WATCHDOGS OF THE
WRONGLY CONVICTED: THE
ROLE OF THE MEDIA IN
REVEALING MISCARRIAGES OF
JUSTICE

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This thesis is submitted in partial fulfilment of the requirements for the award of the
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DECLARATION

“Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are the work of the named candidate and have not been submitted for any other academic award”
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My thanks to P and A: I found your help, guidance, and hospitality to be invaluable.

Thank-you to D: The source of numerous contacts and lifts around Wales!

M: Thanks for all the time you spent with me and your absolute support for this research.

C &B: I could not have completed this research without you and its completion would have no value were it not for you.

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ABSTRACT

Miscarriages of justice occur far more frequently than we dare to believe (Yant, 1991; Naughton, 2009) and quite simply, ruin people’s lives. Many of these injustices have been revealed and ultimately rectified as a result of work by journalists who have dedicated energy and resources to investigating and publicising them. However, the involvement of the media in this area appears to have diminished over time, leading campaigners to claim that prisoners protesting their innocence should not now place too much faith in the informal involvement of journalists in their cases (Allison, 2004, n.p.). Such claims are of particular concern in the light of recent criticism that the Criminal Cases Review Commission, the formal investigator of miscarriages of justice, is not ‘fit for purpose’ (Woffinden, 2010; Laville, 2012).

Using a triangulated research strategy which included interviews, questionnaires, and narrative analysis, this thesis examined the positive role of the media in miscarriages of justice cases in England and Wales (from the 1960s through to the present day); and determined how the media’s involvement in such cases had changed over time.

The results indicated that the media’s major contribution to miscarriages of justice comes in the form of publicity and investigations. Of these, media investigations were found to bring about the biggest impact in a case, in terms of the journalist discovering fresh evidence which subsequently proves to be crucial at a prisoner’s appeal. However, a number of motivations and considerations were found to influence journalists’ decisions upon whether to get involved in miscarriages of justice and which cases to get involved in. These included moralistic motivations and profit-related considerations. Regarding those cases which are taken up by the media, there is a five-stage process (a model of journalistic involvement in miscarriages of justice) which journalists enter into. During this process journalists come up against a number of obstacles which determine whether they can continue with their involvement. But what makes a successful investigative journalist?

Certain attributes may be particularly important in order to achieve success as a journalist in investigating miscarriages of justice, attributes which, the quantitative research strand of this thesis revealed, are similar to those required by criminal investigators. This strand
of the thesis also revealed that successful investigators draw upon more qualities from ‘within the person’ than from ‘within the profession’ in order to achieve success.

Journalists’ aims in telling stories about miscarriages of justice are numerous and although these stories share similarities with investigative stories in other genres, they also differ from them. This is particularly so in terms of their endings, as comparison of their structure with that of the fictional detective ‘Whodunit?’ story demonstrates, (i.e. there is no solution to the crime).

It was also found that journalistic involvement in miscarriages has changed over time, from the 1960s, when there was little involvement, to the late 1980s/early 1990s which saw massive media interest in miscarriages. From the mid-90s however, a number of factors, especially increased commercial pressures, began to hamper journalists’ ability to get involved in, and particularly to investigate miscarriages, factors which persist today. Despite such issues, it is argued that some journalists will always remain ‘crusaders in the name of the public right to know’, viewing it as their professional duty to investigate and expose miscarriages of justice. This is fortunate, as until radical changes to the appellate system occur, many prisoners will still, it is argued, need them in the pursuit of freedom from injustice.
DISSEMINATION OF FINDINGS TO DATE

Publications:


Conference Papers:


**Consultancies:**

Expert adviser to BBC television on the media's involvement in miscarriages of justice. BBC Television, 2011.

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Journalistic investigations versus CCRC investigations. Southampton Solent University (Invited by Dr. Nigel Brearley. Forthcoming).

Surviving a PhD. Research Seminar Series. Canterbury Christ Church University (December 2011).


