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‘This is not Justice’: Ian Tomlinson, Institutional Failure and the Press Politics of Outrage

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Abstract

This article contributes to research on the sociology of scandal and the role of national newspapers and, more particularly, newspaper editorials in setting the agenda for public debate around police accountability and miscarriages of justice. In previous work we analysed how citizen journalism shaped news coverage of the policing of the G20 Summit, London 2009, and the death of Ian Tomlinson (Greer and McLaughlin 2010). In this article, we consider the next stage of the Ian Tomlinson case. Our empirical focus is the controversy surrounding the Crown Prosecution Service (CPS) decision not to prosecute the police officer, filmed by citizen journalists, striking Tomlinson shortly before he collapsed and died. We illustrate how the press’ relentless agenda-setting around ‘institutional failure’, initially targeted at the Metropolitan Police Service, expanded to implicate a network of criminal justice institutions. The Tomlinson case offers insights into the shifting nature of contemporary relations between the British press and institutional power. It is a paradigmatic example of a politically ambitious form of ‘attack journalism’, the scope of which extends beyond the criminal justice system. In a volatile information-communications marketplace, journalistic distrust of institutional power is generating a ‘press politics of outrage’, characterised by ‘scandal amplification’.

Keywords: attack journalism; inferential structure; institutional failure; inter-mediatisation; miscarriage of justice; police violence; politics of outrage; scandal amplification

Introduction

This article analyses the press construction of the ongoing controversy surrounding the death of Ian Tomlinson at London's G20 Summit, April 2009, following an altercation with the police. Tomlinson was a newspaper vendor who collapsed and died in the midst of police and protesters on his way home from work. He was not part of the G20 demonstration. A Metropolitan Police Service (MPS) statement denied any contact with Tomlinson prior to his collapse and, further, suggested that protesters had attacked police officers as they attempted to offer medical assistance. The news media initially and largely uncritically reproduced this versions of events. In a dramatic development, video footage handed to the press by a member of the public evidenced that the MPS statement was inaccurate and that, in fact, a Territorial Support Group (TSG) officer had struck and pushed Tomlinson immediately prior to his collapse. Fuelled by a daily drip-drip of fresh video footage and still photographs, witness testimonies and journalistic commentary, the ensuing news coverage directly contradicted the MPS position. This inter-mediatised scandal resulted in a raft of official enquiries into public order policing in London, and raised serious questions about the credibility and integrity of the MPS.

In previous research we charted the destabilisation and reorientation of the news media's initial 'inferential structure' (Lang and Lang 1955) that had constructed the protesters as 'the problem', and the police as the 'thin blue line' of public protection (Greer and McLaughlin 2010). We argued that the collective news media realignment from 'protester violence' to 'police violence' was reinforced by a range of micro- and macro-level factors. At the macro level, these included: the capacity of technologically empowered citizens to produce and disseminate 'real time' information that challenges the 'official' version of events; the inclination of professional and citizen journalists to actively seek out and use that information; and the existence of an information-communications marketplace that places a high value on news that is hostile toward particular forms of institutional power. At the micro-level, the news reporting of G20 and the death of Ian Tomlinson was shaped by journalistic scepticism regarding the veracity of MPS version of 'what had happened'.

Here we examine the next stage in the news media construction of the Tomlinson case – the period between Tomlinson's death in April 2009 and the Crown Prosecution Service's (CPS)

decision in July 2010 not to prosecute the TSG officer filmed striking and pushing Tomlinson shortly before he collapsed. During this period there was a shift in news media attention – from ‘police violence’ to the wider problem of systemic ‘institutional failure’. Our analysis of the Tomlinson case and its construction as news is sociologically significant for a number of reasons. It offers insights into the changing nature of public protest and how it is policed in the UK. It elucidates key elements of a transforming information-communications environment – Tomlinson’s death became a global news story after citizen-generated video evidence shattered the official version of events. It illustrates the changing relations between the news media, the police, and other criminal justice institutions. Finally, it demonstrates how the concept of ‘institutional failure’ constitutes a defining explanatory framework in news constructions of ‘official’ controversies. These factors coalesce in the emergence of what we term a press politics of outrage that simultaneously seeks to attract increased audiences and demonstrate its agenda-setting power.

The article is structured as follows. Building on existing work on the sociology of scandal and mediated visibility, we begin by mapping out the press politics of outrage as a function of technological, cultural and, crucially, economic transformations in the contemporary information-communications environment. We then present our empirical analysis of press constructions of the Tomlinson case as one dramatic manifestation of a collective press politics of outrage, most clearly and explicitly articulated in newspaper editorials. Next, we evidence the impact that ongoing press outrage around ‘institutional failure’ following the death of Ian Tomlinson is having on the public order policing in London. We conclude by considering the implications of our analysis for understanding the present news media obsession with institutional failure, and the role of the press politics of outrage as part of a wider and politically more ambitious form of agenda-setting journalism in Britain.

The Press Politics of Outrage

Our analysis is situated within a body of research exploring the sociology of scandal and the changing nature of visibility in contemporary social life (Brighenti 2007, 2010; Castells 2009; Chouliaraki 2008; Grabe and Kamhawi 2006; Liebes and Blum-Kulka 2004; Lull and Hinerman 1997; Marion 2010; Orgad 2008; Tumber 1993, 2004; Vasterman 2005). Thompson (2000,

2005) has examined both issues, and highlighted the rise of 'mediated visibility' as a key factor in explaining the growing prevalence of scandal in news media discourses. Three major transformations have coalesced to make it 'much more difficult to close the doors of the political arena and throw a veil of secrecy around it' (Thompson 2005: 47). First, new forms of surveillance make it harder for public figures to conceal even their most private activities. Second, a changing journalistic culture has (re)legitimated investigative journalism and (re)validated exposés of the secrets of the powerful. Finally ideological, class-based politics has given way to a performative 'politics of trust' that places a premium on the individual integrity and credibility of public figures, and correspondingly invests scandal with greater journalistic and public significance. For Thompson (2005: 49) mediated visibility 'has become a principal means by which social and political struggles are articulated and carried out'.

We build on the work of Thompson, and others, by foregrounding the impact of a destabilised news media market that promotes the commodification of adversarial news as a means of economic survival. We suggest that notions of scandal can be applied to institutions as readily as they can to the individuals within them. While Thompson emphasises the politics of trust as a defining characteristic of contemporary political culture, our research highlights *distrust* as a defining characteristic of contemporary journalistic culture and public debate. Distrust provides a firmer conceptual foundation for our empirical analysis of press reporting and, specifically, what we term the 'press politics of outrage' (see also Markova, et al. 2008). Each of these points bears brief expansion.

