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Samuel H. Pillsbury

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THE CHALLENGE OF THE DRAMATIC: CRIME JOURNALISM

*Samuel H. Pillsbury**

**Reviewing: PHILIP SCHLESINGER & HOWARD TUMBER,
REPORTING CRIME: THE MEDIA POLITICS OF
CRIMINAL JUSTICE (Oxford: Clarendon Press, 1994)**

I. INTRODUCTION

Ask an academic in criminal justice who is to blame for the current state of criminal justice policy in the United States and she or he is likely to finger two suspect groups: politicians and the media. As American academics and criminal justice professionals see it, the media and politicians have formed an unholy alliance in recent years to convert public anxieties about crime into full-blown hysteria. The media foments fear with compelling scare stories about crime; politicians capitalize on this fear by promising increasingly harsh and often short-sighted penalties for criminal behavior. The resulting tumult effectively prevents serious discussion of the structural sources of criminal behavior, the nature of criminal responsibility, and the complex consequences of penal change.

The picture of British crime journalism presented by Philip Schlesinger and Howard Tumber in their recent book *Reporting Crime*¹ contains much to support the standard view that contemporary media promotes public misunderstanding of crime by dwelling on the most dramatic and least representative forms of violent and sexual offenses. The authors do not directly consider the question that seems to follow from their media critique, the question of most interest to those in criminal justice: What do we do about crime journalism? In this review I consider some of the implications of what I call journalism's bias for the dramatic. *Reporting Crime*

* Professor of Law and William M. Rains Fellow, Loyola Law School, Los Angeles, California.

1. PHILIP SCHLESINGER & HOWARD TUMBER, *REPORTING CRIME* 1 (1994) [hereinafter *REPORTING CRIME*].

provides a snapshot of the problem. How should criminal justice professionals respond? Consistent with democratic values, can we expect crime journalists to curb their taste for drama? If not, are some forms of crime drama more destructive to public understanding than others? Are some forms helpful? And how can criminal justice professionals compete with the dramas of crime journalism in the battle for the hearts and minds of the voting public? These are some of the questions we might consider if we wish to move beyond the crude media-bashing that criminal justice professionals frequently indulge.

II. CRIME REPORTING/CRIME DRAMA

Before turning to *Reporting Crime*, I want to introduce the notion of crime drama. Here I refer not to the crime entertainments that dominate Anglo-American fiction, television, and movies. I mean the dramas of crime journalism: the nonfiction narrative accounts of those affected by crime or criminal justice. In our newspapers and magazines, in radio and television news, we find the personal stories of crime victims and perpetrators, witnesses, investigators, lawyers, and others caught up in the criminal process. Overwhelmingly these narratives involve violent crime, most commonly homicide. To the academic concerned with the criminal justice *system*, this preoccupation with a few, statistically unrepresentative cases, and the emotions they inspire, can be enormously frustrating.

Here in Los Angeles the tension between a systemic analysis of criminal justice and the media's dramatic approach has been especially stark in the past two years. During this time the State of California, first by legislative enactment and then by popular initiative, radically changed its penal structure with a so-called three-strikes law. This law doubles the sentences for felons convicted for a second serious or violent offense; it mandates a minimum twenty-five-year term for those convicted of *any* felony if the offender has two prior convictions for serious or violent felonies.² The law promises to impose enormous fiscal costs on the state and to create great dislocations in the criminal and civil justice systems. Whether you emphasize a utilitarian or retributive approach to punishment, the law has severe flaws and promises to have an extraordinary distorting effect on the legal system.³

2. CAL. PENAL CODE §§ 667(b)-(i), 1170.12 (West Supp. 1995).

3. For an introduction to the problems the three-strikes law has created, and will

But even if we set aside for a moment the pros and cons of this law, the change it represents is significant. It may represent the most important change in criminal justice policy in this often bellwether state in the last two decades. Thus you might expect it to be a hot topic in criminal justice news. To which the skeptical reader might well respond: Get real. Where have you been for the last year?

