

Crime news, trial by media, and scandal hunting

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Published as: Greer, C. and McLaughlin, E. (2023) 'Crime News, Trial by Media and Scandal Hunting', in A. Liebling, L. McAra and S. Maruna (eds.) *Oxford Handbook of Criminology*, seventh edition, Oxford: Oxford University Press.

Abstract: A rapidly evolving digital media landscape, inhabited by a network of outlets, is amplifying crime consciousness, exploiting crime's infotainment potential, and reshaping public attitudes towards crime and criminal justice. At the same time, in depth analysis of crime news has dropped off the criminological radar. In this chapter, we argue that because criminologists have not kept pace with transforming news media and markets, crime news remains under-researched and under-conceptualized. We begin by revisiting three classic concepts that continue to dominate crime news research: newsworthiness, moral panic, and penal populism. Though these concepts are still important for understanding crime news, their institutionalization and taxonomical application within criminology has marginalized analysis of dramatic shifts in the production and nature of crime news, the markets in which it circulates, and its power to shape crime consciousness and criminal justice rhetoric and practice. We then explore how 'trial by media' and 'scandal hunting' are not only redefining crime news, but also exposing institutional failures in public protection and challenging both the efficacy and the legitimacy of the criminal justice system. It is in this context of an unruly networked digital environment that we situate the disruptive challenge posed to criminal justice by the rise of what we define as media justice.

Keywords: crime news; digitalization; scandal; intermediatization; moral panic; newsworthiness; penal populism; tabloidization; trial by media; victim campaigns

Introduction

Picture this. 100 criminologists gathered at a conference are struggling to find consensus over 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, they all agree on two seemingly incontrovertible 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. Views on the precise nature of this detrimental impact span a wide range of possible negative effects, including, the generation of public misunderstanding of the problem of crime and the functioning and effectiveness of the criminal justice system; the manufacture of irrational fear of crime; the politicization of law and order; the scapegoating and criminalization of marginalized groups; and the formation of punitive crime control policies. But at the most fundamental level, all agree that the news media distortion of crime and criminal justice is bad.

Steve Chibnall’s (1977: 1) observation 45 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 of exposure to media violence and pornography (Barker and Petley, 2001). The lack of interest was incomprehensible to Chibnall, given that 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)

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 (Carrabine, 2008; Greer 2003/12, 2010a, b; Greer and Reiner, 2012; Moore 2014; 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: crime news values and moral panic. Although these concepts remain important for understanding news power, their institutionalization and taxonomical application within criminology has marginalized analysis of dramatic shifts in the production and 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 have identified ‘the media’ as a key driver of the punitive turn. Third, we set out our own position on developments that 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 ecosystem is in important respects unique (Tunstall 1996). Most important is the existence of a tabloidized news market, managed by powerful news organizations that operate fully integrated hard

copy and digital operations. Amidst ongoing debate about the death of ‘legacy news’ and the contemporary crisis of professional journalism (Alexander *et al.* 2016; Rusbridger 2019), we propose that UK news organizations are fighting hard to evidence their agenda-setting power. In response to the emergence of an ultra-competitive digital information marketplace they continue to develop a distinctive brand of adversarial ‘gotcha’ journalism that is working the edges of what is legally permissible in order to demonstrate 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 (Cushion *et al.* 2018). Consequently, news organizations retain a pivotal role in setting the public and policy agendas around crime and criminal justice.

The hybridization of the news market has, in certain respects, increased corporate power to define *what is news* and, in the context of this chapter, *what is crime news*. Crime news stories circulate endlessly, intermediatized across and between different platforms, ever-repeating, ever-proliferating beyond the control of any one group or institution. In this context of viral informational chaos and contestation, news organizations continue to act as powerful filters, disseminators, and legitimators, confirming which crimes matter and imposing their own brand of interpretive order. We identify the emergence of ‘trial by media’ and ‘scandal hunting’ as illustrative of the shifting nature of news power in this digital market. These news practices are capable simultaneously of providing an alternative forum for delivering ‘justice’ to victims and inflicting potentially devastating reputational damage on convicted and alleged offenders, criminal justice institutions, politicians, and policy elites. We propose that news organizations have reconstituted themselves as the engines of a ‘scandal machine’ and dramatically extended their networked power to shape public consciousness of crime and criminal justice and influence official rhetoric and practice. It is

in this volatile intermediatized context that we situate the challenge posed to criminal justice by media justice.