**Television Appearance/Interviews:**


# TABLE OF CONTENTS

**List of Tables and Figures**

**Abbreviations**

## Chapter 1: Introduction
- Introduction 1
- The Research Strategy 2
- The Contextual Background of the Study 3
- Aims and Objectives of the Study 3
- Organisation of the Thesis 6

## Chapter 2: Miscarriages of Justice
- Introduction 9
- What is a Miscarriage of Justice? 9
- The Scale and Forms of Miscarriages of Justice in England and Wales 12
- The Causes of Miscarriages of Justice 14
- Miscarriages of Justice and the Truth 22
- Addressing the Causes 23
- Formal Remedies Against Miscarriages of Justice 24
- Informal Remedies Against Miscarriages of Justice 27
- Conclusion 32

## Chapter 3: The History and Role of the Media in Society
- Introduction 34
- The Media, Journalists, and Journalism: What are they and What do they do? 34
- The Role of the Media in Society: Theoretical Perspectives 38
- The History and Changing Role of Print and Broadcast Media: From Servant of the People to Servant of the Powerful? 45
- The Internet: the Public Serving Themselves? 55
- Conclusion 56
# Chapter 4: The Journalist and his/her Investigations

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>57</td>
</tr>
<tr>
<td>Investigative Journalism Scholarship</td>
<td>57</td>
</tr>
<tr>
<td>What is Investigative Journalism?</td>
<td>58</td>
</tr>
<tr>
<td>Investigative Journalism versus Daily Journalism</td>
<td>59</td>
</tr>
<tr>
<td>Getting Results or Investigative Success</td>
<td>60</td>
</tr>
<tr>
<td>Obstacles to Investigative Journalism</td>
<td>62</td>
</tr>
<tr>
<td>How to Get Results – Attributes of a Successful Investigative Journalist</td>
<td>64</td>
</tr>
<tr>
<td>How to Get Results: The Journalist’s Investigative Methodology</td>
<td>70</td>
</tr>
<tr>
<td>Investigative Journalism and Miscarriages of Justice</td>
<td>75</td>
</tr>
<tr>
<td>A Brief History of Journalistic Investigations into Miscarriages of Justice</td>
<td>76</td>
</tr>
<tr>
<td>Motivations of Journalists Investigating Miscarriages of Justice</td>
<td>78</td>
</tr>
<tr>
<td>Obstacles to Getting Results in Miscarriages of Justice Investigations</td>
<td>80</td>
</tr>
<tr>
<td>Attributes and Methods Employed by Journalists Investigating Miscarriages of Justice</td>
<td>80</td>
</tr>
<tr>
<td>Conclusion</td>
<td>81</td>
</tr>
</tbody>
</table>

# Chapter 5: The Journalist and his/her Investigative Storytelling

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>82</td>
</tr>
<tr>
<td>Journalism: Story Selection and Production</td>
<td>82</td>
</tr>
<tr>
<td>Theoretical Approaches to Journalistic Storytelling</td>
<td>87</td>
</tr>
<tr>
<td>Considering Journalistic Product as Narrative</td>
<td>90</td>
</tr>
<tr>
<td>Investigative Journalism: Story Selection and Production</td>
<td>90</td>
</tr>
<tr>
<td>The Aims of Investigative Storytelling</td>
<td>98</td>
</tr>
<tr>
<td>Investigative Storytelling about Miscarriages of Justice</td>
<td>100</td>
</tr>
<tr>
<td>How Journalists Tell Stories about Miscarriages of Justice and their Aims in Telling Them</td>
<td>104</td>
</tr>
<tr>
<td>Conclusion</td>
<td>106</td>
</tr>
</tbody>
</table>

# Chapter 6: Methodology

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>107</td>
</tr>
<tr>
<td>Adopting a Triangulated Research Strategy</td>
<td>107</td>
</tr>
<tr>
<td>The Research Process</td>
<td>108</td>
</tr>
<tr>
<td>Phases 1 &amp; 2: Interviews with those Involved in Miscarriages of Justice Cases</td>
<td>109</td>
</tr>
<tr>
<td>Phase 3: Questionnaires Delivered to Journalists and Police Officers</td>
<td>115</td>
</tr>
</tbody>
</table>
Chapter 7: The Nature of Journalistic Involvement in Miscarriages of Justice