The hot story in criminal justice in Los Angeles for most of the past two years has been the O.J. Simpson murder case.⁴ Would this football great and television celebrity be convicted of a brutal double murder? This is the question which obsessed the local, national, and even international media. Until the recent verdict in the case, when my office phone rang with a media inquiry, it usually concerned the latest Simpson witness or latest blow-up between the lawyers and judge—not the direction of our legal system in the wake of the three-strikes law. The papers and television were full of Judge Lance Ito, prosecutor Marcia Clark, defense attorney Johnnie Cochran, and a supporting cast of hundreds. The three-strikes law provided, at best, a small side-show. It's enough to inspire despair in the most optimistic of professional observers.

Nor is this obsession simply a Los Angeles or even an American phenomenon. According to *Reporting Crime*, the problem of media bias for the dramatic exists in Britain as well, albeit in a less florid form.

III. THE SOCIOLOGY OF CRIME REPORTING

Reporting Crime is described by its authors as a "sociological study of crime journalism that is also conceived of as a contribution to political sociology."⁵ This rather daunting description serves to establish the work's sociological credentials, but criminal justice

create in California, see PETER W. GREENWOOD ET AL., RAND, THREE STRIKES AND YOU'RE OUT: ESTIMATED BENEFITS AND COSTS OF CALIFORNIA'S NEW MANDATORY-SENTENCING LAW (1994); LEGISLATIVE ANALYST'S OFFICE, STATUS CHECK: THE "THREE STRIKES AND YOU'RE OUT" LAW—A PRELIMINARY ASSESSMENT (1995); James Austin, "Three Strikes and You're Out": *The Likely Consequences on the Courts, Prisons, and Crime in California and Washington State*, 14 ST. LOUIS U. PUB. L. REV. 239 (1994); Fox Butterfield, '3 Strikes' Law in California Is Clogging Courts and Jails, N.Y. TIMES, Mar. 23, 1995, at A1; Henry Weinstein, '3 Strikes'-Spawned Flood of Cases Crowds Out Civil Suits, L.A. TIMES, Nov. 30, 1994, at A1.

4. *People v. Simpson*, No. BA097211 (Cal. Super. Ct. L.A. County June 16, 1994).

5. REPORTING CRIME, *supra* note 1, at 1. Schlesinger is a Professor of Film & Media Studies at the University of Stirling in Scotland; Tumber is Director of Communication Policy Studies at City University in London, England.

professionals may find other reasons to read the book. Once past the first chapter's academic apparatus, criminal justice readers will find much useful information about contemporary crime journalism and its potential influence on public policy.

Schlesinger and Tumber base their analysis on Jurgen Habermas's ideal of a public sphere, a place where a free-flowing democratic discussion promotes the best in modern human society.⁶ The authors see their work as part of a growing literature about how the modern reality of public discourse falls far short of the ideal, in significant measure because of media distortions. The authors explore the interaction of media, media sources, and the public to determine how public discussions of criminal justice issues actually function in late twentieth-century Britain.

For nonsociologists, the first chapter's discussion of sociological theory will prove the most difficult and least satisfying portion of the book. The prose here is cluttered with jargon and nominalizations that obscure the authors' simple message. Passages like the following are typical.

For present purposes, the political space of capitalist democracies may usefully be seen as divided into numerous fields that are subject to ideological struggle. Such conflict involves the incessant mobilization of resources by actors in pursuit of strategies and tactics aimed at affecting public attitudes and judgements about matters in dispute. In the case at hand, discourse about crime and criminal justice is produced by contending actors that range from government departments through to pressure groups. Such action is increasingly subject to the constraints imposed by a "promotional culture" that is heavily mediatized.⁷

In other words, those interested in affecting criminal justice policy constantly use the media to gain public support for their positions.

