

The Victim Impact Statement:

Chanel Miller's Influence On an Evolving Genre

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TRIGGER WARNING: This essay contains a frank discussion of an individual's experience with sexual assault as well as harsh language. This content may be traumatizing to some audiences. Read at your own discretion and reach out to your instructor if you need an alternate reading assignment. Please know that [Abby's House](#) is a free resource for WOU students that provides support for sexual assault.

Introduction

The victim impact statement (VIS) is a statement written and (in most cases) read by the victim in court during a sentencing that outlines their experiences and how they were personally impacted by the defendant's crime. According to The United States Department of Justice, VISs "describe the emotional, physical, and financial impact you and others have suffered as a direct result of the crime" and they can "be either written or oral statements" ("Victim Impact Statements"). In the 1970s, prominent crime victims' rights movements in the U.S. led to the formation of the VIS which has stayed firmly in place since then (Miller 1446). However, over the years these statements have been under scrutiny by legal scholars who argue that VISs are inappropriate in the courtroom as they rely on emotions rather than logic ("Degrees of Emotion" 2). A vast majority of the sources I examined did not argue that the VIS shouldn't exist but rather considered whether or not they were effective in changing or impacting the sentencing of a defendant. The overall consensus is that while they can—and do—lead to changes in the defendant's sentence, this is often not the case. The VIS serves a variety of different purposes specific to the victim by giving them a chance to share their voice.

Various scholars have examined the rhetorical effectiveness of VISs and how they function as a genre. Amy D. Proppen and Mary Lay Schuster—both professors in the field of writing studies—wrote two detailed research articles that discuss in depth the power of language and genre conventions in VISs. In "Degrees of Emotion: Judicial Responses to Victim Impact Statements," Proppen and Schuster specifically focus on the use of effectively persuasive language and the role of emotionology, which is "the emotional

standards within a culture” in VISs (6). They essentially set out to determine what judges think makes a persuasive VIS and if the nature of the case impacts this perception at all. After interviewing 22 judges and attending 17 sentencing hearings, Propen and Schuster concluded that in terms of emotionology, judges “seem to respond, even though they might not agree, to expressions of compassion, accept grief as inevitable, and are resistant to anger” (29). Judges experience a need to maintain their composure and control over the courtroom and therefore outbursts of anger or hysterical crying are viewed as disturbances to this environment. Because of this judges are more susceptible to statements of victims who are compassionate without being overly emotional to the point of it being distracting.

In “Understanding Genre through the Lens of Advocacy: The Rhetorical Work of the Victim Impact Statement,” Propen and Schuster explore the VIS more in depth as a genre and “how the use of such a new genre becomes a tool for advocacy” (5). In order to do so, they spoke with advocates and judges about the essential factors that make an effective VIS and also identified common features of VISs. They described this genre as “an account that helps give the victim a voice in the court proceedings” with the “possibility for change, growth, and even rupture” (“Understanding Genre” 9). Through identifying categories present within each VIS they looked at, they determined that “the genre must contain a delicate balance of features or qualities such that its reading is considered acceptable to the court” (“Understanding Genre” 11). They specifically emphasized the appropriate usage of emotions in order to persuade the judges.

While Proppen and Schuster focus more on highlighting the positive aspects of VISs rather than their limitations, Karen-Lee Miller argues in “Purposing and Repurposing Harms: The Victim Impact Statement and Sexual Assault” that VISs are not the most effective in application because “harm peddling” and “strategic disclosure” were often utilized in the VISs she studied, making them less credible (1455-1456). As for the language used in VISs, Miller states, “Prosecutors and victim service workers noted that victims’ harms claims were often written in colloquial or informal language. Victims’ unsophisticated descriptions of harms often actively hindered their usefulness to prosecutors” (1449). She comes to the conclusion the VIS is not as effective of a genre as it could be when it comes to sexual assault cases because the victim may use the VIS as a tool to manipulate their own experiences to get what they want.

While this conversation has already been contributed to by a variety of sources and scholars, I have yet to find an analysis of the genre conventions specific to Chanel Miller’s VIS. In 2015, Chanel Miller was sexually assaulted by Brock Turner while unconscious at a Stanford party. In 2016 when she read her VIS in court, she was devastated to find out that after a year and a half of fighting for justice, Turner was only given a three-month-long sentence by Judge Aaron Persky (Messick and Weingart). She felt defeated. However, her statement was later posted on *BuzzFeed* and it went viral, touching the lives of millions. Her words had such an immense impact that they resulted in systemic changes. Her statement led California to impose “mandatory minimum sentences for sexual assault crimes” (Ko). In addition, Miller’s VIS has done what no other has: led to the recall of a judge from California’s bench for the first time in 80 years

(Messick and Weingart). She used the genre of the VIS to her full advantage and was able to create major changes within her state and inspire those around the world.

