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NEWS POWER, CRIME AND MEDIA JUSTICE

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INTRODUCTION

If 100 criminologists were gathered in a room, they would struggle to find consensus over most issues of crime and criminal justice. The definition of crime; its causes, nature, and distribution; its impact on society; the most appropriate or effective responses to criminal behaviour—all these issues remain sources of heated debate and trenchant disagreement. And yet, irrespective of their theoretical or methodological perspective, all would probably agree on two seemingly incontestable criminological 'facts'. First, the news media distort the 'true' picture of crime and criminal justice. And second, this distortion matters because it is somehow detrimental to society.

Perspectives on the negative outcomes of this distortion will vary across a diversity of concerns, including: the generation of public misunderstanding of the problem of crime and the functioning and effectiveness of the criminal justice system; the politicization of law and order; the criminalization of marginalized groups; and the formation of punitive crime control policies. These 'bad news' criminological 'facts' lie at the heart of most crime news research.

Steve Chibnall's (1977: 1) observation 40 years ago that crime news remained 'a curiosity of no more than marginal interest' for mainstream media researchers and criminologists still applies today. Back then, the principal media-crime research interest was in evaluating the possible behavioural effects, usually upon children, of media portrayals of sex and violence (Cohen and Young, 1973). The lack of interest was incomprehensible to Chibnall, given that news is one of the central repositories for and creators of public knowledge.

The news media:

exert a considerable influence over our perceptions of groups and lifestyles of which we have little first-hand experience. They have the power to create issues and define the boundaries of debates and, while

they may not be able to manipulate our opinions in any direct sense—creating attitudes to replace old ones—they can organise opinion and develop world views by providing structures of understanding into which isolated and unarticulated attitudes and beliefs may be fitted. They provide interpretations, symbols of identification, collective values and myths which are able to transcend the moral boundaries within a society like Britain (Chibnall 1977: 226)

It is our position that, despite widespread consensus that crime news distorts and that this distortion has negative consequences for society, the dynamic relations between news power, crime, and criminal justice remain under-researched and under-conceptualized. In this chapter it is not our intention to present a comprehensive overview of the existing research on crime news. Such overviews can be found elsewhere (Greer 2010a, b, 2013; Greer and Reiner 2012; Jewkes 2015). Our aims are more specific. First, we revisit two key concepts that continue to dominate UK crime news research, but tend to do so in caricatured form: news values and moral panic. Although these concepts are still important for understanding news power, their institutionalization and taxonomical application in criminological

research has marginalized analysis of dramatic shifts in the nature of crime news, the markets in which it circulates, and its power to shape crime consciousness and criminal justice rhetoric and practice. Second, we consider the work of penologists who in the 1990s resituated crime news within a context of wider social change by identifying the media as a key driver of the 'punitive turn'. Third, we set out our own position on developments that currently are transforming the relations between news power, crime, and criminal justice. While these developments have global significance, our empirical focus remains in the UK because its news media system is in important respects unique (Tunstall 1996). Most important is the existence of an overwhelmingly conservative tabloidized national newspaper market, run by powerful corporations that resource fully integrated 24-7 hard copy and online operations. Amidst ongoing debate about the death of print news and the contemporary crisis of professional journalism (Alexander *et al.* 2016; Rusbridger 2008), we propose that UK newspaper corporations are in fact fighting to increase their agenda-setting power. In response to the emergence of an ultra-competitive digital information market they continue to develop a distinctive brand of adversarial journalism that is working at the edges of what is legally permissible in order to

extend their influence (Brock 2013). Because of tighter legal restrictions around objectivity and impartiality, the UK's broadcast news media routinely follow the national press agenda (Bromley 1998). Consequently, newspapers remain pivotal in setting the public and policy agendas around crime and criminal justice.

The technological, cultural, and economic transformation of the news market has increased corporate power to define *what is news* and, in the context of this chapter, *what is crime news*. Potential crime news stories circulate endlessly, intermediatized across and between different platforms as ever-repeating, ever-proliferating circuits beyond the control of any one group or institution. In this context of informational chaos and contestation, UK newspaper corporations are reasserting their authority as powerful filters and legitimators, revalidating the distinction between 'information' and 'news' and imposing their own brand of interpretive order. We identify the emergence of 'trial by media' and 'scandal hunting' as illustrative of the shifting balance of news power in this digital market. These news practices are capable simultaneously of providing an alternative forum for delivering 'justice' to victims failed by the state and inflicting potentially devastating reputational damage on convicted and alleged

offenders, criminal justice authorities, politicians, policy elites, and 'failing' institutions. We propose that in-depth crime news research has fallen off the criminological radar at a time when newspaper corporations have reconstituted and dramatically extended their power to shape crime consciousness and influence official rhetoric and practice. It is in this intermediatized context that we situate the shift from criminal justice to media justice.

NEWS POWER, NEWS VALUES, AND MORAL PANIC

The 1970s and 1980s represented a high point of crime news research. Scholars were motivated by an interdisciplinary concern to move beyond psychological positivism's preoccupations with direct media effects in order to develop a deeper and more nuanced understanding of news power at a time of radical social change. Of the numerous crime news studies produced in this period (Halloran *et al.* 1970; Chibnall 1977; Cohen 1972; Cohen and Young 1973; Hall *et al.* 1978; Katz 1987; Ericson *et al.* 1987, 1989, 1991), three stand out as having defined the field: Cohen's (1972) *Folk Devils and Moral Panics: The Creation of Mods and Rockers*, Chibnall's (1977) *Law and Order News: An Analysis of Crime Reporting in the British Press*, and Hall *et al.*'s.

(1978) *Policing the Crisis: Mugging, the State and Law and Order*. These studies, produced in dialogue with each other, have maintained their influence largely because of the two organizing concepts they collectively developed: news values and moral panic.

NEWS VALUES

Chibnall (1977: x-xi) identified crime as the news category that allows news organizations to act as barometers of the public temper at any given moment:

Crime news may serve as a focus for the articulation of shared morality and communal sentiments. A chance not simply to speak to the community but to speak for the community, against all that the criminal outsider represents, to delineate the shape of the threat, to advocate a response, to eulogise on conformity to established norms and values, and to warn of the consequences of deviance. In short, crime news provides a chance for a newspaper to appropriate the moral conscience of its readership.

Chibnall's Marxist framework built on Halloran *et al.*'s (1970) classic analysis of press and television reporting of the 1968 Vietnam demonstrations in London's Grosvenor Square. He argued that news power resides in the ability of journalists, working within the constraints of professional conventions, source relationships, and legal limitations, to select and construct what *is* and what *is not* crime news. In selecting and constructing events as newsworthy journalists are guided by eight professional 'news values'. These news values are seldom written down and many journalists struggle to articulate them when asked. Nevertheless, all to some extent internalize a 'sense' of 'news', which provides a stock of professional knowledge enabling the informed assessment of 'newsworthiness'. The eight universal news values Chibnall identifies are: immediacy, dramatization, personalization, simplification, titillation, conventionalism, structured access, and novelty. These news values can be refined, inflected, and augmented by other criteria to add greater insight or gravity in the reporting of particular 'types' of crime. For example, at least five informal rules of relevance guide journalists' treatment of violence by asserting the importance of: visible and spectacular acts, sexual and political connotations, graphic description and presentation, individual

pathology, and deterrence and repression (Chibnall 1977: 776).

