Negotiating Ethics of Participatory Investigation in True Crime Podcasts

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According to Edison Research, 73 million people in the US regularly listen to podcasts, with true crime stories proving to be one of the most popular subjects for podcasters to address. These true-to-life stories echo during our morning commute, while we work out at the gym, and during millions of other moments throughout our day, pouring out stories of suspects and victims through our earbuds and our car speakers. Yet, despite (or because of) their prevalence in our culture, investigating true crime podcasts as teachers and researchers invites intersecting concerns of ethics regarding this medium. Our panel presentation turns up the volume on the complex activity system of true crime podcasts as both genre and medium, considering ethics, narratology, and pedagogy through a case study of *Up and Vanished* (UAV). This podcast series provides the kairotic impetus for participatory culture where listeners are propelled, along with host Payne Lindsey, into investigating an unsolved cold case. This unique genre provides an opportunity for both narratological analysis and multimodal composing in the college classroom. Yet, in studying true crime podcasts, we must consider ethics adjacent to activism and visibility, as well as the potential for this digital genre as remix.

Content Warning: Though we will not describe crimes discussed in explicit ways, the following essay speaks generally about particular cases of violence against women.

Introduction

Much has been written about the potential and consequences of podcasting as a platform for the classroom. But little scholarship addresses the genre of true crime podcasting. The pieces that do cover the genre focus on the classroom success of using *Serial*, specifically in composition or high school writing classes (Godsey, 2016; Peterson, 2017). Working from Charles Bazerman, Carolyn Miller and Kerry Dirk's call(s) that our understanding of genre should move beyond specific features and criteria and instead exam-

ine the actions created by and expected from the genre, we acknowledge that true crime is a genre that frequently explores a wide range of crimes, many of them violent. As such, we raise questions about what it means to follow crime stories, to be a fan of true crime podcasts and how to ethically navigate these topics in our classrooms. We also acknowledge the diverse range of people affected by crime and violence. We want to be thoughtful about victims and advocacy and our purpose here, in this work, is to draw attention to the rhetoricity of this genre through the lens of ethics, ethos, and pedagogical theories. In the following pages, questions concerning ethicality, authorship, power dynamics permeate our case study of *Up and Vanished* as we examine the implications of working with, and in, this genre. We begin by establishing that the true crime podcast genre has an impact on people's lived experiences and, moreover, that navigating this genre ethically is complex and nuanced. Building upon this section, we localize within the genre, focusing on Payne Lindsey, the host of *Up and Vanished*, paying specific attention to his role as both a host and an amateur investigator throughout the podcast. Our final section approaches the pedagogical implications of teaching a podcast such as *Up and Vanished* by engaging with potential ethical quandaries that might arise and by considering how theories concerning multimodal composition and remix might afford instructors the opportunity to approach questions concerning author ethos and participatory investigation.

Ethics and Participatory Investigation

Episode 1: "Okay. I had a pretty rough start. I was literally getting every type of nonworking number message in existence. And when I finally reached some people, it went like this:

> My name is Payne Lindsey. I wanted to talk to you about the Tara Grinstead case.
>
> The Tara Grinstead case.
>
> A podcast-
>
> A documentary series-
>
> If you don't mind-
>
> Sorry to bother you-
>
> A few questions about Tara Grinstead-
>
> I was hoping to talk to you about Tara Grinstead?

Nothing. Not a single person would talk to me. It was beginning to seem impossible. Everyone surrounding this case had their guard up. This small town in South Georgia had become this impenetrable community that just refused to rehash the whole wounds, or just plain too scared to talk. But I was determined that somewhere in this network of people was the answer, the key to what happened to Tara. But 10 years is a long time. 10 years of reporters and TV networks just exhausting these people for new clues and tips, or just trying to get a juicy quote out of one of the locals. And here comes me, this millennial podcaster trying to solve the mystery. I'd probably tell myself to piss off too."