The escalating adversarialism of the British national press has been widely noted, with some commentators pointing to a reporting style that approximates 'attack journalism' (Barnett 2002; Capella and Jamieson 1997; Lloyd 2004; Milne 2005; Sabato 1991). The origins of this adversarialism may be traced to the decline in deference to authority throughout post-traditional societies (Fukuyama 2006; Seldon 2009). But whilst a necessary condition, this cultural shift is not sufficient explanation of the transforming relations between the press and institutional authority. Cultural change must be considered within the context of equally profound economic transformations. In an era of media proliferation, multi-platform news sites, multi-form texts, and an unstable, unpredictable readership, both the relevance and viability of the printed press are being questioned (Murdoch 2006).

There is an important distinction to be made here between contemporary print and broadcast journalism, which helps also to justify our empirical focus on the press. Despite the prevalence of television as a global news resource, the 'tagging' of national news developments remains in the hands of print journalism. If newspapers have historically led on establishing *what the news is* (Halloran, et al. 1970; Klinenberg 2005; Lang and Lang 1983), we would suggest that the current struggle for economic survival has amplified the pressure to deliver dramatic headlines and set the news agenda. There is thus a twin track process at work with respect to mediated scandal. Across the news media, the cultural value of exposing scandal has been reinforced by an increase in its commercial appeal. Castells (2009: 247) points out that 'news as infotainment favours stories of scandal as prime material to attract the audience' (see also Postman 1987). However, as the 'winds of crisis swirl around newspapers' (Rusbridger 2008), it is the press who are forced to take the biggest risks, testing legal and cultural boundaries in an attempt to deliver 'must read, must have content' (Murdoch 2006). Marr (2004), and others, have also noted the closing gap between British tabloid and broadsheet reporting (see also Bromley 1998; Franklin 1997). As recent investigations into phone-hacking have revealed, in a hyper-competitive, 'do what it takes' 24-7 news mediasphere, it is the British national press that have most proactively embraced the combined cultural and commercial appeal of scandal.

Evidence for the heightened cultural, commercial and professional currency of mediatised scandal is plentiful. For example, The *Daily Telegraph* enjoyed a substantial sales boost and increased web traffic during its investigation of MPs who viewed public office as an opportunity for personal enrichment, and won a string of plaudits at the 2010 Press Awards, including 'newspaper of the year', 'scoop of the year' and 'journalist of the year' (<http://news.bbc.co.uk/1/hi/uk/8584356.stm>). In December 2010 the *Guardian* and *New York Times* benefitted from considerable increases to their global readerships by joining forces with Wikileaks and publishing 390,000 previously secret US military reports from the war in Iraq. On accepting the award for 'newspaper of the year' at the 2011 Press Awards, *Guardian* editor Alan Rusbridger singled out the Wikileaks scandal as the defining story (<http://www.guardian.co.uk/media/2011/apr/06/guardian-times-win-big-press-awards-2011>). The *Guardian* is in line to win further awards for the pivotal investigative role it played in exposing the nature and extent of phone-hacking at *News International*. These

stories were of course covered extensively in the broadcast news media. But they were broken and in many ways 'owned' by particular newspapers. The dramatisation of scandal has always been newsworthy and, on that basis, made good business sense. Today, we would suggest, it has become an economic imperative.

Existing research demonstrates how the rise of reputational or image management politics has validated news media investigations of the integrity, competence or credibility of individuals who possess and exercise power within the public domain (Campus 2010; Castells 2009; Davis 2002; Gambetta 1988; Kane 2001; Karvonen 2010). Our research illustrates the importance of also examining news media investigations and judgements regarding the integrity, competence or credibility of public institutions. To cater for audiences who are 'hard wired for negative news' (Grabe and Kamhawi 2006), journalistic antennae increasingly are attuned to the notion of 'institutional failure'. In turn, institutional failure becomes a defining explanatory trope and key determinant of newsworthiness in contemporary reportage. Unlike individualised scandals, institutional failure results from systemic problems that cannot be explained away by a few 'rotten apples', or resolved through tokenistic apologies, dismissals or reforms. It requires evidence of fundamental change or, at the very least, the resignation of those at the top of the hierarchy. Whilst the practice of pursuing individual miscreants has forever been a part of the press agenda, the practice of assailing entire institutions with accusations of systemic institutional failure constitutes a more ambitious form of agenda-setting journalism.

There has been little empirical research examining why contemporary news audiences are so receptive to stories of institutional failure. The decline in deference to authority, as noted above, provides at least part of the answer. So too do the rising expectations characteristic of a citizen-consumerist mentality (Needham 2003; Power 1999). Political parties increasingly are drawn into electoral auctions and end up over-promising to win votes. As a consequence, governments become over-burdened and under-deliver in terms of service outcomes, whilst public expectations are inflated unrealistically (Ericson and Stehr 2000). Public cynicism is evidenced by diminishing participation in the formal political process (Castells 2009), and by a seemingly unquenchable consumerist thirst for dramatic stories of scandal and institutional failure. It is this inter-mediatization of institutional failure, encompassing both individuals and organisations, that frames the analysis in this article.

Each of these interrelated factors – the cultural value of scandal in a context of public cynicism and declining deference to authority, the commercial value of scandal in a ruthlessly competitive information-communications market, and the expanding conceptualisation of scandal in the context of these shifts – coalesce around the central theoretical and empirical concern in this article: the emergence of a press politics of outrage.

The press politics of outrage is the driving force behind much contemporary newsprint journalism. This hyper-adversarial, highly normative style of reporting is motivated by the belief that ‘institutional failure’ is endemic to contemporary governance, and that ‘institutionalised injustice’ is the outcome that potentially affects us all. It is underpinned by the working assumption that institutional power will be misused, that institutional practices will fail to deliver on their stated objectives, and that institutional leaders are not to be trusted. It is animated by the conviction that institutional accountability is both necessary and possible. The press politics of outrage is the journalistic antithesis of public political disengagement and apathy. It is characterised not by disinterest but by intensive scrutiny and agitation, not by detachment or disillusionment but by a form of righteous moral outrage that is unyielding in its articulation of public discontent. Such discontent may be constructed to resonate first with particular target readerships. But in a multi-media environment defined by consumer choice, the press politics of outrage seeks simultaneously to generate and define a wider ‘public interest’ (cf. Livingstone and Markham 2008; Norris 2000). It is, in essence, a reinterpretation of the news media’s historic Fourth Estate duty, underpinned by a new business model.