The authors' sociologic conclusions often have the dull ring of the obvious. For example, we learn that all the major players in criminal justice policy in Britain—from high level ministerial departments to police departments to special interest groups—now devote considerable time and energy to cultivating good media relations, often with

6. *Id.* at 8-10 (discussing JÜRGEN HABERMAS, *THE STRUCTURAL TRANSFORMATION OF THE PUBLIC SPHERE: AN INQUIRY INTO A CATEGORY OF BOURGEOIS SOCIETY* (Thomas Burger trans., 1989)).

7. *Id.* at 11 (citation omitted).

the assistance of professional media liaisons.⁸ We also learn that the relationship between media and government has become more professional, with less of the old boy, we-all-booze-it-up-together camaraderie that once characterized relations between police and police reporters.⁹ Nor do the authors turn up new ground with observations that media relations have become an increasingly important part of the politics of criminal justice,¹⁰ or even that the media has a bias toward the dramatic presentation of criminal justice issues.¹¹

To be fair, this kind of sociological inquiry is not designed to provide startling, paradigm-shifting insights. The authors set out to study familiar social phenomena with familiar methods—personal interviews with crime journalists and their sources. Little wonder their conclusions are familiar as well. More important for the criminal justice reader, the authors have examined a variety of media enterprises in the crime field and their book reveals much about the modern dynamic of public discourse about crime.

IV. CRIME REPORTING IN BRITAIN: A BIAS FOR THE DRAMATIC

The main body of *Reporting Crime* is divided in two. Part I deals with the way criminal justice agencies and groups seek to influence media coverage.¹² Part II explores how the media reports crime statistics and particular cases, then reviews the creation of a new hybrid form of crime journalism and drama: the real-crime recreation designed to assist in the capture of criminal suspects.¹³

The American reader of *Reporting Crime* may be initially struck by what sounds like a more civilized and serious debate about criminal justice in Britain. The book suggests that a number of prison reform groups gain regular, serious attention in popular and political circles and that the new "law and order" politics in Britain has been less influential in determining penal policy than has been the case in the United States.¹⁴ The similarities in experiences between the two

8. *Id.* at 12-14, 39-41.

9. *Id.* at 81-88, 110-16.

10. *Id.* at 14, 81-88.

11. *Id.* at 184-85.

12. *Id.* at 37-136.

13. *Id.* at 139-270.

14. To cite another example, the authors report that there has been a serious debate in Britain about whether the way the government releases of crime statistics fosters an exaggerated fear of crime on the part of the public. *Id.* at 183-206. This evidences a more general concern with the problem of public fear, and perhaps a degree of paternalism, that

nations are in the end far more impressive, though. The most striking may be the media's bias for the dramatic in reporting crime.

Again and again the authors note the media's hunger for dramatic crime news. The worst offenders in the authors' views are the tabloid papers, which they subdivide into the most sensational "popular" press and less sensational "mid-market" papers.¹⁵ Nevertheless, all media studied here seem biased toward the dramatic. The authors state that the British media, like their Yankee counterparts, overreport violent crimes and underreport property crimes according to frequency of occurrence.¹⁶ That is, although violent crimes make up only a small percentage of the total crimes committed, such offenses dominate crime coverage in both countries. The authors quote Stephen Shaw, director of the Prison Reform Trust on the phenomenon:

"What is of interest to the popular papers and to radio and television is something out of the norm. Most prison life is incredibly boring and probably deteriorating in quality, but there is no news in that. The media are only going to report if someone holds a knife to a prison officer's throat, or there is a riot, or reports of drugs or AIDS. That distorts the reality of prison life and ignores what we would think of as critical in terms of prison policy—the long-term relationship between various grades of prison staff and the Home Office, the prison building programme, questions about grievance procedures, and disciplinary procedures within prisons. We think they are very important but they are not newsworthy. . . . [The media is more interested in] the most grave and unusual sorts of crimes and in a small number of infamous criminals, the Krays, the Moors Murderers, the Yorkshire Ripper, and so on. Have we a right to complain? The effect, no doubt, would distort people's impression of who is in prison. Most people seem to think from our public opinion survey that the prisons are full of violent criminals, but most are just burglars and thieves. This thought is inflamed by the media approach."¹⁷

are hard to imagine in the United States today.