This transcript gives a sampling of some of the responses that Payne Lindsey had as he began investigating the case. It establishes that the podcast has lived impacts, and that throughout, he's interacting with real people, who have complex histories and opinions about the case. We're able to see him here negotiating the ethics of the community that he's beginning to investigate and thinking about how his work fits in.

True crime podcasts are distinct from any other type of media due to both the delivery and content of each episode. The experience of listening to a podcast is deeply embodied, either broadcasted loudly, filling a room, or personal, with headphones that enter into our ears. The voice of the podcaster easily becomes relational, sometimes seeming like they're speaking to each listener individually. The subject matter of true crime is similarly complex. As much as we can distance ourselves as listeners of the podcast, we're hearing the stories of people whose lives have been destroyed and irrevocably ripped apart. In *Up and Vanished*, in particular, the series focuses upon unsolved crimes, interacting directly with loved ones who never had an opportunity for closure, who likely still live in fear. Due to these considerations of generic blending, consideration of ethics remains tricky. As teachers and scholars of digital rhetoric, what is our responsibility for engaging with and researching true crime podcasts such as *Up and Vanished?*

In order to first understand the implications for ethics, we must first consider the scope and trajectory of the podcast. I call upon Jenkins's concept of convergence. The podcast *Up and Vanished* has experienced massive success in its first season, but the reach is extended due to the companion website, responsive Q & A episodes, and social media following. This epitomizes convergence, "the flow of content across multiple media industries, and the migratory behavior of media audiences who will go almost anywhere in search of the kinds of entertainment experiences they want" (Jenkins, 2006, p. 2–3). The intersection of this complex form of media greatly influences how it's taken up by consumers and what they're expected to do with the information they gain by listening.

For Payne Lindsey as he produced *Up and Vanished*, as well as all audience members who invoke on his journey for justice, the intention of the podcast becomes increasingly muddled. Is the exigence of the podcast the desire to investigate the case alongside Payne Lindsey or to simply be entertained? When we embrace the tension that consumers must grapple with as they listen to the podcast, we're able to re-imagine the layered intentions of audiences as socially constructed both by the multilayered platforms and the overlapping goals of their consumption. This is along with Jenkins's idea of convergent audience assumptions, with consumers socially constructed and noisy and public, not like the silent audiences of the past.

As the case of Tara Grinstead was unfolding in live time, consumers were able to offer up clues, ask Payne Lindsey questions pertaining to the investigation, and get closer to catching the killer each week. In a sense, the entire podcast took shape with the active participation and convergence of the audience. As Jenkins (2006) explained, "Rather than talking about media producers and consumers as occupying separate roles, we might now see them as participants who interact with each other according to a new set of rules that none of us fully understands" (p. 18).

As such, when we encourage our students to explore multimodal texts, perhaps including true crime podcasts, how can we account for the uncharted complexity of participatory culture, especially when the situations they might engage in are gruesome, and potentially dangerous? Although we can't account for convergence culture in general, I propose that we must localize the discussion of ethics for the case of *Up and Vanished* and think about the potential implications of studying a nebulous and trans-medial form of participatory entertainment. Online research ethics across platforms are tricky, especially when research subjects concern the real lives of humans, and in order to capture this complexity, I draw from Heidi A. McKee and James E. Porter's (2009) discussion of online research ethics and acknowledge that each research situation is unique and situated. Despite this, they posit that this does not mean that there are no precedents to draw from in each digital research situation.

Although the global reach of *Up and Vanished* make it difficult to anticipate effects and risks, we can center our ethical questioning on the concepts of convergence and active participation. We must ask ourselves, What kind of community is formed at the intersection of these different platforms? What are the stakes of active participation? Who is excluded from the conversation, and what are the obstacles to their participation?