Understanding news values helps to make sense of crime news selection and content. For example, it explains why violence in public places between strangers tends to be newsworthy, whilst violence in private residences between intimates does not. It also helps explain why news tends to focus on dramatic criminal incidents, rather than abstract and complex debates around criminal justice policy.

MORAL PANIC

For Cohen (1972) the most dramatic demonstration of the news media's power to shape crime consciousness is the creation of 'moral panics'. This power is most productive at moments of cultural strain and ambiguity that challenge existing moral boundaries. First used by Young (1971) in his study of drug-takers, the concept was developed and extended by Cohen (1972) in his interactionist analysis of the simultaneous construction and demonization of Mods and Rockers in 1960s Britain. Cohen traces the spiralling social reaction to these youth subcultures through initial intolerance, media stereotyping, moral outrage, increased surveillance, labelling and marginalization, and deviancy amplification that seemed to justify the initial concerns. The

defiant misbehaviour of sexually and economically liberated youth affronted the post-War values of hard work, sobriety, and deferred gratification. For Cohen, at a time of rapid social change these subcultures were the visible manifestation of a world that was slipping away—‘folk devils’ who provided a crystallizing focus for social anxiety and ‘respectable fears’ and an agenda for journalists, politicians, and moral entrepreneurs.

Hall *et al.* (1978) provided a Marxist explanation of news power in their analysis of a ‘mugging’ moral panic—with the ‘black mugger’ as ‘folk devil’—which they read as an ideological intervention to address an escalating crisis in state hegemony. Building on Cohen (1972) and Chibnall (1977), they argue that the news media play a critical role in defining ‘for the majority of the population *what* significant events are taking place, but, also, they offer powerful interpretations of *how* to understand these events’ (Hall *et al.*, 1978: 57). Crime news functions as a morality play ‘in which the ‘devil’ is both symbolically and physically cast out from the society by its guardians—the police and the judiciary’ (1978: 66). For Hall *et al.* (1978: 42) the news media orchestrate moral panics as a key ideological means through which ‘the ‘silent majority’ is won over to the support of increasingly coercive

measures by the state, and lends its legitimacy to a 'more than normal' exercise of control.

Though both Chibnall (1977) and Hall *et al.* (1978) were writing from a Marxist perspective, they arrive at different understandings of news power. Chibnall (1977: 9–10) seeks to expose 'the deficiencies in most Marxist approaches' that 'simply assert the function of the news media in reproducing a dominant ideology without explaining how it is achieved beyond referring to the media structure of ownership and control'. News values are central to the freedom of the press and the 'craft of journalism'. Chibnall's bottom line is that journalistic 'common sense' will place 'news values' above other interests, including state interests, in selecting and constructing 'news'. For Hall *et al.* (1978), the notion of journalistic autonomy is illusory. The news media function as part a wider ideological state apparatus within which journalists have limited autonomy: in the final instance, they sit in a position of 'structured subordination' to the powerful sources upon whom they rely for newsworthy information. From Cohen's interactionist perspective, everyone involved in a moral panic, including the news media, the authorities, and the folk devils, is in a state of panic. Each of these studies is concerned to illustrate how crime news stigmatizes and

criminalizes the powerless. For Chibnall (1977) news power is understood primarily as professional practice. For Hall *et al.* (1978) it is ideological practice. For Cohen (1972) it is social practice.

These two concepts—news values and moral panic—have provided generations of crime news researchers with all they need to examine the selection, production, distribution, and ‘effects’ of crime news. But the studies in which these concepts were developed were in depth analyses of social change that situated crime news within the wider contexts of generational conflict, the politics of law and order, or the transition to an authoritarian state. It is their more immediately reproducible elements that have survived, caricatured and detached from any wider contextual considerations. Thus crime news is researched in order to demonstrate taxonomically that ‘news values’ retain their explanatory value—reflecting Rock’s (1973) notion of news as ‘eternal recurrence’—and that the news media are still biased on the basis of gender, class, ethnicity, age, or sexuality. Or the news media and wider reaction to a putative social problem is examined in order to evaluate whether or not it constitutes a moral panic (see Jewkes 2015 for an overview). While these concepts still have much to offer the analysis of crime news, we would propose that their

decontextualisation and taxonomical application does not do them justice, and has diverted research attention from the radical changes that have transformed the relations between news power, crime, and criminal justice in the past 40 years (for important exceptions see Ericson et al., 1987, 1989, 1991; Schlesinger and Tumber, 1994).

Useful insights into these changes came from penologists, who were only peripherally interested in media. Analysts of the 'punitive turn', whose main concern was the rise of mass incarceration, noted the dominance of crime in public discourse and the extent to which its increasing everyday salience was reshaping electoral politics and reorienting crime control policy towards 'quick fix' solutions (Beckett 1997; Bottoms 1995; Garland 2001a, b; Pratt 2007; Roberts *et al.* 2003; Sasson 1995). Perhaps because their starting point was attempting to understand the socio-economic and cultural transformations that were driving penal expansion, media were situated within that wider context. It is to this body of research that we turn next.

NEWS POWER AND THE PUNITIVE TURN

Hall (1979, 1980) used the term 'authoritarian populism' to explain how Thatcherism had harnessed public fears and anxieties to

popularize neoliberal solutions to economic and political problems, including law and order. Building on *Policing the Crisis* (Hall *et al.* 1978), he argued that ‘authoritarian populism’ represented a fundamental ideological shift in which the UK conservative news media’s role was pivotal in criminalizing marginalized groups and legitimating punitive law and order policies. This shift would be difficult to reverse because it was intimately connected to the New Right’s attempt to create an authoritarian state and a free market. In the mid-1990s, following decades of rising crime rates, penologists identified the ‘punitive turn’—the adoption across many Anglophone jurisdictions of both the rhetoric and practice of ever-harsher punishments, including the extension of criminal law and criminalization, tougher policing and sentencing, and increased imprisonment. Bottoms (1995) argued that the rise of what he termed ‘populist punitiveness’ signalled a departure from the post-War consensus that curtailed the expression of excessively punitive sentiments and the politicization of criminal justice policy. Unlike Hall, for Bottoms this shift was unsustainable and would pass. Yet despite choosing the term ‘populist’, at no point does he consider the significance of news media in shaping ‘public opinion’. Though they were both interested in the law and order implications of

the collapsing social democratic consensus, Hall's cultural studies approach was sensitized to an appreciation of news power. From Bottoms' policy-centric perspective, news power remained either invisible or insignificant.