The journalistic ‘feeding frenzy’ (Sabato 1991) that results from the successful exposure of personal wrongdoing can tip easily into ‘trial by media’ (Greer and McLaughlin 2011a), where individual public figures may be pursued and hounded out of office. But whereas individualised scandals and the cases of ‘trial by media’ to which they give rise are by definition exceptional, the press politics of outrage represents the normalised and routine – the daily manifestation of journalistic adversarialism and distrust that, we would suggest, increasingly defines relations between newspapers and institutional power in the UK. It may be coloured by party politics, but ultimately it remains deferential only to the bottom line in a volatile marketplace. The press politics of outrage is at its most powerful when articulated

collectively as a dominant inferential structure across news media sites and platforms and substantiated with visual evidence. The reporting of the Ian Tomlinson case and the CPS decision not to prosecute the TSG officer filmed striking Tomlinson contained both of these elements, and offers an important example of the press politics of outrage in action.

News Data and Sources

To conduct this analysis we constructed a data set based on a range of online and offline news media, with a primary research focus on the national and London press. The first stage of the research process involved collecting hard copies of a sample of mainstream newspapers on a daily basis throughout the course of the G20 protests and the Tomlinson case (March 2009 – August 2010). The newspaper sample included: the *Daily Express* and *Sunday Express*, the *Daily Mail* and *Mail on Sunday*, the *Daily Mirror* and *Sunday Mirror*, the *Guardian* and *Observer*, the *Independent* and *Independent on Sunday*, the *Sun* and *News of the World*, the *Telegraph* and *Sunday Telegraph*, the *Times* and *Sunday Times*. These papers represent a wide spectrum, from broadsheet to tabloid and from political left to right. The *London Evening Standard*, London's major newspaper, and the *Metro*, one of London's 'freesheet' newspapers, were also included in the sample. Newspaper websites and the LexisNexis database were searched regularly to ensure the comprehensiveness of the data set, and to fill in blanks on the few days when particular newspapers could not be acquired.¹ In addition to newspaper analysis, supplementary material from television news broadcasts were examined and, where possible, recorded, with some key news programmes being sourced via Internet 'on demand' broadcast services. The second stage of the research process involved analysing the reports and press releases generated by the official inquiries into the policing of the G20 Summit and the death of Ian Tomlinson. We also cross-referenced our research with the Ian Tomlinson Family Campaign website as the case developed to monitor the inter-mediatisation of the case beyond news media reportage (www.iantomlinsonfamilycampaign.org.uk).

¹ It is worth noting that the LexisNexis newspaper database contains significant gaps: smaller articles and, more significantly, comment and editorial pieces are not always picked up by database searches. Lexis Nexis does not include any graphics or images, or offer indications of page layout. While this online facility provided an additional means of checking our data set's comprehensiveness, hard copy newspapers offered a more complete and therefore more reliable resource for conducting our qualitative analysis of newspaper content.

Notwithstanding our methodological health warning regarding the comprehensiveness of the Lexis Nexis database (see footnote 1), this online facility can provide useful, if imperfect, quantitative indicators of newspaper interest in particular events and processes. Over the 480 days from 1st April 2009, the day Ian Tomlinson died, to the 24th July 2010, the day after the CPS announced that it would not be prosecuting the officer filmed striking Tomlinson prior to his collapse, the case generated 777 news items across the sample newspapers.

Newspaper Title	Number of News Items (duplicates removed)	Combined total for Daily and Sunday Group Titles
<i>The Guardian</i>	204	226
<i>The Observer</i>	22	
<i>The Times</i>	104	122
<i>The Sunday Times</i>	18	
<i>The London Evening Standard</i>	98	98
<i>The Mirror</i>	59	69
<i>The Sunday Mirror</i>	10	
<i>The Sun</i>	57	57
<i>The News of the World</i>	0	
<i>The Independent</i>	44	55
<i>Independent on Sunday</i>	11	
<i>The Daily Telegraph</i>	40	49
<i>The Sunday Telegraph</i>	9	
<i>The Daily Mail</i>	38	42

<i>The Mail on Sunday</i>	4	
<i>The Metro</i>	30	30
<i>The Express</i>	25	29
<i>The Sunday Express</i>	4	
TOTAL	777	777

Table 1 offers a quantitative breakdown of coverage within sample newspapers and, more significantly, a comparative indicator of the Tomlinson story's perceived newsworthiness across different newspapers. It is notable, for instance, that the *Guardian*, which initially broke and effectively 'owned' the Ian Tomlinson story, devoted by far the greatest number of news items to it. In this article, however, we are more interested in the nature of press reporting. Thus while our analysis draws from the full corpus of press coverage of the Tomlinson case, we focus in particular on reporting around key 'decisive moments' leading up to and including the CPS decision not to prosecute. This decision was met with collective newspaper outrage and condemnation that crystallised a dominant inferential structure around the notions of 'institutional failure' and 'institutional cover-up'. Of particular importance in this process of crystallisation are newspaper editorials.

Editorials are a type of 'opinion discourse' (Fowler 1991; Greenberg 2000), constructed with the clear intention of shaping debate, decision making and action around issues of public importance (van Dijk 1996). The decision to produce an editorial offers a clear indication of 'the significance accorded to such stories by the newspaper' (Hall, et al. 1978: 89). Editorials are organised through two schematic categories: clarification and advocacy. They explain why and how an issue is politically important. While news stories are presented as objective and value free (though in practice they may not be), and commentaries reflect diverse opinions, editorials present the 'personal viewpoint' of the newspaper (ibid.). It is here, perhaps more than anywhere else in the news coverage of an event, that preferred explanatory paradigms are made explicit. Editorials produce 'a judgement on the event' (ibid.), especially of actions and actors, and propose certain types of resolution in the form

of expectations, recommendations, advice and warnings (van Dijk 1998). Editorials play an essential role in news media attempts to establish dominant inferential structures and set agendas. It is in the editorial response to the CPS decision, we would suggest, that the collective press politics of outrage is expressed with greatest clarity.

