studies of failed social problems, they also contribute new findings to this literature. While it is widely appreciated that simplistic conditions and claims-making are better suited for public arenas, case study research has yet to offer an example of a problem failure that was largely due to the complexity of the condition itself. The Mr. Big problem fills this gap and lends support to Loseke's (2003) contention that complex issues are better suited for specialized audiences.

### *Implications*

The social problems and agenda setting literatures have continually placed emphasis on access to the media arena as an essential step in the formation of successful social problems (Hilgartner and Bosk 1988; Best 1989; 2001; 2008; Mead 1994; Dearing and Rogers 1996; Loseke 2003; McCombs 2014). While the findings in this study do not refute this emphasis, they do suggest that it ought to be qualified. Unless media access is extreme, it is only as useful as problem claims are strong; should weak claims access the media arena, as was the case for Mr. Big stings, those claims are likely to remain ineffectual. This is not to say that media coverage is ineffective at proliferating claims but, rather, that this effectiveness is largely dependent on the strength of the claims receiving media attention. The social problems literature, including natural history conceptual models, should be revised to reflect this finding. Media access is not always the magic bullet that problem claims are searching for; should claims-makers wish for success in

public arenas, their attention should first and foremost rest on the effective construction of accessible and impactful claims that can tolerate media simplification.

The more troubling implication of this research involves whether or not complex social problems are fit for the media arena at all. As a function of the agenda setting power of the media, the press is expected to fulfill the role of “watchdog”, publicizing political and institutional misdeeds to ensure accountability among systems that might otherwise function outside of public scrutiny (Mawby 2010; Crump 2011). As many issues of socio-political significance are highly complex, specialized, and difficult to simplify, can the media arena and its preference for simplistic stories and arguments be trusted to continue to fulfill this duty to the public? Can the accountability of closed institutions be maintained through reports that are more concerned with newsworthiness than the accuracy of content? The experience of the Mr. Big problem would suggest not. As a complex issue, the Mr. Big problem was most often presented without the grounding information required for audiences to make informed assessments of this police behaviour, thereby limiting the public’s ability to hold the RCMP and other police institutions accountable for the use of the tactic, the courts for their patchwork and largely inadequate policy making, and the legislature for its apathy. By preferring articles high in newsworthiness to articles high in informative content news organizations place their preference for profit above their democratic imperative to ensure institutional accountability. While this has likely always been the case, the decline of journalist specialization has impaired the production of news stories that are both newsworthy *and* informative, further reducing the capacity for news organizations to adequately ensure the public accountability of closed institutions.

## LIMITATIONS AND SUGGESTIONS FOR FUTURE RESEARCH

Ideally, future research on claims-making and Mr. Big investigations will be able to address some of the shortcomings of this study. With limited access to historical publications, and by using online newspaper databases, this study made use of written words exclusively. This prevented an appreciation of the context offered by how the articles were physically presented on the page or in relation to surrounding content. Similarly, an analysis of the photographs and other visual images presented alongside narrated problem claims provides an additional layer of meaning to news articles which this study did not address. The social problems literature appreciates the importance of both organizational structure and visual images to the overall meaning presented by news articles (Sacco 1995; McCombs 2014; Best 2008), and future research in this area would do well to explore these additional elements of the social construction process.

By strictly analysing print media, this study limited its scope to that of a manageable project; however, print media represents only a small portion of the news media available for public consumption. Television and radio broadcasts may have presented different constructions of the Mr. Big problem than print media could support. Further, the news media itself only represents a small portion of the totality of public discourse, leaving social media posting and weblog posts, among other non-news forms of discourse, out of the analysis. For a more accurate depiction of the true nature of Mr. Big claims-making, information should be gathered from these various areas of public discourse as well.

This research is also limited by not comparing or contrasting the region of each publication with the types of claims being made. *Where* news stories had been published could

have affected the context of journalists' writing and how audiences ultimately consumed these stories. Areas closer to the crimes and ensuing investigations may have seen a difference in the severity or frequency of claims-making for or against Mr. Big stings, in comparison to publications that were less local to these tragedies. The political leanings of different provinces and regions could have also affected the results, as more conservative areas are more likely to support law-and-order or tough-on-crime initiatives. The political climate of the region of publication may have affected how journalists reported on these investigations.

In terms of the social problems literature more broadly, additional case study research is needed on failed social problems and the effects of complexity on claims-making. The literature continues to lack case-studies of failed social problems, despite the ability of failed problems to give researchers a deeper understanding of what makes some claims successful and others not. Hilgartner and Bosk (1988) argue that the number of failed social problems is far higher than that of successful problems, and yet the case study literature does not reflect this ratio. Case studies should also address complex social problems, unearthing how complicated and specialized problem conditions manage to succeed despite being ill-suited to the media arena, and further documenting cases where complexity has led to problem failure.