More recent penological work has given greater recognition to the role of mass media in driving the 'punitive turn'. In Garland's (2001: 158) analysis of the UK and US, television has 'tapped into, then dramatized and reinforced, a new public experience—an experience with profound psychological resonance—and in doing so it has *institutionalised* that experience'. By heightening consciousness, most significantly among the previously well-insulated middle classes, of the increasing risks of criminal victimization and the ineffectual and uncaring nature of criminal justice, it has provided 'everyday opportunities to play out the emotions of fear, anger, resentment, and fascination that our experience of crime provokes' (Garland: 2001: 158). Roberts *et al.*'s (2003) comparative research on penal populism and public opinion highlights 'the dynamic and powerfully co-ordinating force of the media—framing not only reality to feed late modern anxieties but also telling stories about how to think about the remedies to the anxieties and what political actors are doing or failing

to do in “making things better” (Roberts *et al.* 2003: 87). Their account of media influence draws heavily on Garland, but also identifies what they see as the malign outcomes of tabloid law and order campaigns. Pratt (2007) also acknowledges the importance of tabloid campaigning. His analysis offers a deeper understanding of a transforming media environment characterized by market deregulation, technological change, increased competition, and globalization. For Pratt (2007), the core media message is clear: citizens can no longer rely for public protection on a criminal justice system that seems more interested in protecting the rights of criminals.

Across this body of work, a consistent ‘bad news’ view emerges. ‘The media’ feed into the punitive turn by: over-concentrating on the threat posed by violent predatory offenders; emphasizing exceptional or aberrant crimes; identifying ‘new’ crimes requiring ‘new’ forms of punishment; employing simplified frames of ‘right’ and ‘wrong’; highlighting injustices perpetrated against victims by a ‘soft’, ineffectual, and uncaring criminal justice system; attacking politicians, authority figures, and experts deemed to be ‘soft on crime’; questioning official explanations; and lending editorial support for retributive policies. The most significant development in the context of

this chapter is the recognition of a more antagonistic relationship between the news media and state authority. Nevertheless, the consensus is that the punitive turn is reversible and that sections of the news media—a clear distinction is maintained between tabloid and broadsheet—are manageable. For Roberts *et al.* (2003), the UK tabloids are a lost cause. The challenge is keeping broadsheet journalists on-message through education by academic experts and policy elites. Specifically, a more accurate coverage of crime and criminal justice could be achieved by ‘pointing out the unintended consequences of irresponsible, sensationalised reporting’ and ‘improving access to specialist staff such as statisticians and academics’ (Roberts *et al.* 2003: 175–6). We would suggest that this view underestimates and under-conceptualizes contemporary news power. In what follows, we develop this position through reference to two key processes: tabloidization and digitalization. These processes—central theoretical and empirical concerns within journalism and communication studies, but largely absent from criminological analysis—are key to understanding the dynamic and rapidly transforming relations between UK news power, crime and criminal justice.

RECONSTITUTING UK NEWS POWER:

TABLOIDIZATION AND DIGITALIZATION

In 1986 Rupert Murdoch relocated production of his UK national newspapers from the historic but technologically and spatially inadequate Fleet Street to new computerized, full-colour printing facilities in Wapping. His success was such that tabloid formats, techniques, and logics rapidly spread across the industry, and by 1989 the last newspaper had left Fleet Street for upgraded premises (Lang and Dodkins 2011). New computer and printing technologies enabled newspapers to rationalize their workforces, while reformatting and sharpening their design, style, content, and competitive edge. But tabloidization was more than technological. It transformed journalistic practice and the nature of news itself by prioritizing scandal, sensation, and infotainment over in-depth political and economic coverage, and redefining the criteria that should be used in judging a person's fitness for public office (Bird 1992; Conboy 2006; Franklin 1997; Sparks and Tulloch 2000). The tabloidization of the UK press also fundamentally

transformed newspapers' sense of their own power. As Tunstall puts it (1996: 30):

... the national newspaper industry massively cut its costs and boosted its profits. The national press owners, managers and editors also boosted their own financial and political confidence. Rupert Murdoch's success seemed to indicate that industrial power, political influence, and profitability were all consistent goals. All three could be pursued, and put in evidence, at the same time.

Crime news was ideally suited to this new environment. As we have already shown, crime has always been a news staple, but tabloidisation transformed newspapers' capacity to produce stories that could seize the public imagination. For the first time, full-colour images formed the centrepieces of increasingly graphic and emotionally charged crime and justice stories, adding a new dimension of dramatic realism that elevated the potential to invoke consumer empathy, shock and anger. Melodramatic headlines, moralistic interpretive frameworks and streamlined explanations—standard practice for decades—were augmented by a growing readiness to challenge official explanations

and institutional authority (Turner, 1999; Reiner *et al.* 2000; Brock 2013).

As tabloidization was taking hold, newspapers were also experimenting with the Internet. Early attempts to go online enjoyed mixed success, with some being likened to a 'dumping ground' for news content. 'Digital convergence'—the combination within a single portable device of, most significantly, Internet access, camera functionality, and messaging services—created the technological conditions in which the mass production and use of news-related content and services could flourish (Westlund 2013). As with tabloidization, however, digital convergence is more than just a technological shift. It 'alters the relationship between existing technologies, industries, markets genres, and audiences. Convergence refers to a process, but not an endpoint' (Jenkins 2004: 34). It has further transformed the nature and content of crime news and the cultural and regulatory environments in which it circulates. Three interconnected dynamics, at once fostered and intensified by digital convergence, are key: proliferation, interactivity and adversarialism.

News media proliferation has resulted in countless platforms disseminating 24-7 breaking news globally. The main challenge facing

news-hungry consumers has shifted from finding and accessing to choosing and filtering. Two decades after Wapping, Rupert Murdoch (2006) heralded a second revolution that would require further radical adaptation from newspapers if they were to retain their power:

Power is moving away from those who own and manage the media to a new and demanding generation of consumers—consumers who are better educated, unwilling to be led, and who know that in a competitive world they can get what they want, when they want it. The challenge for us in the traditional media is how to engage with this new audience . . . There is only one way. That is by using our skills to create and distribute dynamic, exciting content . . . Content is being repurposed to suit the needs of a contemporary audience . . . The words, pictures and graphics that are the stuff of journalism have to be brilliantly packaged: they must feed the mind and move the heart [as] must read, must have content.

National newspapers have responded to declining print readerships and the proliferation of online news platforms by developing digital operations with global reach, in the process transforming themselves

into corporate news brands. A snapshot from August 2016 reveals that *The Guardian* newspaper sold fewer than 160,000 print copies per day, yet its mobile compatible website attracted more than 8 million daily unique browsers. Daily print sales of the *Daily Mail*, whilst eclipsing those of *The Guardian* ten-to-one, were still only 1.6 million.

MailOnline averaged over 15 million daily unique browsers (ABC, <http://www.abc.org.uk/>). Corporate newspaper websites are constantly updated, rendering obsolete the physical, temporal, and geographical constraints of the printed format. In an increasingly crowded and competitive market, newspaper corporations are under ever-greater pressure to attract and retain fickle consumers. One effective mechanism for achieving this is interactivity.

Boczkowski (2004: 21) notes that news has moved from being 'mostly journalist-centred, communicated as a monologue, and primarily local, to also being increasingly audience-centred, part of multiple conversations and micro-local'. The integration of video-streaming and podcasting, real-time comments threads, and discussion groups, means that consumers are woven into the news process, submitting their views or, more importantly, sending or uploading their photographs and footage of crime and justice events. The

transformation of this producer-source-consumer relationship was exemplified during and after the London bombings of 7 July 2005. The BBC's Richard Sambrook (2005) recalled:

Within 6 hours [of 7/7] we received more 1,000 photos, 20 pieces of amateur video, 4000 text messages, and 21,000 emails. People were participating in our coverage in a way we had never seen before. By the next day, our main evening television newscast began with a package edited entirely from video sent in by viewers. Our audiences had become involved like they never had before. By day's end, the BBC's newsgathering had crossed a Rubicon . . . Of course the BBC has used phone-ins, amateur video, and email in its programmes for years, but what was happening now was moving us way beyond where we'd been before.