Introduction
The Media and Miscarriages of Justice: A Cause and a Remedy
The Roots of Journalistic Interest in Miscarriages of Justice
Routes into Miscarriages of Justice Cases or How Cases Enter onto
Journalists’ Agendas
Journalists’ Motivations for Getting Involved in Miscarriages of Justice Cases
Obstacles to Journalists Getting Involved in Miscarriages of Justice Cases
Journalistic Decisions Regarding which Cases to Get Involved in
Forms of Journalistic Involvement in Miscarriages of Justice
Conclusion

Chapter 8: Digging Deeper: The Investigative Craft

Introduction
Investigations and the Search for the Truth: The Journalist versus the CJS
The Investigative Method Involved in Miscarriages of Justice Investigations
Attributes of a Successful Journalistic Investigator
Investigative Journalists versus Criminal Investigators: Similarities and Differences
Formalising Similarities and Differences
Summary of the Important Attributes (Skills, Abilities and Characteristics) for a Successful Investigator to Possess and of the Similarities and Differences between Police Officers and Journalists in this Respect
Conclusion

Chapter 9: Telling Stories

Introduction
The Importance of, and Journalists’ aims in, Telling Stories about Miscarriages of Justice
How Stories about Miscarriages of Justice are told
Miscarriages of Justice Stories as Detective Stories 193
Formalising the Similarities and Differences between Miscarriages of Justice Stories and Fictional Detective Stories 193
The Absence of a ‘Poirot Ending’ and an Alternative Step 6 200
Summary of the Findings of the Narrative Analysis of TV Programmes and Newspaper Articles 212
Conclusion 213

Chapter 10: Changing Times
Introduction 215
How Journalistic Involvement in Miscarriages of Justice has Changed 215
Why and When Journalistic Involvement in Miscarriages of Justice Diminished 215
The Future 227
Conclusion 230

Chapter 11: Discussion
Introduction 231
The Importance of the Media in Miscarriages of Justice Cases 232
Miscarriages of Justice: To get Involved or not to get Involved? 237
Getting Involved in Miscarriages of Justice: What Journalists do and How they do it 243
The Attributes Required to Successfully Investigate Miscarriages of Justice 250
The Journalistic Investigator versus the Criminal Investigator 252
Miscarriages of Justice Stories: Journalists’ Aims in Telling them and How they are Told 261
Stories about Miscarriages of Justice as Detective Stories 266
The Changing Involvement of the Media in Miscarriages of Justice 269
Research Issues 278
Contributions of the Research to Academic and Other Arenas 279
Future Research 281
Conclusion 282