Miscarriage of Justice: From 'Police Violence' to 'Institutional Failure'

The Independent Police Complaints Commission (IPCC) handed over its file on Ian Tomlinson to the CPS on the 4th August 2009. It was now the responsibility of the CPS to decide whether to prosecute the officer (whose identity was not yet public knowledge) who hit and pushed Tomlinson to the ground, and, if a prosecution was to follow, what the charges would be. In the months that followed, a series of incidents combined to maintain the newsworthiness of the Ian Tomlinson story.

In September 2009 the policing of G20 became headline news again when the CPS charged Sergeant Delroy Smellie, a member of the TSG, with assaulting Nicola Fisher. *YouTube* footage captured Smellie striking Fisher during a vigil for Ian Tomlinson on 2nd April 2009. On the advice of publicist Max Clifford, Ms Fisher sold her story to Express newspapers later that month. She was also a key witness at the Home Affairs Select Committee meeting on the policing of G20. Coverage of this case peaked in March 2010 when the judge ruled that there was insufficient evidence to show that the TSG officer's use of force was not 'approved, measured or correct' (BBC News, 31st March 2010). The 'not guilty' decision led to renewed news media debate on what constituted lawful use of force by police officers and the tactics deployed by the TSG in public order situations. Smellie's acquittal was a setback for the IPCC, which had completed numerous investigations into complaints about police violence, but had been unable to bring disciplinary actions against any officers (see IPCC 2010a).

Second, in November 2009 Her Majesty's Inspectorate of Constabulary (HMIC 2009) presented the case for overhauling public order policing and warned that images of heavy-handed paramilitary tactics, such as 'kettling' (the MPS tactic-of-choice for controlling public protests, which indiscriminately contains large numbers of protestors within tightly

controlled cordons for hours on end) were contributing to a breakdown in public trust in the police.

Third, the anniversary of Tomlinson's death in April 2010 was marked by revitalised news media interest. In an exclusive interview with the *Guardian* in March 2010, Ian Tomlinson's former wife, Julia Tomlinson, voiced her frustration with the prolonged nature of the CPS investigation, and her suspicions of an institutional 'cover-up'. Subsequently, the *Guardian* published a letter signed by a representative of the Tomlinson family, politicians, civil libertarians, trade unionists and academics. The letter insisted that the CPS's public credibility was at stake, and asked that it proceed with a prosecution or explain what was happening (*Guardian*, 1 April 2010).

Fourth, the archetypal miscarriage of justice case relating to public order policing - the death of Blair Peach – unexpectedly resurfaced in the headlines . On 23rd April 1979, Peach died at an anti-Nazi protest in Southall, London, allegedly from injuries sustained in an encounter with a Special Patrol Group (SPG) officer. In the aftermath of Ian Tomlinson's death, the *Guardian* and BBC's *Panorama* supported Peach's partner Celia Stubbs in initiating a campaign for the release of the internal MPS report suppressed by the coroner at the time of the initial inquest. The report was finally published on 27th April 2010. It confirmed that an unnamed SPG officer had hit Blair Peach and fellow officers had lied to cover it up. Responding to the report's 2010 publication, the CPS said it was unlikely that new evidence would emerge to allow them to reconsider bringing a prosecution. Sir Paul Stephenson, then MPS Commissioner ², offered an official apology to Blair Peach's family. The Tomlinson and Peach cases provided dramatic 'now-and-then' contrasts in news media discussions regarding what had and had not changed in the MPS policing of public protest. As an editorial in the *Guardian* put it, 'The parallels between Ian Tomlinson's death, as a bystander at the G20 protests, and Mr Peach's killing are not exact. But they are close enough to be worrying (28th April 2010: 32). A series of news items noted that now, as then,

² Sir Paul Stephenson resigned as MPS Commissioner in July 2011 following the phone hacking scandal that led to the closure of the *News of the World* that same month. Stephenson faced public criticism for hiring former *News of the World* executive Neil Wallis – who had been questioned by police investigating hacking – as an adviser. Stephenson's predecessor, Sir Ian Blair, had resigned in October 2008 following a sustained 'trial by media' (Greer and McLaughlin, 2011b). Stephenson's successor, Sir Bernard Hogan-Howe, took office in September 2011. At the time of writing, it remains to be seen how he will be treated by the British news media.

where police violence resulted in death or serious injury to a member of the public, it was impossible to bring criminal charges against officers.

Finally, in July 2010, Dr Patel, the Home Office pathologist whose initial examination concluded that Tomlinson had died of a heart attack, appeared before a General Medical Council (GMC) disciplinary panel. He was summonsed to face accusations of professional incompetence in relation to his handling of four other autopsies. It was disclosed that the pathologist had also been disciplined by the GMC in 1999 for his role in another case involving a controversial death in police custody.

What is significant for our analysis is that the inferential structure of 'police violence' is co-joined in this time period by the additional frame of an 'institutional culture' of 'cover-up and impunity' in cases of police misconduct. 'Police violence' was now only one of several news frames that shaped the reporting of the official response to Ian Tomlinson's death. The news media aperture was widening and the critical gaze refocusing on a range of criminal justice institutions that were responsible either for creating the problem, or for failing to deal with it. Cumulatively, a new and more damning inferential structure was forming around the wider notion of 'institutional failure', most sharply articulated in the Tomlinson family's outcry, reproduced across the news media, that 'This is not Justice!'.

'No Realistic Prospect of a Conviction': The CPS Decision on Ian Tomlinson

On 23rd July 2010, Keir Starmer, the Director of Public Prosecutions (DPP), confirmed that Ian Tomlinson did not pose a threat to any police officer he had encountered on 1st April 2009. His innocence was officially confirmed. Starmer verified that the officer's use of force had been disproportionate and unjustified. Possible criminal charges were manslaughter, common assault or assault occasioning actual bodily harm, and professional misconduct. Starmer explained that the investigation had taken so long because of the 'irreconcilable conflict' between pathologists about the cause of Tomlinson's death (Starmer, *Sky News*, 22 July 2010). Dr Patel had ruled that Mr Tomlinson died from natural causes, namely a heart attack. However, two subsequent post-mortems by other pathologists concluded that he had died as a result of internal bleeding after a blow to the abdomen. Consequently, the