There was further movement during the 2011 London riots, when journalists, police officers, bystanders, rioters, and victims all contributed in real time to the creation of a multi-perspectival intermediatized crime news story (Lewis and Newburn 2011). The increased interactivity fostered by digital convergence means that

consumers can become producers, ‘watchers’ can become ‘doers’, and everyone can be a ‘citizen reporter’. It is the interactive experience of crime news that matters. The nature of this interactivity can in turn be shaped by a third major transformation brought about by the mutually reinforcing processes of tabloidization and digitalization—increased adversarialism.

Within a proliferating news market, one of the main ways in which newspaper corporations have sought to achieve distinction has been through the development of an increasingly adversarial style (Lloyd 2004; Milne 2005; Protess *et al.* 1991; Sabato, 1991). The growth of press adversarialism results from a range of interconnected factors. Some of these, as discussed above, are particular to rapidly transforming communications markets. Others, like the widely reported decline in deference to authority and a deterioration of public trust in official or elite institutions, reflect wider changes in values and culture (Misha, 2017; Fukuyama 2000; Seldon 2009). As McNair (2006: 71) notes, a prominent characteristic of contemporary news coverage is its ‘negativism and wilfully destructive attitude towards authority’ (McNair 2006: 71). We propose that this adversarialism—unprecedented in scope and ambition—lies at the heart of a new

business model for newspaper corporations. Energized by tabloidization and digitalization, and committed to challenging establishment authority by investigating and exposing institutional failure, this business model is reconstituting news power in the UK. In the next section we illustrate the evolution of this business model by analysing the interconnected processes of trial by media, victim-centred news campaigning, and scandal hunting.

NEWS POWER, TRIAL BY MEDIA, AND INSTITUTIONAL FAILURE

Trial by media (TBM) is a form of populist justice in which individuals and institutions are judged in the intermediatized 'court of public opinion' (Greer and McLaughlin, 2011, 2012a, b, 2013). This digital 'court' can be attended by media users across the globe, and anyone with an Internet connection can participate in the trial proceedings. The allegations underpinning TBM range across three overlapping categories of infraction: criminality, immorality and incompetence. The disruptive power of TBM resides in its capacity to generate an intense emotional public reaction that can redefine cultural, political and policy

agendas. The nature and targets of these trials are diverse, and include (Greer and McLaughlin 2016):

- naming and shaming public figures and institutions accused of:
 - acting as if they are above the law
 - offending against an assumed moral consensus
 - failing to deliver on obligations and responsibilities
- pre-judging the outcome of criminal investigations involving ‘unknowns’
- ‘retrying’ those considered to have evaded criminal justice

Active participation—which may vary from posting speculation and opinion to submitting hard evidence to sharing ‘one-click’ judgement on the guilt or innocence of the accused—is integral to the immersive experience. Through this interactivity, TBM reclaims aspects of ‘justice’ from the courts and returns them to a networked citizenry. The extra-legal news media investigation that forms a core part of TBM may uncover sufficient evidence to activate formal due process. TBM thus has the power to initiate legal proceedings that otherwise may not have occurred. But it also challenges and subverts due process.

Inverting its defining principle, TBM cases are premised on a

presumption of guilt. This presumption of guilt precipitates an intermediatized search for further 'evidence' that contributes to consolidating a public image of the accused as 'guilty as charged'. While opinion and hearsay are generally regarded as inadmissible in a court of law, 'evidence' in TBM ranges from that which might be legally admissible to conjecture and insinuation. Newspaper corporations must only be convinced that it is sufficiently compelling to justify the risk of libel action. Those who deny the charges and attempt to fight back through public statements or legal retaliation risk intensified scrutiny aimed at uncovering further evidence of their guilt. Through the naming and shaming of alleged individual and institutional 'wrongdoers', TBM orchestrates status degradation ceremonies that dramatize moral and ideological boundaries. TBM ritually transforms the public identity of individual or institutional actors. Its outcomes range from varying degrees of reputational damage, to criminal prosecution, the introduction of new regulatory frameworks, the transformation of institutional practice, and the reconfiguration of collective memory.

The development of TBM as a criminal justice intervention played a key role in the investigative campaign, which was re-energized

and restructured in the 1990s to establish market distinction and demonstrate newspapers' growing sense of power. The shift at this time to campaigning across a range of hard and soft news issues emboldened UK newspapers in claiming to represent the 'public interest', and extended their traditional agenda setting role to one of overt advocacy and activism (Birks 2010). Through a series of high-profile campaigns, different newspapers began pressurizing governments in the name of the public to take responsibility for a succession of institutional failures in the criminal justice system. Below we identify and analyse five exemplars that for us personify essential characteristics of this process, namely: failure through convicting the innocent; failure to convict the guilty; failure to protect children from paedophiles; failure to find missing children; and failure to provide competent criminal justice leadership. The development TBM through victim-centred campaigns allowed newspaper corporations to test the legal limits and consumer appeal of an evolving business model focused on the exposure of institutional failure.

INSTITUTIONAL FAILURE THROUGH CONVICTING THE INNOCENT

In the aftermath of successful 'miscarriages of justice' campaigns, most notably the Guildford Four and Birmingham Six, some liberal newspapers continued to investigate and campaign on behalf of individuals who it was claimed had been the subject of wrongful conviction and imprisonment (Greer and McLaughlin 2014). Logistically these 'traditional' campaigns are difficult to run as they are premised on the assumption that the criminal justice system is not only incompetent and ineffective, but almost certainly institutionally corrupt. In addition, it was difficult to generate public sympathy for individuals who had been convicted of high-profile murders. Nevertheless, there were notable successes, including overturned convictions in the cases of the Bridgewater Three in 1997, Derek Bentley in 1998, and Stephen Downing in 2002 (Huff and Killias, 2008). These campaigns were damaging to public confidence in criminal justice because they highlighted systemic incompetence or corruption in the wrongful conviction of innocent citizens and, in so doing, signalled that the real killer(s) were still at large.

Other newspapers initiated campaigns on behalf of crime victims who had been failed by the criminal justice system. These campaigns were grounded in intense coverage of murders where the victims' families proclaimed that 'justice had not been done' because a killer or killers had not been apprehended or prosecuted, or had received a light sentence or early release from prison. Two unprecedented 'trial by media' campaigns marked a watershed in UK newspaper corporations' agenda-setting capacities.