News Making and Crime: News Values and Moral Panic

In the 1970s and 1980s scholars were motivated to move beyond psychological positivism's preoccupations with direct criminogenic media effects in order to develop a deeper and more nuanced understanding of news power in 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 analysis contended 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. The reality-building selection and construction of events as newsworthy is guided by 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 what 'news' is, 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 tends to be newsworthy, whilst intimate partner violence is not. It also helps explain why 'breaking news' headlines are dominated by dramatic crimes, rather than abstract and complex debates around criminal justice policy or corporate crime.

Moral panic

For Cohen (1972) the most striking demonstration of the news media's power to shape public consciousness of crime 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. For Cohen, youth subcultures are the visible manifestation of rapid social transformations. They can be constructed as 'folk devils' who provide a crystallizing focus for social anxieties 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 viewed as an ideological intervention to address an escalating crisis in governance. 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 have the power to orchestrate moral panics about crime, a key ideological means through which 'the 'silent majority' can be won over to supporting 'law and order' measures, legitimizing the expansion of state control.

Though both Chibnall (1977) and Hall *et al.* (1978) were writing from a Marxist perspective, they arrive at different understandings of news power. For Chibnall (1977: 9–10)

journalistic ‘common sense’ will place ‘news values’ above other interests, including the conspiratorial interests of the power elite, in selecting and constructing news stories. For Hall *et al.* (1978), the notion of journalistic autonomy is illusory. The news media function as part of a wider ideological state apparatus within which journalists have limited autonomy. They sit in a position of ‘structured subordination’ to the powerful institutional claims makers upon whom they rely for newsworthy information. From Cohen’s interactionist perspective, everyone involved in a moral panic, including the news media, the authorities, the public and the folk devils, is absorbed into the panic. Each of these studies is also 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—crime news values and moral panic—have provided generations of researchers with all they need to examine the selection, production, distribution, and ‘effects’ of crime news. They were developed out of in depth analyses of social change that situated crime news within the wider contexts of inter-generational conflict, the politics of law and order, and/or the emergence of an authoritarian, ‘law and order’ state. It is their more immediately reproducible elements that have survived, caricatured and detached from wider contextual considerations. Thus crime news is researched in order to demonstrate 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 Cree *et al.* 2015 for an overview). While these concepts still have much to offer the analysis of crime news, we would propose that their taxonomical, thinly researched application does not do them justice, and has diverted research attention from the radical changes that have transformed the

relations between news organizations, 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 some of these changes came from penologists, who were analysing the ‘punitive turn’. Their primary concern was explaining the rise of public support for tougher sentencing and mass incarceration. They noted how the dominance of crime in public discourse was reshaping electoral politics and reorienting crime control policy towards quick fix punitive solutions (Beckett 1997; Bottoms 1995; Garland 2001a, b; Pratt 2007; Roberts *et al.* 2003; Sasson 1995). It is to this body of research that we turn next.

The Punitive Turn and Vice Signalling

Hall (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’s 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 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 sanctions and criminalization, tougher policing and sentencing, and increased imprisonment. Bottoms (1995) argued that the rise of ‘populist punitiveness’ signalled a radical departure from a post-war consensus that had contained the expression of excessively punitive public sentiments and the politicization of criminal justice policy-making. Unlike Hall, for Bottoms

this shift was unsustainable and would pass. At no point does Bottoms consider the significance of news media in shaping penal populist 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 the power of the news media. From Bottoms' policy-centric perspective, news power remained either invisible or insignificant. This is remarkable given that he was writing about 'populist punitiveness' at the moment the James Bulger murder was dominating the UK's crime news agenda. The two-year old toddler was abducted, tortured and murdered in Liverpool on 12 February 1993. The discovery, via CCTV footage, that his killers were two ten-year-old boys, Robert Thompson and Jon Venables, triggered a moral panic about child criminality (Green 2008). Thompson and Venables were found guilty, becoming the youngest convicted murderers in modern British history. The *Sun* newspaper presented a petition with nearly 280,000 signatures to Michael Howard, the Home Secretary, demanding that the killers be locked up for life. In July 1994 Howard announced that they would be kept in custody for a minimum of fifteen years. The Bulger case continues to haunt British society with relentless newsmedia monitoring of Thompson and Venables since they were released with new identities in 2001.