15. *Id.* at 200-03.

16. *Id.* at 184-85.

17. *Id.* at 79 (quoting Stephen Shaw, director of the Prison Reform Trust).

At this point the speaker seems to voice the standard complaint that the press bias for the dramatic distorts public understanding. Then Shaw adds a more ambivalent note. He says, "This is nothing new and has gone on since the eighteenth century."¹⁸ Here Shaw seems to suggest the bias for the dramatic is inherent in journalism. Like death and taxes, it is an unfortunate fact of life largely impervious to our complaints. I return to this suggestion later.

The authors report that crime journalism measures the newsworthiness of crimes by their distance from the perceived norm. As serious crime becomes commonplace, only the more extreme or bizarre offenses merit full coverage. Crime reporters observe that in this inflationary market, offenses which once merited front page treatment now are discounted to small back page items, if they are covered at all. One reporter stated:

"For instance, this morning, two security guards were ambushed and shot; I dare say it will make two paragraphs in some papers and nothing at all in others. It's a daily occurrence. . . . [I]n the old days it would have been a splash story: 'Two security guards shot.' Front page; pictures plastered all over the papers."¹⁹

The authors observe that sometimes the criminal justice system generates its own drama, especially in the case of capital punishment. The authors quote several reporters who believe the demise of the death penalty has affected the newsworthiness of murders. "The end of capital punishment may have been enlightened but it . . . knocked the drama out of murder," reports one.²⁰

"In those early days . . . murder was a very dramatic affair because one knew that this was a capital offence and that you were looking for a killer who, when found and tried and convicted, was hanged. You usually followed the case through, beginning with the investigation, then the trial and then the grisly business of covering hanging," states another.²¹ Capital cases in the United States and elsewhere receive special coverage in the British press for the same reasons.²²

18. *Id.* (quoting Stephen Shaw, director of the Prison Reform Trust).

19. *Id.* at 145 (quoting George Hollingberry of the *Sun* newspaper).

20. *Id.* at 144 (quoting former *Daily Express* reporter Alfred Draper).

21. *Id.* (quoting George Hollingberry of the *Sun* newspaper).

22. *Id.* at 145.

Schlesinger and Tumber devote two chapters to press coverage of individual cases, detailing the way that all British media, but especially the mid-market and popular press, concentrate on the human interest side of stories instead of their larger social dimensions. Initially they review the reporting of a criminal prosecution of a police officer for the unlawful and malicious wounding of a woman in a police raid in Brixton, a poor, minority section of London.²³ During a police raid of a house to capture an armed robbery suspect, a white officer shot the suspect's mother, an unarmed black woman, leaving her paralyzed.²⁴ The authors show how much of the coverage emphasized the human interest side of the story to the detriment of larger social concerns, such as the racial tensions in the neighborhood and the bad state of police-citizen relations in Brixton.²⁵ The "mid-market" and "popular" press especially concentrated on the tribulations of the well-respected police inspector who did the shooting, and was eventually acquitted of criminal charges.²⁶ Where the press did pursue larger policy issues, the stories concentrated on reforms of police shooting procedures rather than on the problems of Brixton.²⁷

In the following chapter the authors analyze press coverage of a sensational sex murder case, known as the "Sleeping Beauty" murder, in which a nineteen-year-old woman was raped and killed in her bedroom while her parents slept nearby.²⁸ Here we find the familiar picture of a lurid offense where sex, violence, and personal tragedy are played up by the media. Again the authors view the media's human interest emphasis as a major problem. "By comparison with the abstractions of crime statistics, and the policy discourse that surrounds them, the scope for engaging viewers' and readers' fear—through various forms of identification—seems much greater in human interest stories that receive major treatment,"²⁹ they write.

Perhaps the best illustration of the problems caused by the media's bias for the dramatic comes in the authors' account of a media request made to a victim support organization. A reporter told a representative of the victim service, "We want to run a series on battered old ladies, mugging of ladies. Would you be able to produce

23. *Id.* at 208-29.