Chapter 12: Conclusion 283
Recommendations 288
LIST OF TABLES AND FIGURES

<table>
<thead>
<tr>
<th>Table No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 2.1</td>
<td>Types of false confession (adapted from Gudjonsson, 2003)</td>
<td>15</td>
</tr>
<tr>
<td>Table 3.1</td>
<td>The basic and mediating functions of journalism in society (adapted from Lasswell, 1948; Zelitzer; 2004; McQuail, 2005)</td>
<td>35</td>
</tr>
<tr>
<td>Table 3.2</td>
<td>The purpose of journalism within society (adapted from Kovach &amp; Rosentiel, 2007; Randall, 2007)</td>
<td>36</td>
</tr>
<tr>
<td>Table 3.3</td>
<td>Research findings regarding journalists’ views of their role in society (adapted from Fjaestad &amp; Holmlov, 1976; Weaver &amp; Wilhoit, 1971; 1986; 1996; Plaisance &amp; Skewes, 2003)</td>
<td>37</td>
</tr>
<tr>
<td>Table 4.1</td>
<td>Attributes identified by media literature as being important in order to be a successful investigative journalist (adapted from extensive list of contributors mentioned in Appendix 2, note 2.2)</td>
<td>64</td>
</tr>
<tr>
<td>Table 4.2</td>
<td>Combinations of attributes required to successfully undertake investigative journalism (adapted from Northmore, 1998; Forbes, 2005)</td>
<td>66</td>
</tr>
<tr>
<td>Table 4.3</td>
<td>Step-by-step guides to criminal investigation and empirical research studies suggest that a successful criminal investigator should possess these attributes (adapted from Jackson, Swanson, Chamelin, &amp; Terrirto, 2003); Cohen &amp; Chaiken, 1987; Morgan, 1990; Maguire, Noakes, Hobbs, &amp; Brearley, 1992; McGurk, Platton, &amp; Gibson, 1994)</td>
<td>67</td>
</tr>
<tr>
<td>Table 4.4</td>
<td>The attributes required by SIOs in order to achieve investigative success (adapted from Smith &amp; Flanagan, 2000; Innes, 2003)</td>
<td>69</td>
</tr>
<tr>
<td>Table 5.1</td>
<td>How adopting a set of strategic rituals assists journalists in constructing an account of reality that can at least be <em>justified</em> in the name of objectivity (adapted from Tuchman, 1972: 661)</td>
<td>83</td>
</tr>
<tr>
<td>Table 5.2</td>
<td>How daily news journalists (national and regional) categorise events (adapted from Tuchman, 1973; Brundson &amp; Morley, 1978; Langer, 1998; DeBurgh, 2000)</td>
<td>89</td>
</tr>
<tr>
<td>Table 5.3</td>
<td>The criteria which a story must meet in order to be classified as investigative (adapted from Cordell, 2009: 123)</td>
<td>91</td>
</tr>
<tr>
<td>Table 5.4</td>
<td>How investigative journalists try to meet the requirements for their moralistic stories to be objective (adapted from Ehrlich, 1996; Ettema &amp; Glasser, 1998; Rabiger, 1998)</td>
<td>93</td>
</tr>
<tr>
<td>Table 5.5</td>
<td>Categories for investigative stories (adapted from DeBurgh, 2000)</td>
<td>94</td>
</tr>
<tr>
<td>Table 5.6</td>
<td>A master-frame for (or core structure of) investigative journalists’ stories (adapted from Ettema &amp; Glasser, 1998)</td>
<td>94</td>
</tr>
<tr>
<td>Table 5.7</td>
<td>Types of fictional detective story (adapted from Cawelti, 1976; Todorov, 1977; Todorov, 1988; Berger, 1992; Dove, 1997)</td>
<td>95</td>
</tr>
<tr>
<td>Table 5.8</td>
<td>How a ‘60 Minutes’ narrative is similar to fictional detective narratives (adapted from Campbell, 1991)</td>
<td>97</td>
</tr>
<tr>
<td>Table 5.9</td>
<td>The specific narrative form used to structure ‘Rough Justice’ Stories (adapted from DeBurgh, 2000)</td>
<td>104</td>
</tr>
<tr>
<td>Table 6.1</td>
<td>The aims of this research study</td>
<td>107</td>
</tr>
<tr>
<td>Table 6.2</td>
<td>The triangulated research methodology utilised for this study</td>
<td>107</td>
</tr>
<tr>
<td>Table 6.3</td>
<td>Sources utilised for the literature review for this study</td>
<td>109</td>
</tr>
<tr>
<td>Table 6.4</td>
<td>Research participants selected for phase 1 semi-structured interviews</td>
<td>111</td>
</tr>
<tr>
<td>Table 6.5</td>
<td>Research participants selected for phase 2 semi-structured interviews</td>
<td>113</td>
</tr>
<tr>
<td>Table 6.6</td>
<td>Research questions asked in phase 3 of the study</td>
<td>115</td>
</tr>
<tr>
<td>Table 6.7</td>
<td>The three stages involved in compiling a Likert scale (adapted from Oppenheim, 2000)</td>
<td>117</td>
</tr>
<tr>
<td>Table 6.8</td>
<td>Issues highlighted with the pilot questionnaire by pilot study respondents</td>
<td>118</td>
</tr>
<tr>
<td>Table 6.9</td>
<td>Research questions asked in phase 4 of the study</td>
<td>120</td>
</tr>
<tr>
<td>Table 6.10</td>
<td>Sources utilised for selection of the sample of programmes and articles</td>
<td>121</td>
</tr>
<tr>
<td>Table 6.11</td>
<td>The advantages and limitations of narrative analysis of secondary data</td>
<td>123</td>
</tr>
<tr>
<td>Table 6.12</td>
<td>Ways in which narrative can be analysed (adapted from Lacey, 2000; Reissman, 2008)</td>
<td>124</td>
</tr>
<tr>
<td>Table 6.13</td>
<td>The rules or formulae for detective fiction (adapted from Van Dine; 1928; Cawelti, 1976; Klockars, 1985; Todorov, 1988; Bordwell &amp; Thompson, 1991)</td>
<td>127</td>
</tr>
<tr>
<td>Table 8.1</td>
<td>Personal characteristics which journalists (N=27) identified as being important in order to be successful in investigating miscarriages of justice</td>
<td>166</td>
</tr>
<tr>
<td>Table 8.2</td>
<td>Mental abilities which journalists (N=27) identified as being important in order to be successful in investigating miscarriages</td>
<td>166</td>
</tr>
</tbody>
</table>
Table 8.3 Practical abilities/skills which journalists (N=27) identified as being important in order to be successful in investigating miscarriages of justice