More recent penological work has given greater recognition to the role of media in driving the punitive turn. In Garland's (2001: 158) analysis of the UK and US, the media are not responsible for populist punitiveness but have 'tapped into, then dramatized and reinforced, a new public experience—an experience with profound psychological resonance—and in doing so [have] *institutionalised* that experience'. By heightening consciousness, most significantly among the previously well-insulated middle classes, of the increasing risks of criminal victimization and an ineffectual criminal justice system, the media have provided 'everyday opportunities to play out the emotions of fear, anger, resentment, and fascination that our experience of crime provokes' (Garland 2001: 158; see

also Garland, 2021). 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 news media influence identifies what they see as the malign outcomes of tabloid 'law and order' campaigns. Pratt (2007) also recognizes 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 news 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 news media fuel the punitive turn by exaggerating threats to personal security and the threat posed by violent predatory offenders; sensationalizing exceptional or aberrant crimes; concocting 'new' crime threats requiring 'new' punishments; employing simplified frames of good and evil; disseminating fake and inflammatory information about 'ineffective' criminal justice policies and practices; demonizing politicians, judges, and experts deemed to be 'soft on crime'; and campaigning for 'tough on crime' policies. In this period criminologists also began to consider how public fascination with 'true crime', crime reconstruction television programmes and crime novels and dramas might be contributing to legitimizing punitive sentiments (Kidd-Hewitt and Osborne, 1995; Taylor 1999 ; Wykes, 2001; King and Maruna 2006).

The most significant conclusion in the context of this chapter is the recognition of (a) the strength of public emotions that can be unleashed by crime news reporting and (b) the growing antagonism between the news media and the criminal justice system.

Nevertheless, the consensus amongst penologists 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's 'lock 'em up' tabloids are a lost cause. The challenge is to work with 'serious' journalists and commentators to transform public opinion. Specifically, more accurate and verifiable coverage of crime and criminal justice can be achieved by 'pointing out the unintended consequences of irresponsible, sensationalised reporting' and improving access to staff with scientific authority 'such as statisticians and academics' (Roberts *et al.* 2003: 175–6). We would suggest that this view underestimates and under-conceptualizes the volatile dynamics that shape the contemporary crime news environment, criminal justice policy-making, and the politics of law and order. In what follows, we develop this position through reference to two key disruptive processes: tabloidization and digitalization. These processes are pivotal to understanding the dynamic and rapidly transforming relations between UK news organizations, crime and criminal justice.

News Media Revolution

Though the emergence of tabloidization dates back to the 1960s (McLachlan and Golding 2000), it was in the 1990s that tabloid formats, techniques, and logics rapidly spread across the news industry (Lang and Dodkins 2011). New technologies enabled newspapers to reformat and sharpen 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 (Bird 1992; Conboy 2006; Franklin 1997; Sparks and Tulloch 2000).

Crime news was ideally suited to this new environment. ‘Crime’ has always been a profitable news commodity, but tabloidization transformed newspapers’ capacity to produce stories that could seize the public imagination. 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 simplified explanations—standard practice for decades—were augmented by a growing readiness to challenge ‘establishment’ discourses and institutional authority (Turner 1999; Reiner *et al.* 2000; Brock 2013).

As tabloidization was taking hold, newspapers were also experimenting with the Internet. ‘Digital convergence’—the combination within a single portable device of, most significantly, internet capabilities, camera functionality, and messaging services—created the technological conditions in which the mass production and instant dissemination of news could flourish (Westlund 2013). But it was convergence culture, ‘where old and new media intersect, where grassroots and corporate media collide, where the power of the media producer and the power of the consumer interact in unpredictable ways’ that was revolutionary (Jenkins, 2006). In the process, it further transformed the nature and experience of crime news and the environments in which it circulates. Three interconnected dynamics, at once fostered and intensified by convergence culture, are key: proliferation, interactivity, and adversarialism.