There are essays that explore this statement through the lens of rhetorical analysis, but I have not been able to find any that specifically highlight the genre conventions Miller utilizes in her statement or any comparisons between her statement and other VISs. There are countless articles, videos, and social media posts that praise Miller's statement and her bravery, honesty, and determination. Countless survivors have found solace in her words. While others before me have identified general genre conventions for the VIS, I wanted to contribute to the broader conversation by exploring genre conventions in more detail and as they specifically relate to Miller's statement. As Proppen and Schuster state, "while VISs must conform to certain policies and guidelines, each statement, we believe, also arises from the different hopes, needs, and contexts of the victim" ("Understanding Genre" 9-10). Therefore I believe that by looking at and analyzing the genre conventions of an individual VIS, we can discover something new and establish unseen territory within the genre.

Here are the questions I seek to answer with my research. How does Miller's statement differ from other VISs? What is the overlap between the genre conventions she uses and the conventions that other VISs in sexual assault cases use? How are the genre conventions Miller employs different or similar to the expectations of judges in the court system? Genres are always evolving and I truly believe that Miller is one of the pioneers of change when it comes to VISs. In this paper I will investigate what makes

Miller's statement stand out above others in order to identify how she used—or didn't use—the conventions of this genre to create systemic change.

The results I found were that while Miller did follow most of the genre conventions that other VISs did, her blunt and sarcastic tone and how she directly criticized and countered the defendant's claims made her statement stand out. Through speaking her truth regardless of the expectations of the judge she was able to express how deeply impacted she was by the assault in a way that her audience and specifically other victims could connect to. I also came to the conclusion that it is difficult to prove what makes a VIS effective as this genre can serve multiple purposes and may actually be more useful to the victim's healing or to an audience outside of the intended courtroom setting. This genre will continue to evolve and change for the better as victims such as Miller defy the typical expectations of the VIS while still maintaining their integrity.

Methodology

In order to determine the key differences between Miller's statement and others, I conducted a rhetorical moves analysis with her statement and five other VISs specifically related to sexual assault and rape crimes. Proppen and Schuster used coding based on their observations of a sample of VISs that were collected over a three month period of time in order to determine the categories and subcategories that most commonly occurred in VISs. While those results may very well be far more accurate, I still chose to

create my own list of genre conventions based on the six samples I looked at. I wanted specifically to identify genre conventions that applied to Miller's statement.

To determine which VIS samples to explore further, I went online and looked up VISs that were written/spoken by women who had experienced sexual violence. Within my sample set, five VISs are written by the victim of the crime themselves and one is written by the victim's sister. Some of the samples I chose were anonymous while for others I was able to find some personal information about the victim related to age, race, how long ago the crime took place, etc. I tried to select diverse samples from what was available; however, I acknowledge that there are some limitations to my ability to gain a truly diverse range of VISs. VISs are a deeply personal form of writing and a limited selection of people are willing to reveal this sensitive document depicting their pain and experiences to the public.

In "Make Your 'Move': Writing in Genres," Jacobson et al. describe the process of rhetorical moves analysis as "identifying moves in multiple samples of a genre, looking for patterns across these texts, and thinking critically about the role these moves play in helping the genre function" (220). To accomplish this, I thoroughly looked through all six VISs and identified a total of 45 different moves—each of which pertained to at least one of the six statements. From there I categorized the moves as "obligatory, common, optional, or rare" (Jacobson 223). More specifically, I determined the exact number of VISs that would need to contain the rhetorical move in order for it to fall under one of the categories. If 1-2 of the sample VISs contained the rhetorical move then I labeled the move as being rare. If 3 of the samples had the rhetorical move then I labeled the move

as optional. If 4 samples contained the rhetorical move then it was common and if 5 did then it was very common (though the “very common” category wasn’t in Jacobson’s original method, I felt that adding another category was necessary). Lastly, if all 6 samples contained the move then I determined that it was an obligatory rhetorical move when it came to the genre.

Findings

Of the rhetorical moves I identified, I found that 6 were obligatory, 8 were very common, 11 were common, 13 were optional, and 7 were rare. The only moves that all six of the VISs shared in common were the identification/description of social impacts (including relationships with family, a significant other, friends, and impact on work life/social life, etc.), the identification/description of emotional and mental health impacts, calls for empathy and understanding, the inclusion of anecdotes and personal stories, the expression of feeling helplessness/regret/shame/self-blame and lastly, mentions of the permanent impacts the assault has had on their lives.