INSTITUTIONAL FAILURE TO CONVICT THE GUILTY

In February 1997 the inquest into the killing of Stephen Lawrence resumed. Despite various prosecution attempts, no-one had been convicted for the murder of the young black Londoner in a racially motivated attack in April 1993. During this inquest the five primary suspects refused to cooperate, claiming privilege against self-incrimination (Cottle 2004). The verdict of unlawful killing 'in a completely unprovoked racist attack by five white youths' was already newsworthy because it exceeded the bounds of the jury's instructions (Hall *et al.* 2013). Outraged by what was seen as the state's inability to secure a conviction in the face of overwhelming evidence of guilt, the

Daily Mail took matters into its own hands. Its unprecedented front page on 14 February 1997 displayed full-colour photographs of the five suspects beneath the headline, 'MURDERERS: The Mail accuses these men of killing. If we are wrong, let them sue us' (see Figure 11.1).

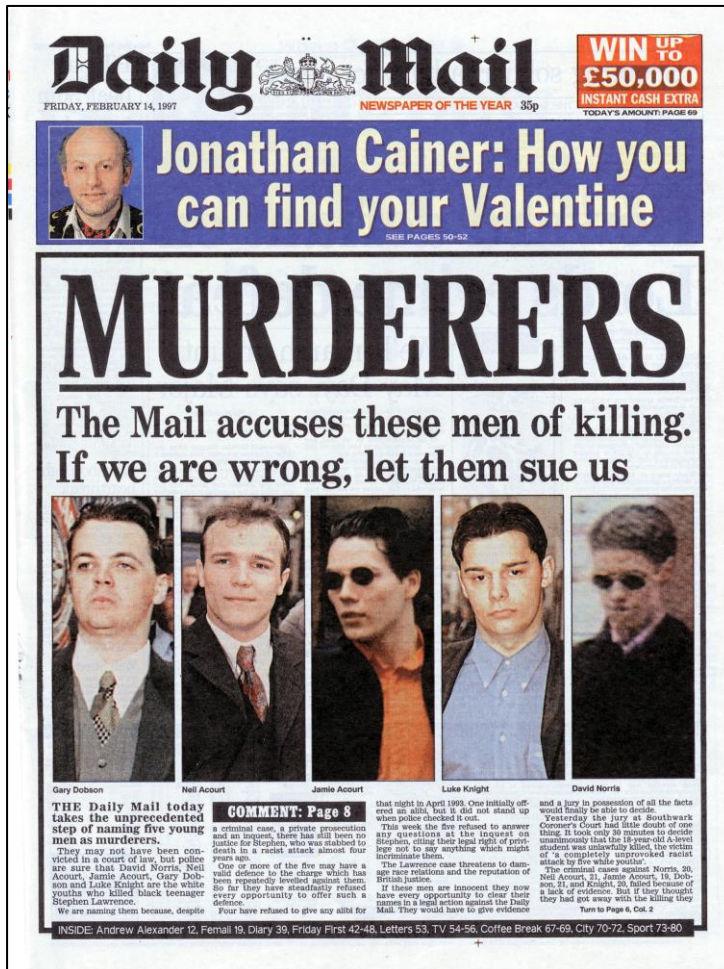


Figure 11.1

Daily Mail front page

Source: *Daily Mail*, 14 February 1997

In publishing this front page the newspaper was in contempt of court, but no legal action was taken by the accused and the *Daily Mail's* campaign for a public inquiry gathered momentum. That this newspaper championed the case was remarkable given its long history of overt hostility to campaigns around racial discrimination (McLaughlin 2005). The Macpherson Inquiry Report, released in February 1999, reached the historic conclusion that the Metropolitan Police was 'institutionally racist'. It also implied institutional corruption by castigating police officers of all ranks for 'fundamental errors' that fatally undermined the investigation. The *Daily Mail's* stark demonstration of news power sent shock waves across the criminal justice system, and sat uneasily with other sections of the British news media. A *Guardian* editorial (15 February 1997) praised the 'powerful and bold stroke' on behalf of the victim's family, but expressed concern at the 'trial by media' methods and the precedent they set. This precedent established the foundations for the next stage in the evolution of trial by media-driven campaigning in a tabloidized market on the cusp of digitalization.

INSTITUTIONAL FAILURE TO PROTECT CHILDREN FROM PAEDOPHILES

In July 2000 eight-year-old Sarah Payne disappeared from her home in Sussex. The search for Sarah dominated the national news agenda for three weeks, not least because the parents believed she had been abducted by a paedophile. They were proved right (Payne 2005).

Convicted paedophile, Roy Whiting, was sentenced to life imprisonment for Sarah's abduction and murder in December 2001. It transpired that Whiting had previously abducted and sexually assaulted an eight-year-old girl, was one of the first individuals to be included on the 1997 Sex Offenders Register, and had benefitted from early prison release. With the full support of Sarah's parents, the *News of the World*—the UK's bestselling Sunday newspaper—launched a two-pronged 'For Sarah' crusade (Pratt 2007). It demanded that paedophiles receive life sentences and the government pass a 'Sarah's Law' giving parents the right to know whether paedophiles were living in their community. The *News of the World's* position was that the lack of such a law had cost Sarah's life.


Sarah's mother, Sara Payne, quickly became the campaign's most high-profile ambassador and a tireless advocate of Sarah's Law.

The *News of the World* adopted an unprecedented ‘naming and shaming’ strategy, having already threatened to build its own online public database of convicted UK paedophiles. On 23 and 30 July 2000 it published the names, photographs, and locations of 82 alleged known paedophiles and set up a telephone hotline for readers to provide information on the whereabouts of others (see Figure 11.2).



Figure 11.2

News of the World front page

Source: ©  *News of the World*. News Syndication, 23 July 2000

The *News of the World* vowed to identify all 110,000 known paedophiles in the UK, citing as justification a MORI poll of 614 adults that showed 84 per cent thought paedophiles should be named and 88 per cent would want to know if one was living in their community. In directly identifying paedophiles the *News of the World*, like the *Daily Mail* in the Stephen Lawrence case, was taking the law into its own hands. It quickly stood accused of creating a lynch mob atmosphere driven by trial by media. Innocent people were indeed attacked (Silverman and Wilson 2002). After well-publicized meetings with the Home Office and criminal justice agencies the *News of the World* suspended its 'naming and shaming' campaign on 6 August 2000. The campaign did not succeed in establishing all its proposed reforms, but the government was forced to tighten up controls over paedophiles. After more than a decade of pressure, a child sex offender disclosure scheme known as 'Sarah's Law' became operational in England and Wales in April 2011 (Jones and Newburn 2013). This scheme allows members of the public to ask the police if individuals in contact with their children pose a risk.

Newspaper campaigning in the UK changed as a result of the Stephen Lawrence and Sarah Payne murders. The *Daily Mail* and *News*

of the World campaigns were potent demonstrations of news power, dominating the news agenda, imposing interpretive order, galvanizing public opinion, triggering national debates, and pressurizing politicians, policy-makers, and criminal justice professionals to acknowledge systemic failures. Doreen Lawrence and Sara Payne personified how the violent actions of dangerous criminals, aided and abetted by a malfunctioning criminal justice system, could destroy innocent lives and families (Charman and Savage, 2009). Both women acquired celebrity status and political prominence, and were officially recognized by the state for their efforts as inspirational mothers who had produced significant transformations in criminal law, professional practice, and social attitudes. After a succession of public awards, Doreen Lawrence was elevated to the House of Lords as a Baroness in 2013. Sara Payne became the Government's first Victims' Champion in 2009. Together, the Stephen Lawrence and Sarah Payne cases established a new template containing all the components necessary to run a successful victim-centred campaign in a tabloidized and digitalized news market. These components include:

1. ideal victims murdered in horrific circumstances;
2. suspected or convicted killers who can be demonized;

3.. evidence of institutional failure;

4. family representatives—ideally a mediagenic inspirational

matriarch—with core values and characteristics that make them instantly recognizable campaign figureheads capable of:

- stimulating public identification and empathy;
- communicating loss, pain, frustration, and anger continuously through news conferences, interviews, the release of family photographs, and participation in high-profile police and public commemoration events;
- crafting and disseminating powerful public biographies that further idealize the victims, who might become posthumous celebrities;
- campaigning for reforms that transcend their own tragic personal circumstances and offer future protection to others.