Where the media has failed, the courts have offered some hope. Unlike the media arena, cases with specific features occurring at an opportune time find success in the court arena, and after years of patchwork policy making, *Hart* (2014) was this case for the Mr. Big problem. In *Hart* (2014) the Supreme Court addressed many of the most compelling arguments against the Mr. Big tactic by implementing a new two pronged test to determine the admissibility of this type of evidence. Although many viewed this ruling as a success for those opposing Mr. Big

stings, for some these changes were not enough. Anti-Mr. Big sting claims-making has continued in public discourse post-*Hart*, some of which is included in this study's sample. This study does not compare or contrast pre-*Hart* and post-*Hart* claims-making, instead assessing Mr. Big's presence in public discourse as a whole. It is reasonable to assume, however, that the changes applied by the Court would have impacted the content and frequency of Mr. Big problem claims-making. Although the current study only analyses a short period of post-*Hart* news coverage, many of these reports continued to exhibit the same weaknesses in claims-making that occurred pre-*Hart*, leaving attempts at further problematization unlikely to find success. By focussing on the effects of *Hart* more directly, future research could assess how this significant change in context has impacted claims-making on Mr. Big stings.

The failure of the Mr. Big problem presents constructionists with an interesting area of study that should not be wasted. This research has only begun to scratch the surface of what the Mr. Big problem, the study of failed social problems, and the function of complexity in claims-making has to offer constructionist literature. The possibilities for future research in these areas are both extensive and exciting.

## CONCLUSION

As an issue responsible for passionate intellectual debate, the absence of Mr. Big investigations from the public agenda is surprising. As anticipated, constructionist theory has been able to offer some insight into the lack of public interest regarding this condition. This inquiry into the construction of Mr. Big stings by way of the print media has revealed substantial weaknesses in the claims and claims-making associated with the condition. While sharing some

traits in common with other cases of failed social problems, this condition also exhibited seemingly advantageous circumstances that most failed problems lack. The ineffectiveness of these would-be strengths has been attributed to the complexity of the condition, leading this research to question whether the media arena's preference for simplistic claims represents a barrier for complex problem conditions. These reflections question the capacity of the media arena to fulfill its democratic duty as a public watchdog. In the case of Mr. Big investigations, the media surely failed in this capacity.

The experience of the Mr. Big problem in claims-making arenas provides a lesson in the importance of media awareness. When struggling media organizations are forced to chase profit over quality, easily produced, highly newsworthy stories are more likely to occupy limited newsholes than complicated yet informative articles. In this sensationalist media climate the onus is on audience members to critically assess the information presented to them, searching for additional information in order to form accurate typifications and informed opinions. Unfortunately, complex, unconventional social problems will likely remain disadvantaged in traditional media arenas, forcing problem claims-makers to approach their activities more creatively to prevent their constructions from failing.

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## CASE LAW

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## APPENDIX

### PROTOCOL 1

1. Case Number
2. Medium and Region
3. Date
4. Author
5. Length and Section
6. Type of Publication
  - a. Report
  - b. Editorial
  - c. Op-Ed
  - d. Letter to Editor
  - e. Other
7. Title of Article
8. Main Focus
  - a. Case Alone – no explanation of tactic
  - b. Tactic in General – many cases as examples
  - c. Specific Case and Tactic
  - d. Other
9. Orientation to tactic
  - a. Denunciation
  - b. Celebration
  - c. Balanced
  - d. Neutral
  - e. Other
10. Main Message/ Central Theme – what is being said?
11. Rhetorical Strategies – How are they getting this message across/ what makes it effective?
12. Quotes
13. Memo Writing

## PROTOCOL 2

1. Case Number
2. Medium and Region
3. Date
4. Author
5. Length and Section
6. Type of Publication
  - a. Report
  - b. Editorial
  - c. Op-Ed
  - d. Letter to the Editor
  - e. Other
7. Title of Article
8. Main Focus
  - a. Case Alone – no explanation of tactic
  - b. Tactic in General – multiple cases as examples
  - c. Specific Case and Tactic Explanation (or discussion)
  - d. Other
9. Orientation to Tactic
  - a. Denunciation
  - b. Celebration
  - c. Balanced
  - d. Neutral
  - e. Other
10. Main Message/ Central Theme – what is being said?
11. i) Rhetorical Strategies – how are they getting this message across/ what makes it effective?
  - ii) Notes specifically regarding grounds and diagnostic frames (especially naming and label application)
12. Quotes
13. Memo Writing

## PROTOCOL 3

1. Case Number
2. Medium and Region
3. Date
4. Author
5. Length and Section
6. Type of Publication
  - a. Report
  - b. Editorial
  - c. Op-Ed
  - d. Letter to Editor
  - e. Other
7. Title of Article
8. Main Focus
  - a. Case Only
  - b. Tactic in General
  - c. Case and Tactic
  - d. Other
9. Orientation to Tactic
  - a. Denunciation
  - b. Celebration
  - c. Balanced
  - d. Neutral
  - e. Other

### 9.5 Strength and Visibility of Claims

- 1 – barely noticeable – seen in language or logic
- 2 – somewhat noticeable – few claims or strong language
- 3 – clear position – claims noticeable / good argument
- 4 – strong position – well supported claims / compelling argument
- 5 – aggressive position – emotional language / seems aggressive

10. Central Theme/ Main Message
11. i) noticeable/ notable rhetorical strategies  
ii) notes specifically regarding grounds and diagnostic frames
12. Quotes
13. Memo Writing