CPS would not be able to prove beyond reasonable doubt a causal link between Tomlinson's death and the alleged assault upon him. The conclusion was that there was 'no realistic prospect' of pursuing a conviction for manslaughter or assault occasioning actual bodily harm. A charge of common assault, which does not require proof of injury, was also ruled out because the six-month time limit had been exceeded. The CPS discounted a charge of professional misconduct because of legal precedents. The IPCC immediately released a statement stating that it would now conclude its final report and present it to the Coroner so that preparations could be made for an inquest. At a news conference the Tomlinson family and their lawyer were adamant that, given the extent of the institutional failures, there was no realistic prospect of justice in the case. They branded as a 'cover-up' the CPS decision not to bring criminal charges against the TSG officer. In the *London Evening Standard* that night, the family directed their anger and frustration not only at the individual officer who had struck Ian Tomlinson, but at the MPS, the DPP, the CPS and the IPCC:

After 16 months of hell, we've got nothing. No charges, no answers and we have to go home to no dad. It's outrageous and an absolute disgrace. It's outrageous. We feel like it was not a full investigation from the beginning. It's a big cover-up. He has just admitted on TV that a copper assaulted our dad. But he hasn't done anything. He's the man in charge, why hasn't he charged him? They've dragged this out for as long as they could so that time ran out for them to even press ahead with the assault charge. The delays have been completely unacceptable; this whole investigation has been a cover-up from the start. They never intended to hold any police officer accountable for what happened to my dad (Paul King, *London Evening Standard*, 22 July 2010).

As the news conference broke up, an angry member of the Tomlinson family shouted at the assembled journalists, 'Why don't you name him and shame him [the police officer] and find out who he is and put him in the papers?' The family's anger found further expression at a protest outside New Scotland Yard on the same day.

The outrage of the Tomlinson family registered immediately across broadcast news bulletins and newspaper websites. Coverage was contextualised by re-running or re-posting video footage of the policing of G20 and, in particular, Tomlinson's encounter with the TSG officer. Three pieces of 'breaking news' emerged at this time. First, it was disclosed that the

pathologist Dr Patel had revised his findings one year after conducting the original examination. This meant that the 'facts' on which the two subsequent pathologists had based their examinations were incorrect and the investigative process had been corrupted. Second, the officer who struck Tomlinson was named as PC Simon Harwood, and it was revealed that he had been investigated twice previously over alleged aggressive behaviour. Finally, one of the other pathologists involved in the case, Nat Cary, questioned the CPS decision to drop criminal charges saying Tomlinson suffered injuries that would support an actual bodily harm (ABH) charge. The news media inferential structure was crystallising around the news frame of systemic, multi-agency 'institutional failure' – a failure of 'justice' – and explicitly set the tone for press interpretations of the Tomlinson case the following day.

'Institutional Failure' and 'Institutional Cover-up': Analysis of the Editorial Verdict

The CPS decision was reported in all the daily sample newspapers. It dominated the front pages of the *Guardian*, the *Times* and the *Daily Telegraph*, the *London Evening Standard* and the *Metro* (one of London's several 'freesheets'). It was covered on the inside pages of the *Independent*, the *Sun*, the *Daily Mirror* and the *Daily Express*. Five newspapers (the *Guardian*, *Times*, *Daily Telegraph*, *Independent* and *London Evening Standard*) included in-depth, illustrated double-page spreads. Newspaper headlines were remarkably consistent, communicating a clear consensus across tabloid and broadsheet, left and right. Moral indignation in the form of the Tomlinson family's 'fury' and 'outrage' was the dominant emotional register. The inferential structure established around 'institutional failure' was compounded by the family's allegations of 'cover-up' as the major explanation for the CPS 'failure' to prosecute. The police officer had been 'let off' and allowed to escape justice.

'Family fury as Tomlinson's prosecution ruled out: Cover-up claims as CPS rejects advice to bring manslaughter charge' (*Guardian*, 23 July 2010)

'Outrage over failure to charge G20 riot officer; CPS ignored recommendation to charge police officer with manslaughter' (*Times*, 23 July 2010)

'PC off the hook over death at G20 protest: 'Cover-up' over death' (*Daily Telegraph*, 23 July 2010)

'G20 death police 'are let off'' (*Metro*, 23 July 2010)

'Family's fury after G20 officer escapes charge over death' (*Daily Express*, 23 July 2010, p22)

'Cover-up: Fury as G20 death cop escapes charges: victim's relatives demand an inquiry' (*Daily Mirror*, 23 July 2010, p11)

'Cover-up storm over G20 death: fury as DPP rules policeman who hit newspaper vendor won't be charged' (*Daily Mail*, 23 July 2010, p12)

'Thug cop 'let off' on G20 riot death' (*Sun*, 23 July 2010, p37)

'Family alleges cover-up as police officer escapes charges over G20 death' (*Independent*, 23 July 2010, p8)

In addition to this primary news coverage, five newspapers carried editorials. Due to its evening publication cycle, the *London Evening Standard* could run its editorial on the day of the decision itself (Thursday 22nd July). The *Guardian*, the *Times* and the *Daily Mail* had to wait until the following morning (Friday 23rd July), and the *Daily Telegraph* held its editorial back until the Saturday edition on 24th July. It is in the editorials around the CPS decision that, we would suggest, the collective news media politics of outrage is expressed with greatest clarity. Some additional context is useful before we turn our attention to the editorials themselves.

The *Daily Mail* is arguably Britain's most successful newspaper, with a right-of-centre political perspective espousing 'traditional values'. The *Guardian* remains a left-of-centre liberal broadsheet. The *Times* and the *Daily Telegraph* are broadsheets that maintain centre-right and right political positions respectively. The *London Evening Standard* claims no political allegiances. The five newspapers thus represent a range of political and market orientations. Since editorials present the 'personal viewpoints' of newspapers and are

constructed with the express intention of shaping opinion, it is here that preferred explanatory frameworks and ideological differences tend to be most explicit (Hall, et al. 1978; van Dijk 1996). What was striking about the editorials on the CPS decision, therefore, was their unanimity, not only in the issues that they identified as most significant, but also, and crucially, in their respective 'judgements' of the CPS decision not to prosecute.

On the evening of 22nd July, the *London Evening Standard* (22nd July: 14) ran the first editorial on the issue. The paper found it 'extraordinary that a man can die in the street, after apparently being hit and pushed by a police officer, without anyone being brought to account'. It was also unacceptable, it argued, that the CPS had taken so long in reaching its decision. Focusing on Tomlinson, the editorial noted the much wider problems that arise from the police 'losing touch with the public over policing tactics'. In particular, the continued use of 'kettling' – despite an official report that condemned the tactic – the 'macho' approach to police training, and the lack of supervision were highlighted as serious concerns. The editorial closed by acknowledging that the MPS had pledged to minimise the use of 'kettling' in the future, but that police violence continued to occur, 'apparently with impunity'.