Finally, in considering dynamic and ever-unfolding genres like that of true crime, the importance of community becomes centered. Rather than considering ethics in expectation and isolation, we should open inquiry with fellow

digital rhetoric scholars, especially those who have implemented podcasting units in their classroom. This can be an imperative exercise in our own classrooms, and in fact, one that may be central for our students to understand the weight of participation and digital engagement that affects real people. This way, students will be able to take ownership over their understanding of ethics and how their own participation converges with other consumers and Payne Lindsey himself. They will be able to not only honor but also inquire into their embodied experience as co-researchers alongside Payne Lindsay and perhaps better understand the risks of inquiring into the dark and unsolved moments in others' lives.

Additionally, as McKee and Porter (2009) advised, we need to remember our attentive commitment to the lives of people affected by the research and media we produce. As I reference back to the transcript at the start of this section, for Payne Lindsey, this attentiveness is at the center of his podcast framing, and perhaps the reason why his investigation is ultimately successful. When we are able to ground our consideration of ethics for those most affected, especially those directly affected by the murder profiled in this podcast season, we'll construct a narrative and build a sense of ethos that is in response to the lived experience, and therefore, begin to develop strategies for sharing this work more responsibly.

"I am definitely NOT an investigator": Ethos in True Crime Podcasting

> Episode 1: "Mind you, I am NOT a podcaster. And I am most definitely NOT an investigator but I was determined to tell Tara's story. And most of all, I wanted to know what happened to her."

Clay Shirky (2008), writing in the midst of the social media revolution, argued that internet technologies were increasing the capability of human expression: "it isn't just a new way of having two way communication, it actually engages groups" ("Introduction", p. ix). Following Henry Jenkins' definitions of participatory culture, Shirky asserted that in the age of social media, the time in which he was writing, people participated because the tools existed for them to do so, but more importantly he emphasized, because they'd been invited to. While trends in participation have changed since Shirky and Jenkins first theorized the potential for community through participatory acts in social media, the desire of audiences to engage, in some way, has not; instead audiences converge in spaces where participation and niche interests intersect.

Though podcasting is now a media ecosystem on its own thanks to Apple's stand-alone podcast app as well as the wealth of apps like Stitcher, Over-

cast, and Castro, the availability of topics seems practically limitless. If there's something you're into, there's likely a podcast that covers it. As Dario Llinares, Neil Fox, and Richard Berry (2018) explained in the introduction to *Podcasting: Aural Cultures and Digital Media* "Podcasting exemplifies the maxim that 'the specific is universal' by creating spaces for niche and cult content that caters for the more idiosyncratic cultures of interest." They continued, "Podcasting culture thus manages to be both personal and communal, a sensibility that is related to the active choice the listener has to exercise, and the modes of consumption—through headphones, car sound systems, home computers, mobile phones etc.—which imbue a deeply sonorous intimacy" ("Introduction" Llinares et al., 2018, p. 2). This intimacy creates a relationship between listeners and podcast hosts. There is a freedom in podcasting, a lack of gatekeeping that provides a space for uninhibited speech and attitude which can lead to familiarity and feelings of kinship. As Steph Ceraso (2018) argued, sonic encounters have subtle effects on bodily experiences, and to fully engage as a listener or composer requires attention not only to sound but to the embodied nature of listening. Podcasting, then, is deeply rhetorical, involving a complex network of actions and interactions which define its practices. I define podcasts as a media platform, a delivery system for niche genre topics. And so I turn our attention to one genre in particular: true crime.

As a genre, true crime is part documentary, part mystery, and part invitation. Since the success of *Serial* there has been a boom of true crime focused podcasts such as *In the Dark* whose first season details the 1989 kidnapping of Jacob Wetterling, and the impact on his family and friends. *Over My Dead Body* examines the unbelievable murder for hire of Florida State University college professor, Dan Markel. *Accused's* first season covers the murder of Elizabeth Andes and the only suspect local police ever considered. These are only three examples of a wide array of podcasts devoted to the genre. These are both investigated and narrated by investigative journalists and writers, unlike the podcast at the focus of our presentation, *Up and Vanished*.