24. *Id.* at 208.

25. *Id.* at 208-29.

26. *Id.* at 209, 218-22.

27. *Id.* at 229.

28. *Id.* at 230-47.

29. *Id.* at 247.

a new case for us every day and you would get lots of publicity out of it yourself?" The representative responded, "Well, actually, of course, that is not a typical crime. It causes alarm and stresses lots of other old ladies unnecessarily." The reporter retorted: "That's all very interesting and very responsible of you—but it is not what our readers want to read."³⁰

Here is the problem in a nutshell. Like amusement park rides or horror movies, crime news entertains by scaring people. Unlike rides or movies though, crime news depicts reality—part of it anyway—and the impressions such news makes can have a deleterious effect on crime policy. A public which exaggerates the threat of crime may push for crime policies which feel good but provide neither a just nor an efficient response to criminality. In California it leads to developments like the three-strikes law.³¹ The dramatics of crime may also distract the public from considering the structural sources of criminality. A fascination with the Simpson case may, in both obvious and subtle ways, distort the public's understanding of the sources of most criminality. Still, we need to consider the alternatives. However flawed the current system is, we must beware the "reform" that makes it worse. Thus we might ask: Does a democratic society have any alternative to this kind of crime journalism? Can we, consistent with democratic principles, expect anything different from the media?

Schlesinger and Tumber do not address this question. Their mission is primarily to reveal some of the current dynamics of crime journalism and secondarily to point out some misimpressions that crime journalism may create. They do not offer solutions. Nonetheless they make a number of suggestive comments about the problem of dramatic bias. For example, the authors distinguish throughout between the "quality" and the "popular" press, noting that the greatest problems with sensationalism lie with the latter.³² Similar distinctions are commonly made by press and commentators in this country, with major newspapers viewed as the most responsible, and local TV news and syndicated talk shows seen as guilty of the most exploitative kinds of coverage. Assuming this distinction is significant,³³ the distinction does not seem to support any policy reforms.

30. *Id.* at 99-100 (quoting Helen Reeves of the National Association of Victim Support Schemes).

31. See *supra* notes 2-3 and accompanying text.

32. *E.g.*, REPORTING CRIME, *supra* note 1, at 198-203.

33. Generally speaking it may be, but as many have noted, the lines between the

What are we to do, suppress the popular press in favor of the elite? Indeed it is hard to imagine any effective controls on the tabloid press that could be reconciled with a commitment to free speech or modern democratic values. I conclude from this that we have no real alternative to a press strongly biased to the dramatic in its crime coverage. This suggests that media critics should refocus their attention. Given the media's, and the public's bias for the dramatic, what are the possibilities for a public understanding of crime? What are the particular virtues and vices of the dramatic approach? Within the dramatic constraints of popular journalism, are there better ways and worse ways to tell crime dramas? And what can criminal justice professionals do to remind the public of the limitations of their favorite source of crime information?

V. THE VIRTUES AND VICIES OF CRIME DRAMA

In assessing the virtues and vices of crime drama, I must confess to a certain bias. I like and have always liked crime drama. I was first hooked on criminal justice by a job as a newspaper reporter covering the criminal courts; more recently I have made my own small contributions to crime dramatics with a courtroom novel and occasional legal commentary on the O.J. Simpson trial.³⁴ Although as an academic I share the authors' disquiet about the media's tendency to inspire public hysteria, I also share the public's taste for the compelling human stories which criminal offenses, especially serious criminal offenses, so frequently involve.

Personal bias aside, we can detail a number of ways that crime drama may usefully convey information to the public. Good drama bridges the emotional gap between strangers, providing impetus for further inquiry and action. We have an intrinsic interest in the lives of friends and family; we care if a son or daughter had a bad day at school. We ask questions and try to remedy the situation. By contrast, we have no rooted interest in the lives of strangers; a report of a disaster that kills many in another nation, or another region may

different media categories have blurred in recent years. Today major newspapers, magazines, and television networks devote enormous resources to sensational crime stories that in earlier years would have merited much less attention. The most obvious examples are the unstinting coverage found in all media categories of celebrity crime cases such as those involving O.J. Simpson and William Kennedy Smith.