Table 8.4 The similarities and differences which the journalists (N=27) highlighted between themselves and criminal investigators and between what the two groups do

Table 8.5 Mean (and standard deviation) for ‘investigator’ attributes (abilities, skills, and characteristics) across police officers and journalists

Table 8.6 Mean (and standard deviation) for ‘investigator’ attributes (abilities, skills, and characteristics) across police officers

Table 8.7 Mean (and standard deviation) for ‘investigator’ attributes (abilities, skills, and characteristics) across journalists

Table 8.8 Differences across the two occupational groups (police officers and journalists) concerning their views with regards to the importance of each attribute

Table 8.9 Respondents’ (police officers and journalists) additional comments expressed to the question: Are there any attributes missing from this list?

Table 9.1 The sample of (N=15) TV programmes analysed and how they are referred to in the text

Table 9.2 The sample of (N=15) newspaper articles analysed and how they are referred to in the text
Table 9.3  Examples demonstrating the elements of step 6 ‘The story of the investigative strategy’ in the TV narratives (N=15) analysed 202

Table 9.4  Examples demonstrating the elements of step 6 ‘Playing the Informant’ in the newspaper narratives (N=15) analysed 207

Table 11.1  A comparison of the findings from this study regarding the attributes which are most and least important to possess in order to be a successful investigator, with IJL and CIL concerning the attributes required for success 253

Table 11.2  How miscarriages of justice stories meet Cordell’s criteria for classification of a story as investigative 263

Table 11.3  How miscarriages of justice stories are like other investigative stories (as detailed by: Protes et al,1991; Ettema & Glasser,1998; DeBurgh, 2000; Sanders & Canel, 2006) 263

Table 11.4  A master-frame for investigative journalists’ stories (Ettema & Glasser,1998) and demonstration of how miscarriages of justice stories ‘fit’ this framework 265

Table 11.5  How a ‘60 Minutes’ narrative fits the structure of fictional detective stories (Campbell,1991) and how the structure of investigative stories about miscarriages of justice differs 267
<table>
<thead>
<tr>
<th>Figure No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Figure 4.1</td>
<td>The investigative method of TV journalists, a 4-step model aimed at verifying knowledge claims and justifying the telling of a story embodying those claims (adapted from Ettema &amp; Glasser, 1985)</td>
<td>72</td>
</tr>
<tr>
<td>Figure 4.2</td>
<td>The investigative method of newspaper journalists – a two-phase, five-stage model (adapted from Protess, Cook, Doppelt, Gordon, Ettema et al, 1991)</td>
<td>74</td>
</tr>
<tr>
<td>Figure 6.1:</td>
<td>The classic detective novel formula (adapted from Rahn, 1988)</td>
<td>129</td>
</tr>
<tr>
<td>Figure 6.2:</td>
<td>7-step formula for detective fiction (adapted from Dove, 1997)</td>
<td>131</td>
</tr>
<tr>
<td>Figure 7.1:</td>
<td>Forms of journalistic involvement in miscarriages of justice cases</td>
<td>149</td>
</tr>
<tr>
<td>Figure 8.1:</td>
<td>Journalists’ investigations into miscarriages of justice: Investigative method</td>
<td>159</td>
</tr>
<tr>
<td>Figure 9.1:</td>
<td>The application of Dove’s 7-step model to the TV narrative JJ and alternative step 6 illustrated</td>
<td>201</td>
</tr>
<tr>
<td>Figure 9.2:</td>
<td>The application of Dove’s 7-step model to the newspaper narrative EC and alternative step 6 illustrated</td>
<td>206</td>
</tr>
<tr>
<td>Figure 11.1:</td>
<td>A five-stage model of journalistic involvement in miscarriages of justice.</td>
<td>244</td>
</tr>
</tbody>
</table>
LIST OF ABBREVIATIONS