Payne Lindsey, the host and narrator of *Up and Vanished* firmly asserts his identity in the first episode by what he is not. "Mind you, I am NOT a podcaster. And I am most definitely NOT an investigator…" Instead, he tells us that he is from Georgia; his grandmother lives near the area where the crime occurred and that he, like many of his listeners, is merely curious, seeking answers to what happened to a young schoolteacher named Tara Grinstead. There is an earnestness and a naiveté to Lindsey. We hear a conversation with his grandmother which is so endearing that I almost forgot the kind of podcast I was listening to.

James Baumlin and Craig Meyer (2018) asserted that we live in an age of ethos where issues of "trust," expertise, and "charismatic authority" have

overtaken logos as the ground of popular discourse. When it comes to podcasts and true crime in particular, ethos is paramount to engagement. The host frames the narrative and provides details, determining what to tell us and when, revealing the mystery one episode at a time. It is through the host that listeners are pulled into a case, a crime, a story. And it is that host upon whom access to information depends. As Payne Lindsey described in the above podcast transcript, plenty of people did not want to talk to him. But he also (through his grandmother) found some who would and I can almost guarantee that his earnest approach and Southern drawl went a long way in the small town of Ocilla.

Nedra Reynolds (1993) reminded us that "ethos is created when writers locate themselves" (p. 336). With Payne Lindsey, we are firmly located in Georgia, in his grandmother's kitchen while she talks about the cookies she is making and what she remembers about the Tara Grinstead disappearance. Ethos, here, is an embodied narrative constructed and recorded for listeners. But it isn't only in moments of framing that Lindsey's ethos is cultivated. For the genre of true crime, establishing ethos is a continual process, sometimes unfolding in almost real-time as conversations unfold, as more and more people open up to the host or narrator, as more listeners get involved. And when the focus is on a cold case, attention and involvement is key if there is any hope of finding out what happened. Participation and awareness of a case can put pressure on a police force, on a community, and on individuals with information to come forward.

In Aristotle's view ethos requires possible or actual audiences. It cannot exist in isolation. In Greek, the meaning for "ethos" as "a habitual gathering place" emphasizes the relationship between speaker and listener. In fact, Karlyn Kohrs Campbell (1982) argued that "ethos does not refer to your peculiarities as an individual but to the ways in which you reflect the characteristics and qualities that are valued by your culture or group" (p. 122).

As Payne Lindsey embarks on his podcast his ethos is constructed through similarity (I'm Georgian; I'm curious; I want to know what happened) rather than authority. In later episodes, he will conduct interviews with legal experts, private investigators and journalists, but initially, he's just a guy with a microphone. Though he is a media producer and certainly has more potential access to information than his listeners do, he asserts his own amateur approach to Grinstead's case, which in itself invites listeners to participate in the exchange of ideas via the podcast's website and Facebook page. The *UAV* website utilizes verbiage which suggest ways to actively participate: Listen. Investigate. Discuss. Contact.

Such participation not only drives continued listening but also creates advertising dollars. Podcasts are dependent on participation for monetization.

According to the latest Nielsen data on podcasting (2018) podcast listeners are more active on social media which leads to amplifying a particular true crime story. And this amplification drives traffic to podcast websites, to the podcasts themselves and potentially to the brands promoted by the podcast. As rhetoricians, we know the connections between ethos and advertising, and podcasts are an interesting rhetorical space to examine these connections. Hosts often read scripts promoting the brand or service, claiming how the particular brand like Hello Fresh has benefited them. There's a specific podcast-related code listeners can use for discounts, which helps the brands track audience reach. I mention monetization to draw attention to the dependent nature of speaker and listener and to keep in mind the layered motivation podcast hosts hold, which I assert is even more complexified in the genre of true crime. When engaging with the genre whether on our own or with our students, we can't shrug off the ways in which the economic potential of podcasts impacts its narrative and its episodic turn.