INSTITUTIONAL FAILURE TO FIND MISSING CHILDREN

Three-year-old Madeleine McCann disappeared on 3 May 2007 from a holiday apartment in Praia da Luz, Portugal. The case generated unprecedented global media attention and contained many of the components required for a successful victim-centred campaign: an ideal victim; an inspirational matriarch in Kate McCann, who was prepared to work tirelessly with the media and able to construct a powerful public biography of her missing child; the suspicion that Madeleine had been kidnapped by a paedophile; and evidence of institutional failure in the allegedly bungled Portuguese police investigation. In a rapidly evolving digital environment, Madeleine was intermediatized in a way that would have been technologically impossible with Stephen Lawrence and Sarah Payne. The photogenic three-year-old girl was converted into an iconic global image and a profitable news commodity (see Figure 11.3).

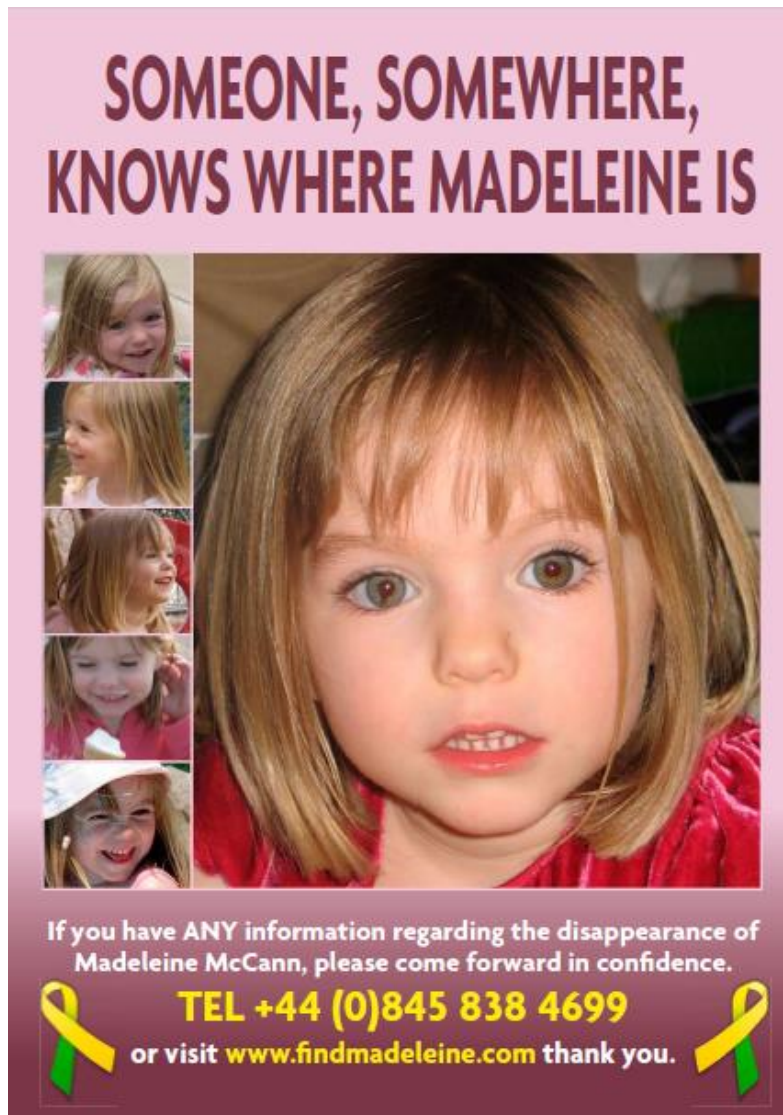


Figure 11.3

'Find Madeleine' poster

Source:

http://findmadeleine.com/support/light/download_materials/english/english_poster

1_0.pdf

Kate and Gerry McCann—white, mediagenic, middle-class doctors—proactively engaged with journalists to try and maximize the news visibility of the case and manage the news agenda. For a period several UK newspapers offered the McCanns unequivocal support by throwing their weight behind the Find Madeleine campaign. Unlike in the UK, however, there was no culture of formalized dialogue between the Portuguese police and the news media, so when the investigation failed to produce a breakthrough the news vacuum needed to be filled. Seemingly unrestrained by UK contempt and libel laws, several UK newspaper corporations demonstrated the destructive capacity of news power. Over several months, a succession of stories based on unofficial sources, police leaks, speculation and rumour insinuated that Kate and Gerry McCann were responsible for their daughter's death, had disposed of her body, and had conspired to cover up their actions by deliberately diverting police attention from evidence that would expose their guilt (Statement in Open Court, available at <http://www.carter-ruck.com>; Greer and McLaughlin 2012; Greer 2017).

The McCanns began a legal action that resulted in several newspaper corporations making public apologies and substantial donations to the Find Madeline fund. Their libellous treatment figured

prominently in the Leveson Inquiry into UK press abuses ranging from industrial scale phone hacking and paying corrupt police officers for tip-offs to harassing celebrities and crime victims

(<http://www.levesoninquiry.org.uk/>). In their evidence to the inquiry the McCanns described how false and malicious news coverage had undermined the search for their daughter and subjected them to attempted blackmail and sustained trial by media (ibid). Kate McCann explained how she felt 'worthless' and 'mentally raped' after extracts from a private diary were reprinted in a tabloid newspaper without her permission (*Daily Telegraph*, 17 November, 2011: 2).

This case illustrates a period in the evolution of UK newspaper corporations' new business model when the convergence of tabloidization and digitalization produced a remarkable state of anomie within sections of the market. What began as a story of the institutional failure of the Portuguese police ended as a story of the institutional failure of the British press. The McCanns' evidence played an important role in the Leveson inquiry's attempt to redraw ethical boundaries around journalistic practice and, in so doing, to set limits on trial by media.

INSTITUTIONAL FAILURE TO PROVIDE COMPETENT CRIMINAL JUSTICE LEADERSHIP

Sir Ian Blair was the first Metropolitan Police Commissioner to struggle with the tabloidized and digitalized news developments described in this chapter. Considered too liberal from the outset by the conservative press, Blair was the target for an unrelenting trial by media that decimated his 'natural' position as the UK's most senior police officer. The tipping point in Blair's trial by media came at a Metropolitan Police Authority monthly meeting. When challenged on the unequal resourcing of murder investigations, he stated that the Metropolitan Police allocated resources to murders in accordance with the difficulty of the investigation. He then asserted that the news media were institutionally racist in how they reported murders. Blair further questioned news media selectivity by asking why the disappearance and murder of two ten-year-old Soham girls, Holly Wells and Jessica Chapman—which precipitated the biggest police manhunt in British history, received so much news attention in August 2002.