The *Guardian's* editorial (23rd July: 26) accepted that 'there is more good policework than bad policework'. Nevertheless, Ian Tomlinson's death, it maintained, was a 'national outrage'. The CPS failure to prosecute was scandalous given 'the globally transmitted evidence of a man dying after being hit and violently pushed by a police officer'. The indisputable visual evidence meant that this death, unlike that of Jean Charles de Menezes, could not be explained away by the MPS. The failure to prosecute required justification. The editorial acknowledged that for the CPS the case had been compromised by both the IPCC's cautious approach and 'a botched postmortem' by a professionally discredited pathologist. For the *Guardian* the 'long and dishonourable tradition' of CPS unwillingness to prosecute in cases involving police officers demonstrated an 'institutional failure' of not holding the police to proper account. The consequences of the CPS not pressing for the Ian Tomlinson assault to be considered by a court were extremely serious because this had reinforced a 'climate of impunity among Britain's police services':

It was clear in the events surrounding the death of the teacher and activist Blair Peach more than 30 years ago; it was clear in the events surrounding the shooting of Jean Charles de Menezes in 2005 for which no one has been prosecuted; and it is as clear now in the response to Ian Tomlinson's death... the sense of impunity is unchanged. This was never acceptable. Now it is unsustainable (*Guardian*, 23rd July: 26).

For this paper, there were two scandals: 'first the globally transmitted evidence of a man dying after being hit and violently pushed by a police officer; now the decision not to press charges' (*Guardian*, 23rd July: 26). Despite the visual evidence, police actions were investigated less rigorously than civilian actions would have been. The Tomlinson family had been let down by a botched post-mortem, conducted by a pathologist accused of professional incompetence, and a belated inquiry poorly managed by the IPCC .

The *Daily Mail's* (23rd July: 14) editorial was shorter, but raised similar issues. In keeping with the newspapers' 'pro-policing' stance, the editorial began by stressing that the 'men and women of Britain's police forces constitute a thin line between a safe and secure citizenry and the forces of social anarchy'. But this, it insisted, makes it all the more important that the police be seen to stay within the law. In the face of graphic visual evidence, the CPS decision not to prosecute was insupportable. The reasoning given – conflicting medical evidence – was insufficient since, for the *Daily Mail*, disagreements between doctors were commonplace and did not stop other cases from reaching court. Finally, what it defined as a 'whitewash' was a disservice to the 'great majority of decent police officers who 'deserve better'. There was no mention of Tomlinson or the frustrations of his family. Rather, the editorial focused on questions of institutional integrity exposed by the flawed decision-making process.

The *Times* (23rd July: 2) described the CPS decision as a 'severe embarrassment' and summarised the conclusions of the CPS report as follows: 'First, it concludes that Mr Tomlinson was assaulted by a police officer and then died. Second, it concludes that this officer can be easily identified. Third, it concludes that no charges should be brought. These are not, to put it mildly, charges that sit easily together' (*Times*, 23rd July: 2). Like the *Daily Mail* and the *Guardian*, the *Times* viewed the conflicting medical evidence as insufficient

reason not to proceed, insisting that despite the unrelated allegations of incompetence against Dr Patel, the body of evidence should have been entrusted to a jury. More important, however, was the timeframe within which the investigation was conducted, taking so long that it was now too late even to pursue a charge of common assault.

The assault of Mr Tomlinson was not a single, regrettable, isolated incident. It was the inevitable result of a systematic failure in policing, and of those who exist to protect the public forgetting their primary function. Whilst individual officers – particularly those attached to the TSG – carry a burden of responsibility, the buck stops with the senior officers in the Metropolitan Police who deployed them (Times, 23rd July: 2).

The editorial noted that the vast majority of those present at the G20 demonstrations were non-violent. ‘Many will previously have had little or no experience of British policing. It is deeply damaging to the relationship between police and the public that this should be their first (Times, 23rd July: 2). The death of Tomlinson was the result of an ‘institutional failure’. ‘In matters of such enormous public interest, justice must not only be done, but be seen to be done. This does not feel like justice, and is not how it will be seen’.

The *Daily Telegraph’s* editorial (Saturday 24th July: 23) dealt with the Tomlinson case alongside a series of other national policing issues. This was the only editorial to name the officer who struck Ian Tomlinson, PC Simon Harwood, and note that he had been accused of violence before. Disappointed but not surprised, the *Telegraph* stated that ‘the Tomlinson episode – with its hints of brutality and cover-up – is the sort of thing we have come to expect from police who often behave as if they are above the law they enforce’.

Across the five editorials a number of common themes can be identified. Together, the editorials arrived at much the same judgement – albeit by marginally differing routes – about the nature of public protest policing in Britain, the IPCC investigation, the role of the pathologist, the CPS decision not to prosecute the officer filmed striking Ian Tomlinson before he collapsed and died, the issue of police violence, and the implications of all this for institutional accountability and ‘justice’.

1. The CPS’ stated reasons for not pressing charges – conflicting medical evidence – are legally questionable.

2. The IPCC and CPS took too long to reach their decision.
3. A 'culture of impunity' is fostered and sustained within the MPS by the failure to bring charges against officers.
4. The Tomlinson case is a prototypical example of 'institutional failure' in which the MPS, CPS and IPCC are all implicated.
5. 'Institutional failure' is having a negative impact on police-public relations.

Along with the news and feature articles, these editorials reinforced and advanced an inferential structure that had been developing since the footage of Tomlinson's assault had been made public. Now, the dominant inferential structure extended beyond the MPS to include the CPS and the IPCC. The Tomlinson story continued to evolve as a rolling news story. But it was no longer about the Tomlinson case alone. It constituted collective press outrage at the impunity of police officers and the ineffectiveness of the structures of accountability designed to deliver public protection and justice.