34. SAMUEL H. PILLSBURY, *CONVICTION* (1992). The courtroom commentary was primarily for the Courtroom Television Network.

leave us unmoved. We need a reason to care about others with whom we have no personal connection. Good drama gives us that reason by bringing the experiences of strangers home to us. As a result, a narrative of a rape victim's experience may have far more reader impact than a statistical report of increased rapes in a jurisdiction.

The emotional impact of narrative does more than just attract attention; it can lead to deeper understanding. Stories help us imagine what a situation feels like, and help us determine what it means. Consider again the case of the Brixton police raid that went awry. To pass judgment on the police officer who shoots an unarmed woman in a raid, the judge—used here in the generic sense of anyone who must pass judgment—must follow out several story lines. The judge must imagine the situation for the officer. This includes not just the training the officer has received and the warnings he has been given, but some sense of the experience of conducting a police raid for a dangerous suspect. The judge must also consider the experience of the victim—the woman who finds her home invaded by strange men with guns, one of whom suddenly shoots her. The judge must consider the experience of being shot and living with the paralysis that results. Reviewing these “internal” stories may not resolve the ultimate question of responsibility, but they reveal critical information about what we can expect of those involved. The story of the officer's experience may help the judge resolve whether the officer was caught up in a situation largely beyond the officer's control, or whether the instinct to shoot should be traced to aggression or prejudice for which the officer should be blamed. The story of the victim's experience may help us answer the same questions, by putting emotional force behind the requirement that an officer use extreme caution in an armed invasion of a home.

From this example we see the way that so-called human interest stories may provide vital assistance in determining individual moral responsibility. This is because decisions about moral responsibility, no matter how we dress them up in fancy philosophic clothing, ultimately depend on comparing others' experiences with our own. The judge must assess the subject's conduct according to the judge's personal experiences and observations of others. Narrative accounts provide a basic source of morally-relevant information.³⁵

35. Narrative is basic to understanding human behavior in another sense as well. We

All this, I think, places the media's apparently disproportionate interest in crimes against the person and in the human interest aspects of these cases in a different light. In moral terms crimes of violence *are* more important to us than property crimes, even if they occur much less frequently. Sexual assaults, robberies, and murders involve different, and far more serious harms to individuals and to the community than do property offenses. We know this not from statistics—though we can generate many figures to support the point—but by empathizing with the victims. We imagine the experience of victimization and are outraged. Thus the media's emphasis on dramatic offenses and their human consequences may be at least partially justified.

We should also remember that the public may look to crime drama for reasons other than evaluating criminal justice policy. Schlesinger and Tumber briefly discuss research indicating that the public employs crime news primarily as a way of working out noncriminal ideas about human behavior and morality.³⁶ Many Americans may see the O.J. Simpson case as a forum for issues of celebrity, domestic violence, money, power, sex roles, and race, rather than as an example of criminal justice. Such viewers are hooked by a real-life story that promises to tell them something important about moral issues in their own lives, not about the legal system. To the extent the public uses crime dramas in this way, the dramas pose little threat to reasonable crime policy.

The narrative approach to crime journalism has a serious downside, of course. The best narratives tell personal stories, and this concentration on the personal often creates serious imbalances in coverage. Few storytellers are skilled enough to tell more than one story at a time. Reporters and editors normally choose, either consciously or unconsciously, which of many possible stories to tell. In the police shooting case they may effectively choose between the story of the police officer who fired the mistaken shot, or that of the shooting victim. The best journalistic institutions will do a series of

live narrative lives. Our lives have beginnings (birth), middles (conscious life), and ends (death). We experience the world around us first and last as individuals; all our judgments filtered through our personal emotional reactions. Thus, while judgment often requires our moving beyond individual narratives, the judgment process normally begins with a review of the personal stories of the actors involved.