Of all the 7 rare moves I encountered, 3 of them were present only in Miller's statement and in none of the others. These were using a sarcastic/ridiculing tone, referencing the defendant’s claims/statement, and providing counterclaims for the defendant’s arguments. The reason for why these were unique to Miller’s statement may be attributed to limitations in the courtroom and the expectations judges have towards how victims speak in court. In other words, some of the rhetorical moves Miller used went

against the conventions judges tend to expect from this genre. For example, Miller dedicated a large amount of her statement to directly addressing the defendant, Turner. As Proppen and Schuster found from speaking to judges, “if the victim speaks directly to the defendant in a VIS, the judge will admonish her to direct her comments to the bench” (“Understanding Genre” 7). Directing any part of the VIS towards the defendant is discouraged in the courtroom setting yet multiple sections of Miller’s statement do just this. She continuously brings up claims that Turner has previously made and then refutes them. One example of this is as follows, “You said, I want to show people that one night of drinking can ruin a life. A life, one life, yours, you forgot about mine. Let me rephrase for you, I want to show people that one night of drinking can ruin two lives. You and me. You are the cause, I am the effect. You have dragged me through this hell with you, dipped me back into that night again and again” (C. Miller). She passionately addresses each false claim made by Turner and provides her own experience as a counterargument.

Interestingly enough, Miller’s statement is not the only one that breaks the expected genre convention of not addressing the defendant directly in court. In two of the other VISs I analyzed, the victims directly referred to the defendants as well. In the fifth VIS sample I looked at, Mattie Larson—who was one of the victims of USA Gymnastics national team doctor Larry Nassar—addresses her assaulter saying: “I simply cannot even get myself to consider you as a real doctor. Your priority should have been my health, yet your priority was solely to molest me.” In the second sample I looked at which was posted anonymously, the victim—who was raped by a stranger—also speaks to the

perpetrator, but in a way that may be viewed as more “compassionate” than the others: “I wish safety, health, and continued support from your loved ones while in incarceration.”

According to Proppen and Schuster, the “wise and cooperative” victim in the judge’s eyes shows compassion for her perpetrator (“Degrees of Emotion” 20). Judges are generally more receptive to victims when they suggest that the perpetrator get treatment rather than be locked up for years on end. Miller never shows any signs of forgiveness towards Turner for what he did to her, but she does at times extend compassion towards him: “Your life is not over, you have decades of years ahead to rewrite your story.” Feeling forgiveness or guilt towards the perpetrator was—unsurprisingly—a rare rhetorical move. In two of the samples I looked at, the victims expressed sympathy for their rapists despite what they did to them. In sample 2, the victim expresses her sorrow for “putting a man behind bars and causing his loved ones to suffer immensely” and Samantha Giacobozzi—who was raped by a student named Jimmy on her first day of graduate school—expresses her desire “to shift our justice system away from seeing Jimmy as just a perpetrator and offender and toward seeing him as a human who also deserves compassion and an opportunity to change.” These kind hearted responses align with the preferences of the judges when it comes to the VIS.

Another genre convention that Miller doesn’t follow in the way one might expect is the overall tone of her statement. Some of the statements I looked at incorporated more expressions of anger than others. In the fourth sample, Mattie Larson exclaims “I can't even put into words how much I fucking hate you” whereas some used less harsh language—but Miller’s was the only one that included sarcasm and condescension when

speaking to the defendant. She is very blunt which accentuates her points further while also potentially going against the tone judges expect of a victim in the courtroom. For example, Miller calls out Turner and does not hold back saying, “On top of all this, he claimed that I orgasmed after one minute of digital penetration. The nurse said there had been abrasions, lacerations, and dirt in my genitalia. Was that before or after I came?” Her language use is very different from any of the other samples I looked at which may be partially due to the fact that VISs are generally viewed by the court as a way for victims to describe how they were impacted and less about calling out the perpetrator.

While there are definitely some key differences when it comes to Miller’s statement as compared to others, most of her language choices align with the expected genre conventions of the VIS such as describing how the crime has impacted the victim emotionally, mentally, physically, and socially: “I tried to push it out of my mind, but it was so heavy I didn’t talk, I didn’t eat, I didn’t sleep, I didn’t interact with anyone, and I became isolated from the ones I loved most.” Her statement was by far the longest of any that I looked at though I cannot say for sure if this contributes to its overall effectiveness or not. Of all the moves I identified, Miller’s statement included all but three of them (which were using curse words, describing being manipulated into staying quiet or experiencing a lack of support, and expressing forgiveness/guilt for the perpetrator). This demonstrates how she relied on a lot of the same genre conventions as other samples to get her message across but her overall tone and diction differed greatly.