Online proliferation has resulted in countless platforms and sites disseminating 24-7 ‘breaking news’ globally. The main challenge facing news-hungry consumers has shifted from finding and accessing to choosing and filtering. Rupert Murdoch (2006) heralded a second revolution that would require further radical adaptation from news organizations if they were to retain their relevance:

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.

News organizations have responded to the proliferation of online ‘free news’ platforms—most notably, Google, Facebook and Twitter and numerous chat forums and visual-sharing sites—by transforming themselves into digital news brands with global reach. A snapshot from July 2021 reveals that *The Guardian* newspaper sold 105,000 print copies per day, yet its website attracted more than 305 million daily page views . Daily print sales of the *Daily Mail*, whilst eclipsing those of *The Guardian* ten-to-one, were still only 920,881. *MailOnline* averaged over 518 million daily page views (Press Gazette, accessed 14 July 2021).

Corporate news websites are constantly updated, rendering obsolete the physical, temporal, and geographical constraints of the printed format. In an increasingly crowded and competitive market, news organizations are under ever-greater pressure to attract and retain fickle consumers. One effective way of achieving this is increased interactivity in the process of sharing and disseminating news content.

Boczkowski (2004: 21) notes that news has moved from being ‘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, discussion groups and blogging means that audiences are woven into the news production and dissemination process, breaking down traditional notions of journalist as sole gatekeeper and reinvigorating debates about audience agency. In convergence culture, consumers can become producers, 'watchers' can become 'doers', and everyone can be a 'citizen reporter', sharing photographs and footage of crime events to co-produce the news, and spreading news by sharing it on social media, or choosing not to (Trilling et al. 2017; Muhlmeyer and Agarwal 2021; Goldsmith and McLaughlin 2022).¹ 'If it bleeds it leads' *newsworthiness* merges with 'if it doesn't spread, it's dead' *shareworthiness* in the co-curation of a real-time, fully interactive crime news experience. The nature of this viral 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, hybrid news market, one of the main ways in which news organizations have competed for audiences has been through increasing adversarialism (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 (Fukuyama 2000; Seldon 2009;

¹ While surrounding discussions have moved on to encompass concepts such as algorithmic filtering and news curation, established approaches to reception in the context of audience agency still provide an important lens for conceptualizing a significant moment in time that continues to reverberate today.

Mishra 2017). As McNair (2006: 71) notes, a prominent characteristic of contemporary news coverage is its 'negativism and wilfully destructive attitude towards authority'. We propose that this adversarialism lies at the heart of a new business model for news organizations. Energized by tabloidization and digitalization, and committed to challenging establishment authority by investigating and exposing institutional failure, this business model is reconstituting *what is crime news* 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.

Trial By Media and the Digital Court of Public Opinion

The dictum 'justice must seem to be done' creates a tension between the public's right to know, the newsmedia's freedom to report and the accused's right to a fair trial by judge and jury. The US news media are relatively uninhibited by restrictions on the reporting of court cases. Advocates for both the prosecution and defence 'try' sensational celebrity cases simultaneously in both the law courts and the court of public opinion (Bailey 2021). Livestreaming some court proceedings in the US encourages and reinforces frenzied media reporting. In the UK there are more stringent restrictions on the media reporting of criminal cases. In 1973 Lord Denning stated: "We must not allow 'trial by newspaper' or 'trial by television' or trial by any medium other than the courts of law" (*Financial Times*, 19 February 1973, p.4). Contempt of court restrictions aim to ensure that jurors operate in a 'no-media' bubble, reaching verdicts on the basis of the evidence presented in court, free from the potential influence of prejudicial news reporting. There are curbs on: naming suspects, what can be reported after an arrest is made and what can be reported during judicial proceedings.

Unlike in the US, UK court proceedings are also camera-free. These constraints are being tested to the limit in the digital news environment.

Trial by media (TBM) is a form of retributive populist justice in which individuals and institutions are judged in the intermediatized ‘court of public opinion’ (Greer and McLaughlin 2010, 2011, 2012a, b, 2013). This ‘court’ can be created and attended by media users across the globe, and anyone with internet access can participate in the online trial proceedings. In this court no-one is impartial. The allegations driving TBM range across three overlapping categories of infraction: criminality, immorality, and incompetence. The disruptive power of TBM resides in its capacity to trigger an extreme emotional public reaction—shock, anger, outcry—that can redefine cultural, political, and policy agendas and leave an indelible imprint on our collective consciousness. The nature and targets of these trials are diverse, and include (Greer and McLaughlin 2017):

- 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 justice and/or proportionate punishment.