36. REPORTING CRIME, *supra* note 1, at 207 & n.2 (citations omitted).

stories to provide a complex perspective; most will concentrate on the most dramatic and most accessible narratives.

In criminal justice terms, a dramatic emphasis may hide the most important part of a story. A critical part of any story is its context: the social and physical geography of the narrative. In a crime story the personal histories of the individuals or the social dynamics involved constitute the context of the offense. The dramatic storyteller will normally treat these elements as background; a framing device for the main story of individual conflict. In terms of criminal justice policy, these background matters might better be considered foreground, though. The Brixton shooting, like the beating of Rodney King by Los Angeles Police Department officers, may be more important as evidence of a larger dynamic than for the individual conflicts involved. If we do not look to see why certain conflicts arise, again and again, we miss a critical aspect of crime policy.

Narrative accounts favor high stakes and conflict; they discount the everyday decisionmaking which shapes so much of our world. As TV journalists joke: "If it bleeds, it leads." The story with the goriest footage is emphasized, regardless of its lack of larger significance. Thus media accounts of prison will naturally focus more on riots, violence, and escape than the grinding tedium of daily prison life. Narrative accounts of the criminal process focus more on the dramatics of police chases and interrogation than on the bureaucratic nature of much of police work. Here in Los Angeles the O.J. Simpson murder trial so dominated crime coverage that the ordinary business of the courts—the disposition by guilty plea of the manifold thefts, robberies, drug cases, and the like—was lost in the tumult of a single high-profile case.

The storyteller's interest in individual conflict and individual blame creates a natural disinterest in complex social dynamics. Narratives normally provide intentional accounts of a small number of actors but social structures often represent the unintended consequences of many intentional interactions. This makes for difficult storytelling. It is counterintuitive and deeply disturbing to learn, for example, that one of the most important early effects of the three-strikes law in California has been to drastically cut prison sentences for misdemeanants.³⁷ Equally disquieting, the analysis of

37. See LEGISLATIVE ANALYST'S OFFICE, *supra* note 3, at 7; Rene Lynch, '3 Strikes'

complex social forces has a way of dispersing blame. The more persons and forces we can identify as contributing to the problem, the less blame we can attribute to any individual. This undercuts the story's moral force and narrative drive. If narratives are ideal for determining individual responsibility, they are poorly suited to determining social responsibility.

Finally, we cannot forget the problem of bad drama. A skilled storyteller may bring moral insight to a tragic situation by exploring nuances and paradoxes, by shifting points of view, and rigorous attention to detail. Bad storytellers are more common, though. Instead of rich, complex accounts of human interaction we find cartoons which distort by exaggeration and omission. Crime journalists often use narrative to create a sensationalized, oversimplified "truth." The Simpson case is reduced to a battle between a black celebrity and white police officers, to prosecutors versus defense attorneys. Bad storytellers play to prejudice and the universal temptation to judge others as entirely Good or Evil, eschewing moral complexity. In moral discourse there is no more dangerous method.

VI. DEALING WITH CRIME JOURNALISM

As *Reporting Crime* amply documents, crime journalism often leaves much to be desired. The question is: In a democratic society can we reasonably expect better? I think we can, but only with some important qualifications. We may reasonably expect crime journalism to produce better crime dramas. We cannot expect journalists to recognize the limitations of their dramatic craft; that is the job of others, especially criminal justice professionals. We certainly cannot expect crime journalists to give up their most popular product: the powerful dramas of sex and violence. Schlesinger and Tumber, by their many criticisms of journalism's dramatic bias, seem to miss this point. Expecting a "solution" for dramatic bias in the press is no more realistic than expecting a final solution to crime generally. Instead we might concentrate—as we do with crime generally—on actions which produce relative improvements.