The fundamental sense of injustice and lack of closure generated a series of institutional knock-on effects. First, the Tomlinson case entered the formal political realm. In an emergency parliamentary discussion of the case, the Attorney General Dominic Grieve conceded, 'There is something profoundly unsatisfactory about a conflict of evidence arising on facts in matters of this kind. Anyone, as I said, who saw the video of what happened must be seized with very serious concern about the matter. It's a view I entirely endorse and therefore for the same reason I am extremely unhappy, as I'm sure everybody in this house is, that we should be in the position that we are in today with such a complete lack of clarity in the matter' (BBC News, 26th July 2010). On 27th July 2010 an Early Day Motion was presented in Parliament calling for the appointment of a judge as inquest coroner and for the provision of public funding to provide legal representation for Ian Tomlinson's family. In an important victory for the Tomlinson family, it was subsequently confirmed that the inquest into Ian Tomlinson's death would be chaired by a senior judge rather than the City of London coroner. Judge Peter Thornton QC was appointed assistant deputy coroner for the case in November 2010.

Second, in November 2010 the IPCC announced that the officer would face a disciplinary hearing. The IPCC Commissioner for London, Deborah Glass, situated citizen journalism at

the heart of the decision to proceed, explaining, 'From the moment the video was published to the world in April 2009, there has been an overwhelming public feeling that the officer seen to strike Ian Tomlinson should be held accountable for his actions' (Channel 4 News, 29th November 2010).

Third, the Tomlinson case provided the interpretive framework for news-media coverage of the GMC investigation of Dr Patel. In September 2010, Dr Patel was suspended after being found guilty of misconduct over three other post-mortem examinations. In March 2011, the GMC disciplinary panel ruled that Patel's 'fitness to practise was impaired' because of his flawed decision-making processes, the falsification of his qualifications, and his failure to redress previous professional shortcomings (BBC News, 17th March 2011). The GMC ruling prompted the news media to raise still further suggestions of institutional failure, this time regarding the competence of the Home Office and City of London police in validating Dr Patel as an officially approved pathologist.

With each new development in the Tomlinson case, the inferential structure built around systemic institutional failure was consolidated and strengthened, and the journalistic distrust in those who possess and exercise institutional power simultaneously appeared to be validated and amplified across the criminal justice estate.

Conclusion

On 3rd May 2011 the inquest into Ian Tomlinson's death concluded that he was unlawfully killed by a police officer at the G20 demonstrations in April 2009. Reported daily via live blogs, this was the first inquest made accessible in 'real time' to millions of virtual onlookers. The Tomlinson inquest represents a landmark development in the inter-mediatization of justice (Greer and McLaughlin 2011b). The verdict of unlawful killing required the DPP, Keir Starmer, to reconsider his original decision not to prosecute PC Simon Harwood. On 24th May 2011, the DPP announced that Harwood would now be prosecuted on a charge of manslaughter. The criminal trial will begin in October 2012. The Tomlinson family offered the following response:

‘We welcome today's decision to bring a charge of manslaughter against the officer. We believe this is the right decision. What we have always wanted is to achieve justice for Ian and to show that police officers are not above the law’ (Tomlinson Campaign Website - <http://www.iantomlinsonfamilycampaign.org.uk/>).

In the immediate aftermath of Ian Tomlinson's death in April 2009, what began as an *event-oriented* news frame of ‘police violence’ – the activities of an unidentified rogue officer – evolved into an inferential structure that highlighted problems of a *systemic* nature – how the MPS police public protest. Crucially, it was the news media construction of G20 as a prototypical example of ‘institutional failure’ that de-legitimated the MPS's ‘official account’ and informed the raft of enquiries and policy reports that followed. As the Tomlinson case developed throughout 2009 and 2010, accusations of ‘institutional failure’ were extended beyond the MPS. The issue of ‘police violence’ at G20 retained its centrality as a primary news frame, but now formed part of a wider and more damning inferential structure that questioned the integrity, competence and credibility of a network of institutions. This dominant inferential structure expanded steadily to question the IPCC's ability to conduct an independent investigation, the CPS's capacity to deliver justice and, ultimately, the state's capability to hold its representatives to account. The relentlessness of the British national and London press' agenda-setting around this inter-mediatised scandal kept the Tomlinson case in the headlines. But further, its cumulative and amplificatory development across newspapers and, in particular, its collective articulation as an ‘opinion discourse’ in key editorials, offered a clear illustration of how journalistic distrust of and antagonism towards institutional power coalesces into a damning press politics of outrage.

The legacy of G20 and the death of Ian Tomlinson are complicating public order policing in the capital. In its first major test of policing since G20, Scotland Yard made a conscious effort to alter its public order tactics for the Climate Camp protest in August 2009. The MPS met with organisers and used social media sites to communicate and negotiate with protestors. This post-G20 ‘charm offensive’ extended to journalists, and police representatives were keen to stress that their role was to facilitate rather than suppress peaceful protest (Lewis 2009). The event passed off without violent confrontation. The policing of G20 re-surfaced again in December 2010 following student demonstrations in London over rising tuition fees. The liberal press accused the MPS of using heavy-handed tactics, including ‘kettling’

and baton charges, resulting in more than 100 complaints to the IPCC (IPCC 2010b). The conservative press criticised the MPS for failing to stop protestors from attacking a car carrying Prince Charles and the Duchess of Cornwall. In each case, the MPS were judged yet again to have failed to control a public order situation. News reports confirmed that, following the protests, MPS Commissioner Sir Paul Stephenson had offered his resignation. In March 2011, after activists clashed with riot police in London's Trafalgar Square in the wake of a TUC rally against government spending cuts, the police were criticized for failing to prevent protestors from attacking businesses. G20 and the Tomlinson case clearly were still live issues. Bob Broadhurst, the MPS Commander responsible for public order at the event, confirmed that 'kettling' remains the only option for containing a minority of violent individuals amidst otherwise law abiding protestors. When this happens, he explained, the police 'run the risk the next day of being sued by those they've contained, and being accused in the media of using overbearing tactics' (*Channel 4 News*, Sunday 27th March). The fall-out from the G20 policing tactics were cited in analyses of the MPS initial 'losing by appearing to lose' response to the summer riots of 2011.

Throughout the Tomlinson case, a collective press politics of outrage mobilised to identify and condemn injustice by exposing systemic failure across a network of criminal justice institutions. We would argue that this case offers insights into the shifting nature of contemporary relations between the British press and institutional power. It is a paradigmatic example of a politically ambitious form of attack journalism, the scope of which extends beyond the criminal justice system. The press politics of outrage involves the relentless auditing of any publicly funded institution for evidence of 'institutional failure' and institutional 'cover-up'. The social services, the education system, the healthcare and welfare systems have all variously been the source of such scandal. The preoccupation with institutional failure creates an inter-mediatised 'scandal amplification spiral', as one failure is connected with and consolidated into the next. Figure 1 maps out how the scandal amplification spiral works, in this case with respect to police violence.