Active public participation—which may vary from posting speculation and opinion to searching for clues, evaluating the truth or falsity of evidence, trolling and weaving evidential webs, to sharing in collective judgement on the guilt or innocence of the accused—is integral to the immersive, interactive experience (Are, 2019). Through this viral interactivity, TBM reclaims aspects of ‘justice’ from the law courts and returns them to a digital court of public opinion. The extra-legal investigation practices that form a core part of TBM may uncover sufficient evidence to activate or reinforce legal due process. TBM thus has the power to

initiate legal proceedings that otherwise may not have occurred. But it can also challenge and subvert legal due process. Inverting its defining principle, TBM cases are premised on a presumption of guilty until proven innocent. 'Presumed guilty' 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. Attempting to exercise the 'right to silence' in the face of accusation is viewed as a tacit admission of guilt. Those who publicly protest their innocence or attempt to demonstrate that they have been wronged will be subjected to intensified scrutiny aimed at uncovering further proof of their guilt. Anyone who identifies or stands with the accused will also be attacked. Through the public naming and shaming of alleged 'wrongdoers', TBM orchestrates both guilt scrolling and status degradation ceremonies that dramatize moral boundaries and transform the public identity of individual and institutional actors. The 'justice', as delivered by a successful TBM, ranges from varying degrees of public mockery, humiliation, vilification, and demonization, to criminal sanction, the introduction of new regulatory frameworks, the transformation of institutional practice, and the reconfiguration of collective memory.

TBM has played a key role in the reinvigoration of investigative journalism from the 1990s to establish market distinction and demonstrate newspapers' sense of power. Campaigning across a range of issues emboldened UK newspapers in claiming to act as the 'voice for the voiceless' 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 law-abiding public, to take responsibility for a succession of institutional failures in the criminal justice system. Below we identify and analyse some exemplars that for us demonstrate the essential characteristics

of this process (Figure 11.1), namely failure through convicting the innocent; letting the guilty walk free; dangerous offenders on the loose; and incompetent criminal justice leadership.

[INSERT FIGURE 11.1]

Figure 11.1 The Square of Institutional Failure

The development of TBM through victim-centred campaigns allowed news organizations to stress test the legal limits and public appeal of the exposure of individual and institutional failures.

Institutional failure: Wrongful prosecutions/convictions

In the aftermath of successful ‘miscarriages of justice’ campaigns, most notably the Guildford Four, Birmingham Six, Tottenham Three and Maguire Seven, some newspapers continued to investigate and campaign on behalf of individuals who it was claimed had been the subject of wrongful conviction (Walker and Starmer, 1999; Greer and McLaughlin 2014; Poyser, et al, 2018). Logistically these ‘traditional’ campaigns are difficult to run as they are premised on the assumption that the criminal justice system is not only ineffective, but also almost certainly institutionally corrupt. In addition, it is difficult to generate public sympathy for individuals who, for example, have been convicted of high-profile murders. Nevertheless, there have been notable successes, including overturned convictions in the cases of the Cardiff Three (1992), the Bridgewater Three (1997), Derek Bentley (1998), Stephen Downing (2002) and the Oval Four (2019/2020). 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, confirmed 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 TBM campaigns marked a watershed in UK news organizations' agenda-setting capacities.

Institutional failure: Allowing the guilty to walk free

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 11.2).

[INSERT FIGURE 11.2]

Figure 11.2 *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 intervention 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 on the cusp of digitalization.

Institutional failure: dangerous offenders on the loose

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 in December 2001, with a minimum term of 40 years, for Sarah’s abduction and murder. 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 benefited from early prison release. With the full support of Sarah’s parents, the *News of the World*—the UK’s bestselling Sunday newspaper at the time—launched a two-pronged ‘For Sarah’ crusade (Pratt 2007; Greer, 2017). 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.

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). The Child Sex Offender Disclosure Scheme allows members of the public to ask the police to check whether someone who has access to a child has any record for child sexual offences.