One such move that she used consistently throughout her statement was including specific personal details and anecdotes that create a clear image in the audience’s mind.

Judges tend to view this approach as being effective because haunting descriptions and specific details can be “hard pressed to disregard” according to Proppen and Schuster and, therefore, I found that this was an obligatory move within all six samples (“Understanding Genre” 21). However the extent of how detailed victims were in their statements varied. In Miller’s statement instead of briefly mentioning how pine needles got stuck in her hair when she was assaulted on the ground, she describes her experience at the hospital with the nurses in a more personal way: “The three of us worked to comb the pine needles out of my hair, six hands to fill one paper bag. To calm me down, they said it’s just the flora and fauna, flora and fauna” (C. Miller). Other little details are scattered throughout her statement that show the immense effects this assault has had on her life: “I refrigerated spoons every night so when I woke up, and my eyes were puffy from crying, I would hold the spoons to my eyes to lessen the swelling so that I could see” (C. Miller). Other victims kept the personal details to a minimum such as in the sixth sample. Samantha Giacobozzi is clearly hesitant to provide specific emotional details and describes her discomfort in her statement: “I went back and forth about coming here today because I didn’t know if I wanted to say these things aloud. To expose myself in this way.” This brings up an interesting point to consider: that perhaps the “effectiveness” of the VIS heavily relies on the victim’s own level of comfort with sharing their deeply traumatic and personal story. It is easy to say that sharing specific details is better for the sake of the case, but that does not necessarily mean it is better for the victim themselves.

Discussion

As my research shows, there are definitely some distinctions between the genre conventions Miller utilized and those that other victims used when writing their VISs. However, I do not believe that this is significant. On all but a few of the rhetorical moves I identified, there were other VISs that shared commonalities with Miller's. The major difference between Miller's statement and others' is that she is completely unafraid to call out and address the majority of her statement towards her rapist. She deliberately picks apart Turner's argument piece by piece until it becomes meaningless. She also draws a lot of attention towards the greater societal injustices that have allowed for college rape culture to become normalized and how the court system has failed her and many other victims. Her extensive firsthand experience with the court system and the injustices she faced during this time influence the subject matter of her statement. Rather than a VIS that simply tells the audience how this event has dramatically changed her life, she *shows* the audience and describes bluntly and without hesitation how awful it has been. In choosing not to follow all of the traditional and expected genre conventions of the VIS, she has created a statement that has had far more impact. It is quite possible that the acclaim that her statement has received may lead to the emergence of new genre conventions.

While in the past directly speaking to the defendant through the VIS has been discouraged, as the genre continues to change, this may soon cease to be an expectation in the courtroom. In half of the samples I analyzed, the victim addressed the defendant directly which was once deemed improper. The amount of personal and

descriptive details Miller used and the way she was able to maintain her composure throughout the reading of her statement are all things that judges look for when identifying a memorable or persuasive VIS. While I think Miller definitely made some choices with her VIS that went against the general expectations of judges, she also used a variety of genre conventions that bolstered the effectiveness of her statement in court. Her honesty and vulnerability are also part of what makes her statement stand out.

The difficulty with determining the “effectiveness” of a VIS is that emotions cannot be quantified. Despite this, women who are sexually assaulted are expected to behave certain ways when in the courtroom. Judges expect them to be emotional without being *too* emotional, to be compassionate but not so compassionate that they are seen as delusional. As Proppen and Schuster made clear with the results from their study, “judicial emotionology reflects cultural emotionology in labeling some emotions as good and some as bad, some as reasonable and some as excessive, and some as cooperative with the goals of retribution and some too closely tied to personal vengeance” (“Degrees of Emotion” 30). There are many limitations when it comes to the VIS in the courtroom despite the fact that it was created specifically to be suitable for this setting. Additionally, considering this genre only as a means of changing a court’s sentencing limits the potential of this genre to create real change or even just to provide the victim with relief or a safe space to speak out.

Outside the courtroom, the VIS can serve a different purpose. While Miller’s statement didn’t align with every expectation that judges typically have when it comes to the VIS, it was written in a way that allowed victims to see themselves in her experiences.