The reaction was overwhelmingly hostile. Newspapers reproduced high-profile coverage of black and Asian murder victims as 'proof' that they were not racist in their reporting practices. The *Daily*

Mail reprinted its ground-breaking 'Murderers' front page naming Stephen Lawrence's alleged killers. But Blair attracted an entirely different order of criticism for the Soham murders comment. He was lambasted across newspaper front pages for daring to question the newsworthiness of the abduction and murder of Holly Wells and Jessica Chapman. The following morning Blair made an unreserved 'on air' apology on BBC Radio 4 for any offence his comments might have caused the murdered girls' families (Blair 2009). But the fallout of the Soham remarks coalesced with a hostile political environment to make his Commissionership untenable (Greer and McLaughlin 2011). Calling the press institutionally racist was a provocation for certain journalists, who quickly rebutted the claim. Questioning the newsworthiness of the murder of two ten-year-old girls was inexcusable.

In meticulous detail, Blair was (de)constructed as an organizational liability who had lost his grip on Scotland Yard, forfeited the respect of the rank-and-file, and exhausted political support. Over time, the words and images that came to constitute Blair's news media identity were those of a 'politicized', 'operationally compromised', and 'gaffe-prone' Commissioner. As columnist and former *Times* editor Simon Jenkins (2006) put it:

London's police chief, Sir Ian Blair, is being dragged into the street by a mob of journalists and politicians, blood-stained but still twitching. He is taunted, spat at, kicked and beaten. The editor of the Sun is looking for a gibbet, and of the Mail for a rope. Politicians are queuing to thwack the horse from under the gallows.

After three years of unyielding trial by media, Sir Ian Blair resigned from post on 2 October 2008. He was the first Commissioner to do so since Sir Charles Warren in 1888, who stepped down for failing to catch Jack the Ripper. Sir Ian Blair's trial by media did more than delegitimize one particular Commissioner. It clarified what 'type' of Commissioner and policing philosophy would be acceptable to the UK conservative national press. Further, it set a precedent for police-media relations and established a new set of reputational risks that would have to be managed by anyone seeking to become the UK's most senior police officer (Greer and McLaughlin 2011). Sir Ian Blair's successor, Sir Paul Stephenson, became the second Metropolitan Police Commissioner since 1888 to resign before term, as a result of the *News of the World* phone hacking scandal of 2011. The favourite to succeed him, Sir Hugh

Orde, withdrew from the contest in the midst of his own publicly humiliating trial by media (Greer and McLaughlin 2012c). The successful candidate, Sir Bernard Hogan-Howe, became the third Metropolitan Police Commissioner since 1888 to resign before term. The same conservative newspapers that had initially offered qualified support undermined Hogan-Howe's Commissionership through trial by media following a botched police investigation into historical child sexual abuse in which Field Marshall Lord Brammall was publicly named as a suspected paedophile in the absence of any credible evidence (Henriques 2016).

NEWS POWER, SCANDAL HUNTING AND MEDIA JUSTICE

Newspaper corporations are still learning how to maximize the impact of trial by media. The ethically questionable tactics used by certain journalists to gather information in the past, such as industrial-scale phone hacking, were finally outlawed by the Leveson inquiry. One of the most remarkable periods in the history of British journalism resulted in the closure of the 168-year-old flagship tabloid, the *News of*

the World, journalists being prosecuted, and newspaper corporations settling substantial civil claims (Keeble and Mair 2012; Davies 2015). This anomic moment appears to have precipitated a recalibration and refocusing of the relations between news power, crime, and criminal justice. As UK newspaper corporations continue to learn from their mistakes, and their successes, there has emerged an even more ambitious form of news campaigning, directed not just at powerful public figures but at Britain's core institutions and government. In a digitally-led news environment characterized by ever-increasing proliferation, interactivity and adversarialism, newspaper corporations have taken their business model to the next level: from portraying individual institutional failures to exposing systemic institutional scandal.

The overlapping categories of infraction that underpin scandals are the same as those that drive trial by media; criminality, immorality and incompetence. However, while anyone can potentially become a target for TBM, scandals implicate the institutionally powerful—high-profile individuals or institutions whose official position carries the expectation of upholding clearly defined moral or ethical principles. The infractions are sufficiently shocking that their public revelation

triggers a powerful negative social reaction that can have life-changing reputational consequences for the protagonists (Greer and McLaughlin 2013, 2015). Though diverse, we would argue that scandals progress through consistent phases—hunting, latency, activation, reaction, amplification, and accountability. These phases are illustrated in Figure 11.4. (see also Greer and McLaughlin 2016). Scandal hunting in the UK has traditionally been viewed as the archetypal tabloid news practice: cheap, sensationalist, salacious, exploitative, and a distraction from ‘real’ news. However, institutional scandal hunting is now practiced by all of the UK’s newspaper corporations and a multitude of online news and social media sites. Scandal hunting involves:

- sting operations to catch public figures engaging in scandalous behaviours;
- investigating rumours and allegations that might in turn result in a new scandal scoop;
- inviting members of the public and whistleblowers to share scandalous information.

While scandals may be activated – or claimed – and subsequently ‘owned’ by particular newspaper corporations, they will intermediatised across digital platforms and inflected in accordance

with ideological position. In addition to being commercially valuable, scandal hunting is inherently political. There is no shortage of high-profile examples: the politicians' expenses scandal (*Daily Telegraph* 2009); the WikiLeaks's scandal triggered by the release of confidential US national security and diplomatic documents (*Guardian*, *New York Times*, *Der Spiegel* 2010); the phone-hacking scandal that resulted in the closure of the *News of the World* (*Guardian* 2011); the mass surveillance scandal resulting from the document leak by National Security Agency whistleblower Edward Snowden (*Guardian* 2013); the Panama Papers scandal revealing the offshore tax avoidance behaviours of the world's rich and powerful (*Guardian* 2016); international sports scandals resulting from the exposure of institutionalized corruption at the highest levels (*Times* and *Sunday Times*, 2016); the UK Football Association scandal resulting from the exposure of corruption in the transfer market (*Daily Telegraph*, 2016); historical child sex abuse scandals implicating dozens of UK football clubs (*Guardian* and *Daily Mirror* 2016). However, if the Stephen Lawrence and Sarah Payne cases established a template to guide UK newspapers' orchestration of victim-centred campaigns, the Sir Jimmy

Savile case has established a template for the activation and amplification of institutional scandal.