Following on from the Bulger case, 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 the power to set the news agenda, imposing

interpretive order, galvanizing public opinion, triggering national debates, and pressurizing politicians, policy-makers, and criminal justice professionals to acknowledge institutional failures. The Lawrence and Payne murders demonstrated 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; Cook, 2020). In both cases, the mothers acquired celebrity status and political prominence, and were officially recognized by the state for their efforts as inspirational women 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 co-founded Phoenix Chief Advocates to help those victimized by paedophile crimes, challenge institutional anti-victim prejudice, and help people with PTSD. She became the first Victims' Champion in 2009 following a Government commitment to make such an appointment. 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. grief stricken, outspoken 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 through news conferences, interviews, the release of family photographs, and participation in high-profile commemoration events;

- campaigning for reforms that transcend their own tragic personal circumstances and offer future protection to others;
- crafting and disseminating public biographies that further memorialize the victims, who might become posthumous celebrities;
- transforming the crime into an emblematic case which will have a cultural afterlife.

Institutional failure: Incompetent criminal justice leadership

High-profile criminal justice failures are inevitably accompanied by demands that something be done to address the incompetent, unaccountable leadership of criminal justice agencies. Sir Ian Blair was the first Metropolitan Police Commissioner to struggle with the revolutionary news developments described in this chapter. Considered too liberal from the outset by his opponents, Blair was the target for an unrelenting TBM that undermined his ‘natural’ position as the UK’s most senior police officer. The tipping point in Blair’s TBM came when he was challenged on the unequal resourcing of murder investigations. He offered reassurance that the Metropolitan Police allocated resources to murder investigations in accordance with their complexity, and then accused the news media of institutional racism in how they reported murders. Blair further questioned news media selectivity by asking why the abduction and murder of two ten-year-old Soham girls, Holly Wells and Jessica Chapman in 2002—which precipitated the biggest police manhunt in British history—received so much news attention.

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 Holly Wells and Jessica Chapman’s murders. The

following morning Blair publicly apologized for any offence he 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. Blair was portrayed as an organizational liability who had lost his grip on Scotland Yard, the respect of the rank-and-file, and political support.

On 2 October 2008, after three years of relentless TBM, Sir Ian Blair resigned from post. He was the first Commissioner to do so since Sir Charles Warren in 1888, who resigned for failing to catch Jack the Ripper. Sir Ian Blair's TBM 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, resigned as a result of the Met's role in the *News of the World* phone hacking scandal. The favourite to succeed him, Sir Hugh Orde, withdrew from the contest in the midst of publicly humiliating media scrutiny (Greer and McLaughlin 2012b). The successful candidate, Sir Bernard Hogan-Howe, resigned before his term of office had ended. The same conservative newspapers that had initially offered qualified support, questioned Hogan-Howe's Commissionership following a botched police investigation ('Operation Midland') into historical child sexual abuse in which high profile individuals were publicly named by the police as suspected paedophiles in the absence of any credible evidence (Henriques 2016). The next Commissioner, Dame Cressida Dick's nearly five-year tenure was dogged by a series of blunders and controversies ranging from accusations of a failure to address institutional racism and corruption through to

shortcomings in the police response to the kidnapping and murder of Sarah Everard, by Wayne Couzens a serving Metropolitan Police officer. Dick faced further criticism after a vigil for Sarah Everard was policed heavy-handedly.

Again several news organizations, most notably the *Daily Mail*, ran a prolonged TBM demanding that 'Calamity Cressida' be removed from office. The UK's first female Commissioner resigned in February 2022, confirming that the Mayor of London, Sadiq Khan, had 'lost faith' in her ability to reform the force. Her replacement Sir Mark Rowley experienced his own TBM for his response to a report by Baroness Casey that labelled the Metropolitan Police as 'institutionally racist, sexist and homophobic' (Baroness Casey, 2023).

Scandal Hunting and Media Justice

There has emerged an even more ambitious form of news campaigning, directed not just at powerful public figures but at Britain's core institutions. In a spreadable news environment characterized by ever-increasing proliferation, interactivity, and adversarialism, newspaper organizations have shifted from investigating individual institutional failures to exposing systemic institutional scandal.