For those who study the interaction of media and policy, an examination of the various forms of dramas and their benefits and liabilities might be profitable. Instead of lamenting the media's lack

Leads to More Early O.C. Jail Releases, L.A. TIMES (Orange County), Dec. 19, 1994, at A1.

of interest in structural analysis, researchers might examine what kinds of dramas attract the most public interest and how each of these may affect public understanding of criminal justice policy. Researchers might, for example, examine which kinds of stories aggravate public fear of crime and which tend to mitigate those fears.³⁸ Researchers might also explore the link between crime dramas and the public's understanding of criminal justice. The public has other sources of information about the system than newspaper and TV accounts of sensational cases, but how much do these other sources matter in forming opinions about the system?

Those interested in affecting public opinion on crime problems might consider ways of changing or counteracting media influence. One of the intriguing points made by *Reporting Crime* is the necessity of media strategizing for all involved in criminal justice policy. The authors make this observation about government officials and pressure groups, but perhaps academics and other criminal justice professionals should take note as well. The professional audience might laud the press for stories which illuminate the personal and social situations of serious criminal activity. Crime journalists regularly tell an important part of the truth about victims, or police, or the accused. If the media's story selection appears too limited, those knowledgeable about the system might suggest other stories to fill the void. These alternative stories may not be as obviously dramatic as the arrest-trial-conviction model usually preferred by reporters, but they often have their own considerable emotional punch.

Like any good critic, criminal justice professionals should pan bad drama. Whenever crime coverage distorts or panders to prejudice, we should add our voices to the critical mix. As a former newspaper reporter, and one who works with the media regularly, I can report that journalists have thinner skins than they pretend. Like judges and sports referees, they adopt a public stance of imperviousness, but well-considered criticism, and sometimes just shouting, can have an important long-term effect. Even though the task is a Sisyphean one, academics and practicing professionals have an important role to play in trying to keep the press honest. When the most knowledgeable keep silent, a potential check on media excess is lost.

38. See REPORTING CRIME, *supra* note 1, at 187 (citing an instance in which official reassurances concerning subway crime in New York may have served to decrease reporting of such crime and mitigate public fears).

Finally, criminal justice professionals have an important, independent role in addressing the public. Professionals must remind the public, often through the media, of the inherent limitations of crime drama. We must be the tiresome nags who repeat that the O.J. Simpson case is atypical of American criminal justice, that the Los Angeles police do not usually behave like the officers who beat Rodney King. We must remind all who ask—along with those who do not—that stories of especially violent, heinous, and frightening crimes represent the exception, even in the criminal justice system. Professionals dissatisfied with the public's understanding of crime might also attempt narrative persuasion. Professionals have a wealth of stories to tell. Instead of relegating these to the background, to the informal discussion of crime issues, we might bring these into the foreground of public discussion. Stories may not be the most effective means of persuasion within the criminal justice professions but in public discussion, there are few more powerful methods.³⁹

VII. CONCLUSION

In sophisticated discourse about social problems today, "anecdotal" is a pejorative term. To describe one's evidence for a particular proposition as anecdotal is to offer it with an apology. As contrasted with quantifiable data derived from a methodologically sound study, anecdotal evidence is suspected of being trivial, random, and biased. In many situations this harsh assessment of anecdotal evidence is entirely justified. But when we consider moral issues, like those often involved in criminal justice, the critique may be misplaced. Anecdotes are nothing but stories and stories play a vital role in moral decision-making.

In *Reporting Crime* authors Schlesinger and Tumber show how the media's emphasis on the most provocative "anecdotes" of crime may confuse and mislead the public. What we must remember, though, is that dramatic stories are not just a staple of journalism, they are a staple of human understanding. Criminal justice professionals may prefer other methods of analysis and expression, but we ignore the power and value of storytelling at our own peril.

39. For more on the criminal justice professional's role in contemporary policy debates, see Samuel H. Pillsbury, *Why Are We Ignored? The Peculiar Place of Experts in the Current Debate About Crime and Justice*, 31 *CRIM. L. BULL.* 305 (1995); Jerome H. Skolnick, *What Not to Do About Crime—The American Society of Criminology 1994 Presidential Address*, 33 *CRIMINOLOGY* 1 (1995).