If we believe that genre is a discursive response, one that creates and re-inscribes actions, we can more clearly acknowledge the rhetoricity of true crime podcasts and more specifically examine ethos not as fixed identities but as existing, shifting, and evolving over audiences, texts, experiences, and places as Nedra Reynolds (1993) suggested. For Payne Lindsey, this will mean embracing his identity as a podcaster, a producer, an investigator, a creator of communities as he moves from Season One of UAV to Season Two. And for the audience, it means subscribing, calling in, discussing, engaging in another case. Since 2016 when *Up and Vanished* was released Payne Lindsey through his company, Tenderfoot, has gone on to produce a second season of his show, an Oxygen TV special, three true crime podcasts (which Lindsey does not host). Lindsey's involvement exhibits the evolution of his ethos from amateur to professional over the course of two years, and as such his potential reach.

In the introduction to their collection, *Ethos: New Essays in Rhetorical Theory,* Baumlin and Baumlin (1994) asked "Does ethos remain. . . a definable (or defensible) rhetorical concept? Is it at all useful?" (pp. xxvi–xxvii). In considering podcasts whether as a site for analysis, for your own interests, or for the classroom, one can see, I hope, that the answers to these questions is a resounding, "yes."

Whose Story Is It Anyway?: Potential Ethical Quandaries in Teaching True Crime Podcasts

> Q&A with Dr. Maurice Goodwin 02.16.17: "In today's Q&A episode, Maurice will be answering your voicemail questions. If you haven't called the voicemail line yet, but you'd like to, the number is 770-545-6411."

Following a previous ruling by the Maryland's Court of Appeals, in November 2019, the United States Supreme Court ruled Adnan Syed was *not* to be granted a new trial following his conviction for murdering Hae Min Lee two decades earlier. This news was a stunning defeat for Syed, his lawyers, and Syed supporters around the globe who became familiar with his case through the first season of the true crime podcast *Serial*. Since the debut of *Serial* in October 2014, true crime stories have come to thrive in the genre, with podcasts like *S-Town* and *Up and Vanished* popularizing the auditory genre. Research for scholarship concerning podcast pedagogy offers a bountiful return, but how is podcast pedagogy complicated when teaching true crime podcasts where potentially messy ethical questions proliferate?

American fascination with true crime has always been of tenable interest. This interest spikes every so often through serialized accounts of farmhouse murders in America's heartland, news-helicopter broadcasts of white Bronco chases down California freeways, missing, and ultimately murdered, young girls in Colorado and Aruba, and the immediate author publication and listener consumption of true crime podcasts like *Serial* and *Up and Vanished*. Yet, there is no counterpart to the genre of the podcast, only predecessors in the form of television and radio recordings, newscasts, and magazine articles, genres which have found comfortable homes in our classrooms. True crime podcasts, however, lack the customary objectivity of newscasts on television and radio. How, then, do we consider author ethos when teaching true crime podcasts? To begin, instructors must acknowledge that the sometimes unbelievable stories are told by outsiders, people not associated with the case.

As host Payne Lindsey begins to circulate Tara Grinstead's story in *Up and Vanished*, he is honest with his audience from episode 1 of the podcast, explaining that to get started he simply Google searched cold cases in his home state of Georgia; he is also honest when he explains his reason for his podcast is due to the popularity of *Serial*. From this admission, the audience can surmise that Lindsey's motivation is not so much to help solve a cold case as it is to gain notoriety. However, it is fair to say that Lindsey's motivations are dynamic, changing as the story unfolds and as his sonic literacies evolve. As Milena Droumeva and David Murphy (2018) reminded us: "Sonic literacy in this rapidly evolving era has for us offered ways in which we can listen and attune ourselves as teachers to the lived experiences of our students" (2018). This attunement, or tuning (Zhang, 2012), is an essential complexity of designing assignments around true crime podcasts; moreover, students (and instructors) are privy to an embodied understanding concerning the development of sonic literacies: the audience becomes aware of the development of Lindsey's sonic literacies throughout the podcast, and, in turn, their own. Droumeva and Murphy (2018) referred to this as aural literacy, a deliberate

understanding of the environment that has to do with the audible and the skill and training of the ear that are required in order to gain that understanding.