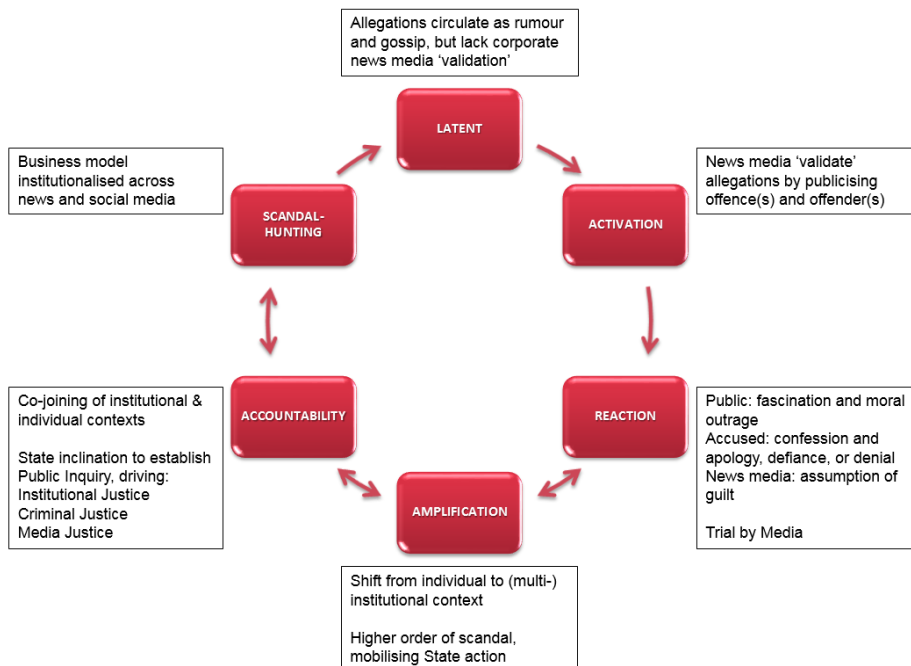


Figure 11.4

Institutional scandal model

Sir Jimmy Savile (1926–2011) was a BBC celebrity, philanthropist, and friend of the establishment. One year after his death, in October 2012, a television documentary claimed that Savile was also a sexual predator who for decades had used his celebrity status to abuse teenage girls. This documentary activated an intermediatized trial by

media that destroyed Savile's reputation and implicated the BBC—the institution that catapulted him to superstardom—into an extraordinary institutional child sex abuse scandal. The BBC's initial reaction—denial of knowledge and responsibility—triggered another trial by media that amplified the scandal from the individual problem of Savile's offending to the institutional problem of the BBC's failure, denial, and cover-up. As police and, crucially, news media investigations uncovered more alleged victims and offenders, the scandal escalated and amplified across numerous public institutions. (Greer and McLaughlin 2016). Police investigations resulted in the questioning, and in some cases high-profile arrest and prosecution, of aging celebrities and public figures accused of historical sexual assaults. All of those accused publicly denied their guilt. Only some were convicted, but all were subjected to a shaming intermediatized trial by media. Child protection organizations reported that the 'Savile effect' had led to a dramatic increase in reports of child sexual abuse. The Independent Inquiry into Child Sexual Abuse (IICSA) was established in 2015 to investigate the extent to which 'institutions have failed in their duty of care to protect children from sexual abuse and exploitation'

(<https://www.iicsa.org.uk/about-us/terms-of-reference>). In addition to

being the UK's most large-scale and wide-ranging public inquiry, the IICSA is also its most intermediatized to date. The inquiry's remit, the credibility of those appointed as chair, the appointment process itself, and the character and competence of inquiry members have all been scrutinized across news and social media forums. Trial by media remains an ever-present risk for anyone deemed unacceptable. As we illustrated above, the charge of institutional failure to provide competent criminal justice leadership has become a particular focus for newspaper corporations' moral outrage. The first three Chairs of the IICSA, Baroness Elizabeth Butler-Sloss, Fiona Woolf, and Justice Lowell Goddard, were all subjected to trial by media. All resigned in humiliating circumstances. In the context of UK newspaper corporations' reconstituted sense of adversarial power, most dramatically evidenced through trial by media and institutional scandal hunting, even public inquiries now run the risk of becoming part of the scandal they have been established to manage.

CONCLUSION

In this chapter we have set out our position on the transformation of news power that is reshaping crime consciousness and criminal justice rhetoric, practice and policy in the UK. Crime will always be newsworthy, and therefore profitable as a news category, because it works across the emotional registers of fear, anger, and fascination. Criminologists must continue to research the processes through which crime news is selectively produced and the public reaction it generates. This programme of research should of course include continued analysis of the functioning of news values and of the conditions under which we might justifiably say that the social reaction to crime constitutes a moral panic. But for such concept-testing analyses to be meaningful—for them to move beyond their taxonomical application—they must be informed by a broader and deeper appreciation of a rapidly transforming tabloidized and digitalized news market. We have argued that, as a result of criminology's failure to keep pace with recent transformations, the dramatic reconstitution of contemporary news power remains under-researched and under-conceptualized.

The news media have always been a key site where justice is seen to be done. Today, however, UK newspaper corporations are

redefining what justice is, and how it can and should be achieved.

Victim-centred campaigns are exposing the scandalous institutional failure of the UK criminal justice system to provide public protection. In a context of heightened crime consciousness and declining confidence in the effectiveness of contemporary governance, trial by media is creating and delivering an alternative and highly distinctive form of justice. Media justice is a parallel and, at times, more visible, easily intelligible, and immediately impactful justice paradigm than that represented by the increasingly dysfunctional criminal justice process. Digital news sites have become platforms not only for the generation of intermediatized crime and justice debates and campaigns, but also for immersive participation in the naming and shaming of individuals and institutions. Though the criminal justice system retains the executive power to legally prosecute and sentence offenders, newspaper corporations are pre-empting and circumventing due process by pronouncing on guilt or innocence and, if the judgement is guilty, administering their own form of retribution. Media justice at once invokes, channels and expresses moral outrage. Its unique form of extra-judicial punishment is administered through destroying the credibility and reputation of 'guilty' individuals or institutions. Its core

mechanisms—trial by media and institutional scandal hunting—form the basis of a business model that has been adopted by all UK newspaper corporations. Institutional scandal hunting, activation and amplification, premised on maximum exposure and maximum moral outrage, is further complicating the state's capacity for governance by reconfiguring the power relations between newspaper corporations, networked citizens, and an already scandal-ridden criminal justice system.

SELECTED FURTHER READING

Greer (ed.), *Crime and Media: A Reader* (2010) is an annotated collection of key contributions covering many of the issues discussed in this chapter. Illuminating studies of the production of crime news are Chibnall, *Law and Order News: An Analysis of Crime Reporting* (1977) and the trilogy by Ericson, Baranek, and Chan, *Visualising Deviance*, *Negotiating Control*, and *Representing Order* (1987, 1989, 1991 respectively); Schlesinger and Tumber's *Reporting Crime* (1994); Greer, *Sex Crime and the Media* (2003/2012) and 'News Media Criminology' (2010). The most important studies of moral panic remain Cohen, *Folk*

Devils and Moral Panics (1973/2002) and Hall, *et al.*, *Policing the Crisis* (1978). Overview texts on crime and media are Carrabine, *Crime, Culture, and the Media* (2008) and Jewkes, *Media and Crime* (2015). Key articles on trial by media and institutional scandal hunting are Greer and McLaughlin, 'The Sir Jimmy Savile scandal: Child sexual abuse and institutional denial at the BBC' (2013) and Greer and McLaughlin, 'Theorizing institutional scandal and the regulatory state' (2016). The journal *Crime Media Culture: An International Journal* (London: Sage) is a key source for current and relevant articles.

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