Scandal hunting in the UK has traditionally been viewed as the archetypal tabloid celebrity news practice: salacious, exploitative, and a distraction from the concealed crimes and misdemeanours of the powerful, and therefore inconsequential (Conboy, 2006). They are quickly replaced with yet another entertaining celebrity scandal.

However, there is also a long tradition of institutional scandal hunting undertaken by specialist investigative teams employed by news organizations (Thompson, 2000; Pilger, 2005). Institutional scandal-hunting is now hard-wired into all news organizations and the

multitude of online investigative news, whistleblower, activist, tracker, and conspiracy sites that constitute the 24/7 scandal machine.

Institutional scandals are at heart morality tales, making public the deliberately hidden immorality, incompetence, or criminality of institutions that typically results in outrage, condemnation, and reputational damage. Scandals matter because they evidence ineffective internal and external regulation and deliberate cover-ups. By definition, institutional scandals involve a dramatic TBM. Exposing scandal is not straightforward. Most serious institutional wrongdoing never becomes public (Entman, 2012). Investigating the inner workings of powerful institutions is labour-intensive and very often dangerous (Leigh, 2019). The majority of investigations ‘run cold’ at an early stage of investigation, not least because institutions can deploy an armoury of blocking mechanisms to protect institutional interests; obstruct external scrutiny; neutralize complainants and potential whistleblowers; and reject or deflect blame and responsibility. Scandal desensitization can also hinder investigations.

While anyone can potentially become a target for TBM, scandals that acquire traction implicate the institutionally powerful—privileged individuals or institutions whose official position/mandate carries the expectation of upholding clearly defined moral or ethical principles. If the infractions are sufficiently shocking, their public revelation will trigger 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 a fully raging institutional scandal progresses through the following self-energizing phases—hunting, latency, activation, reaction, amplification, accountability, and cultural re-activation (see Figure 11.3). Some scandals become cultural lodestones.

[INSERT FIGURE 11.3]

Figure 11.3 Institutional scandal model

Scandal hunting variously involves:

- investigations aimed at exposing the corruption of the powerful;
- ‘gotcha’ operations to catch public figures engaging in scandalous behaviours;
- exploring 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 and subsequently ‘owned’ by particular news organizations, they can go viral fuelling the digital scandal machine. 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’ 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 an all-encompassing institutional scandal.

Sir Jimmy Savile (1926–2011) was a BBC celebrity, philanthropist, and friend of the establishment (Greer and McLaughlin, 2021). One year after his death, in October 2012, an ITV documentary claimed that Savile was a sexual predator who for decades had used his

celebrity status to abuse teenage girls with impunity. The allegations against Savile had originally been shared on an internet chatgroup. This documentary activated an excoriating TBM that annihilated Savile's reputation and implicated the BBC—the institution that catapulted him to superstardom—in an extraordinary institutional child sex abuse scandal. The BBC's initial 'we know nothing' reaction widened the scandal from Savile's alleged offending to allegations that the BBC had covered-up for Savile over decades to protect its reputation. An explosion of allegations, wild conspiracy theories, and an outpouring of rage further escalated and amplified the scandal, implicating numerous individuals and public institutions (Greer and McLaughlin 2015). Child protection organizations reported that the 'Savile effect' had produced a dramatic increase in reports of child sexual abuse, past and present, more generally (see Figure 11.4).

[INSERT FIGURE 11.4]

Figure 11.4 *The Sun* front page

Source: News UK/News Licensing, 19 April 2013.

Police investigations resulted in the questioning, and in some cases high-profile arrest and prosecution, of aged celebrities ('Operation Yewtree') and public figures ('Operation Midland') accused of historical sexual assaults. All of those accused publicly denied their guilt. Some were convicted, some were wrongfully accused, but all were subjected to reputation shredding TBM.

As a direct result of the Savile scandal, an Independent Inquiry into Child Sexual Abuse (IICSA) was established in 2015 to investigate the extent to which institutions had failed or were continuing to fail to protect children from sexual abuse.

(<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 also quickly became its most scrutinized. The inquiry's remit, the credibility of those appointed as chair, the appointment

process itself, and the character and competence of inquiry members were all dissected across news and social media forums, and the first three inquiry Chairs—Baroness Elizabeth Butler-Sloss, Dame Fiona Woolf, and Justice Lowell Goddard—were all subjected to TBM, and resigned in humiliating circumstances. By March 2022, under the leadership of the fourth Chair, Baroness Jay, the IICSA had published reports covering child sex abuse linked to Westminster, organized networks, religious organizations, custodial institutions, and schools, among others.