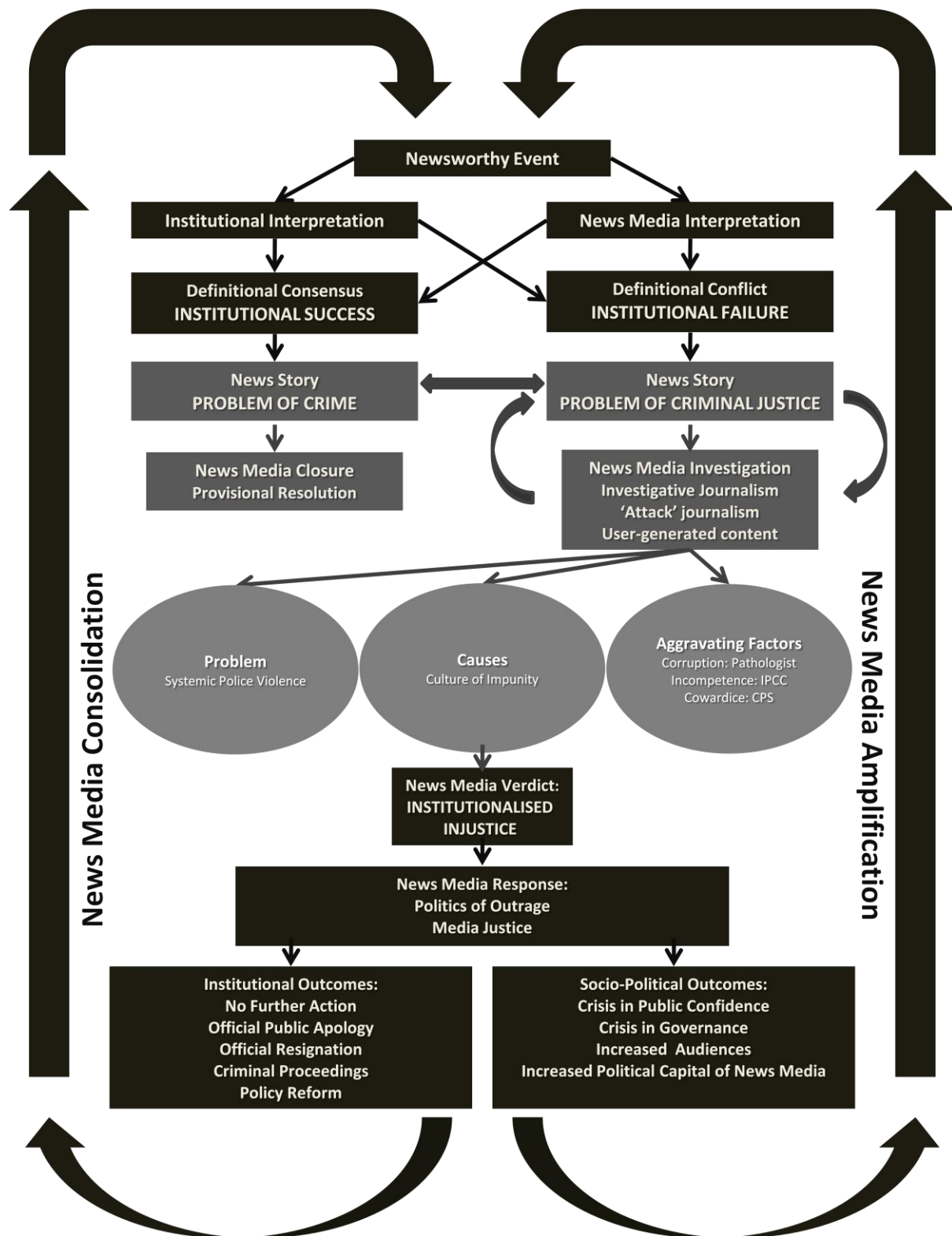


Figure 1: the inter-mediatised Scandal Amplification Spiral

The scandal amplification spiral creates a swarming effect. News agencies compete to scoop their market rivals by exposing, and thereby securing ownership, of bigger and better scandals ideally resulting in public apologies, high-level resignations, radical political reform or criminal proceedings. Regardless of the official response, the process of naming and shaming and 'trial by media' that may follow are a form of ritual public punishment and humiliation. Once 'named and shamed', the journalistic feeding frenzy begins in earnest, fuelled by a seemingly insatiable public appetite. The inter-mediatisation of scandals across myriad digital platforms leaves a permanent imprint on web consciousness. Contemporary scandals never die: they can be resurrected and recycled at the push of a button. The recent phone hacking scandal presents clear evidence that cooperative relations between journalists and the institutionally powerful can be mutually beneficial, but also mutually destructive. In a climate of political distrust, declining readerships and audiences, public cynicism and diminishing deference to authority, no institution can take press support for granted.

The press politics of outrage and the scandal amplification spiral to which it gives rise defy normative classification in any straightforward sense. The exposure of scandal in the form of institutional misconduct and the abuse of power is the *raison d'être* of investigative journalism in liberal democracies. It is a bulwark against the abuse of institutional power. However, the erosion of confidence in institutional authority, should this be a by-product of current news reporting trends, may carry radical consequences (Castells 2009). The view taken of the integrity, competence and credibility of public institutions and the individuals working within them is influenced by the general store of available information on how they perform their duties. When public officials and institutions are repeatedly and sensationally 'named and shamed' as incompetent or corrupt, and failing to adhere to the norms and values they are supposed to uphold and encourage in others, public trust is undermined. Since institutional legitimacy flows partly from the public belief that the system is fair, honest and effective, declining public trust undermines the legitimacy of the institution (Hough and Roberts 2011; Tyler 2006). We would suggest that the press preoccupation with scandal and failure, and the emergence of the press politics of outrage, is undermining trust not just in the political class as individuals – now a well rehearsed debate – but in entire institutions. The irony is that in public surveys journalists rank alongside politicians and

government ministers as among the least trusted professionals (see for example Ipsos-MORI 2009). The press politics of outrage is necessitated and sustained by technological, cultural and economic transformations in a 24-7 information-communications marketplace. It is built upon political 'distrust' and the collective journalistic belief that 'institutional failure' is at the heart of a putative crisis in governance.

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