It carried an important message: “to girls everywhere, I am with you. On nights when you feel alone, I am with you. When people doubt you or dismiss you, I am with you. I fought everyday for you. So never stop fighting, I believe you” (C. Miller). She spoke to audiences outside of the courtroom and addressed systemic issues through the lens of her own personal experience. She showed compassion not to the perpetrator, not to the judge, and not to the broken criminal justice system, but to the people who had gone through what she had. She sought to inspire, to empathize, to share the raw horrendous reality of assault with her audience. She sought to bring about change. And she succeeded.

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Appendix

Victim Impact Statement Rhetorical Moves Analysis

Move	S. 1 Chanel Miller	S. 2 Anonymous(User: KarlRoo)	S. 3 Anonymous (User: Emmalee)	S. 4 Amy McKnight	S. 5 Mattie Larson	S. 6 Samantha Giacobozzi	Obligatory, common, optional, or rare?
[1] Written by victim	X	X		X	X	X	Very common

[2] Identifies/describes financial Impacts	X	X	X				Optional
[3] Identifies/describes social Impacts (relationships with family, significant other, friends, and impact on work life/social life, etc.)	X	X	X	X	X	X	Obligatory
[4] Identifies/describes emotional/mental Impacts	X	X	X	X	X	X	Obligatory
[5] Identifies/describes physical Impacts	X	X	X		X		Common
[6] Identifies/describes impacts of the legal system/having to go through lengthy trials, court system, etc.	X			X		X	Optional

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[7] Includes descriptions of assault	X	X		X	X		Common
[8] Addresses defendant directly	X	X			X		Optional
[9] Expresses anger	X		X	X	X		Common
[10] Expresses forgiveness/guilt for perpetrator despite what they did		X				X	Rare
[11] Thanks supporters/loved ones/all those who helped them along the way	X	X			X		Optional
[12] Starts with "Your Honor" and ends with "Thank you."	X	X		X	X		Common
[13] Mentions lack of feeling safe	X	X		X	X	X	Very Common
[14] Requests different/more or less extreme sentence/punishment	X	X	X		X	X	Very Common
[15] Calls for justice/societal reform - points out the injustices within the system	X				X	X	Optional
[16] Describes the burden of pursuing the case	X			X		X	Optional
[17] Expresses desire to move on with their lives - to finally be able to get closure and move on from what happened to them	X	X	X	X			Common

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[18] Mentions travel expenses/difficulties due to trials	X		X					Rare
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17

[19] Ends on an optimistic note	X	X		X	X	X		Very common
[20] Use of curse words					X			Rare
[21] Draws attention to systemic issues - how various environments perpetuate this behavior (college, gymnastics, etc.), how it impacts women, and more	X			X	X	X		Common
[22] Includes personal details about their life/personality before the assault	X	X	X	X	X			Very Common
[23] Description of direct aftermath of assault/action they took immediately	X	X		X		X		Common
[24] Expresses fear/discomfort within their own body	X			X				Rare
[25] Calls for empathy/understanding - tries to show audience/defendant what it was like to experience this	X	X	X	X	X	X		Obligatory
[26] Includes anecdotes/personal stories	X	X	X	X	X	X		Obligatory
[27] Expresses denial/confusion	X				X	X		Optional

Unboundl Spring 2023

[28] Uses sarcastic/ridiculing tone	X							Rare
[29] References defendant's claims/statement	X							Rare
[30] Use of metaphor/simile	X		X		X			Optional
[31] Expresses disappointment in a system that is meant to help victims	X		X	X	X	X		Very common
[32] Expresses feelings of helplessness/regret/shame/self-blame	X	X	X	X	X	X		Obligatory
[33] Inclusions of facts/statistics/numbers/logos	X				X	X		Optional
[34] Provides counterclaims for defendant's arguments	X							Rare
[35] Clearly distinguishes the differences between a victim's suffering and the perpetrator's consequences of their own actions	X	X	X			X		Common
[36] References having to	X	X		X				Optional

re-discover themselves and their identity after what happened to them								
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[37] Affirmative statements about themselves	X	X		X	X		Common
[38] Mentions the perpetrator's future	X	X				X	Optional
[39] Makes authoritative claims/expresses personal beliefs	X	X		X	X	X	Very common
[40] Mentions of permanent impact on life	X	X	X	X	X	X	Obligatory
[41] Addresses other victims and encourages them	X			X		X	Optional
[42] Expresses need for perpetrator to take accountability for their actions	X	X	X		X		Common
[43] Desire to speak out	X			X	X	X	Common
[44] Describes being manipulated into staying quiet/utter lack of support experienced				X	X	X	Optional
[45] Asks rhetorical questions	X	X	X	X	X		Very common