The same institutions that co-produced Savile's 'untouchable' celebrity icon status—the BBC, the NHS and the British establishment—have attempted to eradicate Savile from their institutional histories. Processes of erasure included the removal of his images from television archives and galleries, the donation of funds he raised for his charities to child abuse organizations, the removal of statues and plaques erected in his honour, and the demolition of his gravestone and houses. Savile's status annihilation retrofitted the former celebrity icon and 'national treasure' as a reviled sex offender (Greer and McLaughlin 2020). However, ongoing processes of cultural re-activation through theatre, documentaries, and drama—including Netflix's *Jimmy Savile: A British Horror Story* and a BBC series, *The Reckoning*—ensure that the Savile scandal continues to resonate and evolve more than a decade after it broke.

Conclusion

Crime will always be newsworthy, and therefore profitable as a multi-dimensional media product. This is because it works across the highly emotional registers of moral righteousness, fear, anger, and fascination (Katz, 1987). Criminologists will continue to research the processes through which crime news is selectively produced, the social reactions

it generates and the impact that some emblematic crimes have on society, culture and politics. This programme of research will of course include continued analysis of the transformation of news values and of the sociological conditions under which we might justifiably say that the reaction to crime constitutes a moral panic. But for such analyses to be meaningful—for them to move beyond their taxonomical application—they must be situated within a broader and deeper appreciation of a rapidly transforming news market. We have argued that, as a result of criminology's failure to keep pace with recent transformations, the reconstitution of contemporary crime news remains under-researched and under-conceptualized.

Just as crime will always be newsworthy, the news media will always be a key site where criminal justice is 'seen to be done'. Today, however, news organizations, operating in a digital environment, defined by shareworthiness, are redefining what criminal justice is, and how it can and should be achieved. Victim-centred campaigns are exposing a failing criminal justice system that is incapable of protecting the law-abiding public. Media justice, in the form of TBM, is a parallel, more visible, easily accessible, and immediately impactful justice paradigm than that represented by the dysfunctional criminal justice process. Digital news sites have become platforms not only for the generation of 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 prosecute and sentence offenders, news sites are pre-empting and circumventing due legal process by pronouncing on guilt or innocence and, if the judgment is guilty, administering their own form of retributive punishment. Media justice at once invokes, channels, and expresses moral outrage. Its unique form of extra-judicial 'gotcha' punishment is administered through debasing or destroying the reputations of those deemed to be 'guilty'. Relentless 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 news organizations, the digital ‘court of public opinion’, and a scandal-ridden criminal justice system.

■ Selected Further Reading

Greer’s *Crime and Media: A Reader* (2010) is a collection of key contributions covering many of the issues discussed in this chapter. Overview texts on crime and media are Carrabine’s *Crime, Culture, and the Media* (2008) and Jewkes, *Media and Crime* (2015). Studies that still set the agenda for many of the contemporary debates about crime news are: Chibnall’s *Law and Order News: An Analysis of Crime Reporting* (1977); Ericson, Baranek, and Chan’s trilogy, *Visualising Deviance* (1987), *Negotiating Control* (1989), and *Representing Order* (1991); Schlesinger and Tumber’s *Reporting Crime* (1994); and Greer’s *Sex Crime and the Media* (2003/2012). The most important studies of moral panic remain Cohen’s *Folk Devils and Moral Panics* (1972/2002) and Hall et al.’s, *Policing the Crisis* (1978/2013). An overview of debates about penal populism can be found in Pratt’s (2007) *Penal Populism*. For comprehensive sociological analyses of scandal, see Thompson’s *Political Scandal* (2000) and Adut’s *On Scandal*. Criminologists will also find much of interest in *Mandell and Chen (2016) Scandal in a Digital Age* and Tumber and Waisbord (eds) (2019) *The Routledge Companion to Media and Scandal*. The journal *Crime Media Culture: An International Journal* (London: Sage) is a key source for current and relevant articles.

Online resources

Try the essay questions for this chapter and visit useful websites for additional research and reading around this topic.

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