It is important to note that the podcast is Lindsey's, the audience is Lindsey's, but to whom does the story belong? Tara, who is missing and long-presumed dead? The suspects and relatives consumed by the case, each uniquely profiled during the podcast? Even Lindsey's own grandmother makes an appearance in this story, but to what extent was she involved in the case? With these questions in mind, how might we broach the idea of author ethos with our students? There is not one answer to that question, but instructors would be judicious to consider a pedagogy of listening and fashion assignments which teach this complex genre through theories guiding multimodal composition, theories concerning remix, or through the lens of community engagement and activism.

Before we take part in any theoretical land-grabbing concerning how to teach true crime podcasts, let us pause and consider the nuanced complexities of this relatively new genre. Neil Postman (1985) interrogated the future of journalism, education, and religion when they too become forms of show business. Today, we might consider asking what happens when our show business becomes a form of journalism? Highlighting this cyclical relationship between journalism and show business is a keystone avenue into discussions concerning ethos and responsibility concerning true crime podcasts with students.

The intersection of journalism and show business is power. In terms of the genre of the true crime podcast, understanding that power is not static and is mediated is critical. Mediated by whom though? In the case of *Up and Vanished*, Lindsey, the host, mediates power, acknowledging during the series that, as a self-described millennial podcaster, he did not understand the power he would come to have, and therefore did not understand the power of the genre within which he was working. To better understand Lindsey, we might consider his actions on his podcast through a pedagogy of listening (Zhang, 2012) lens, one which stands in opposition to a pedagogy of lecturing and deconstructs traditional classroom power dynamics, something instructors should account for when creating assignments focused on true crime podcasts. But is Lindsey all powerful? He, in fact, enacts a pedagogy of listening by inviting specialists and experts, some who are related to the case, and others who are not, to be on his podcast. In doing so, Lindsey distributes power among a host of characters associated with the Grinstead case and the *Up and Vanished* podcast; yet, it is imperative to note that while Lindsey is the arbiter of power here, he is also the person who can cut the cord, hang up the phone, or delete the voicemail. He chooses how Grinstead's story is told.

Ultimately, it is hard to argue that all of the power of the *Up and Vanished* podcast doesn't run through Payne Lindsey. Yet, we must also acknowledge the power of the technology—smartphone users are just a few clicks away

from Grinstead's story through various podcast apps and platforms. More-over, Lindsey operates above the law, as the content of his podcast—which concerns a police investigation—is not mediated by law enforcement. Rather, Lindsey's *activism* forces the hand of law enforcement officials in Georgia as the podcast follows its undefined path and gains popularity. Since Season One of *Up and Vanished* had no defined path, the audience was treated with listening to the events of the reopening of the cold case unfold in real time, much like those who watched the white Bronco chase on primetime television a quarter of a century ago. There is something enticing, something exciting, for fans of true crime, and particularly *Up and Vanished* listeners, about becoming a part of the case, which, in some ways, lets us grab just a bit of that aforementioned power, or at least provides us with the perception of doing so.

With a more nuanced understanding of power dynamics within the true crime podcast genre, instructors are prepared to decide which theoretical underpinnings to utilize in crafting assignments. The purpose is not to advocate for a singular podcast pedagogy, soundwriting pedagogy, or even a pedagogy of listening, but instead to engage with potential ethical quandaries that might arise when teaching true crime podcasts, and to consider how theories concerning multimodal composition, remix, or some other theoretical lens might afford instructors the opportunity to approach questions concerning author ethos and participatory investigation.

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