The following abbreviations have been defined at their first appearance within the text, and are also listed here for ease of reference:

BBC  British Broadcasting Corporation

CCRC  Criminal Cases Review Commission

CIL  Criminal Investigation Literature

CJS  Criminal Justice System

COR  Campaigning Organisation Representative

CPIA  Criminal Procedures and Investigations Act

CPS  Crown Prosecution Service

FREE  Freelance Journalist

IJL  Investigative Journalism Literature

ITV  Independent Television

NEWSL  Local Newspaper Journalist

NEWSN  National Newspaper Journalist

PACE  Police and Criminal Evidence Act

POL  Politician

PRESN  National TV presenter
PRESR  Regional TV presenter
PRODN  National TV producer
PRODR  Regional TV producer
PSB  Public Service Broadcasting
RCCJ  Royal Commission on Criminal Justice
RCCP  Royal Commission on Criminal Procedure
RES  TV Researcher
SOL  Solicitor
TV  Television
CHAPTER 1: INTRODUCTION

“It seems that only journalists can investigate the suspected truths that were rejected by the court and perhaps firm them up enough to first persuade a mass readership, and then later the courts, to accept them” (Walker & Starmer, 1999, p. 282).

The role of the media in relation to the issue of miscarriages of justice has sometimes been viewed as a negative one. Indeed, in some instances, the media have arguably contributed to causing a miscarriage of justice. This can occur through, for example, sensationalist and inaccurate reporting of a case prior to, or during trial, which may then prejudice a fair trial (Stephens & Hill, 1999). Media climates may also contribute towards causing a miscarriage (Jewkes, 2004). Indeed, media reaction to a particularly horrific murder within a community, can contribute towards incredible pressure being placed upon the police to get a swift ‘result’. This in turn, may affect the efficiency and/or efficacy of a police investigation, ultimately leading to a miscarriage of justice (Maguire, 2003).

However, if we examine the factors which seem to be important in ultimately leading to the over-turning of wrongful convictions, particularly for serious crimes such as murder, we find that the media have in the past been most useful (Eady, 2003). Indeed, in some cases, despite the existence of formal mechanisms to remedy miscarriages, including the Criminal Cases Review Commission (CCRC), the media, specifically informal journalistic investigations, have been the only way that new evidence in a case has been found. This in turn, has led to the eventual quashing of a conviction (Eady, 2003).

The importance of the media in this area has been noted by many, including campaigners, politicians, lawyers, and even senior members of the judiciary: “...a substantial number of miscarriages...have been identified and corrected only through painstaking investigations by journalists” (Lord Steyn, House of Lords Judgement, 1999, n.p). Interestingly however, this can be juxtaposed against the fact that there is a dearth of research into the positive relationship between the media and miscarriages of justice.

There is a good deal of scholarly analysis of the relationship between the media and crime (see for example, Schlesinger & Tumber, 1994; Mason, 2003), and of that between the media and the police (see Chibnall, 1979; Leishman & Mason, 2003). In addition, some anecdotal publications, written by investigative journalists themselves, (see Kennedy,
1961; Hale, 2002) and victims of miscarriages and/or their associates (see Bentley & Denning, 1995; Cannings, 2006) acknowledge the media’s involvement and importance in specific cases. Such texts particularly highlight the publicity provided, and investigations conducted by journalists within this area. Looking to scholarly literature on miscarriages, some texts stress the positive involvement of the media in miscarriages of justice (see Walker & Starmer, 1999; Eady, 2003), as do some analyses of the work of investigative journalists from the field of media scholarship (see Northmore, 1997; Ettema & Glasser, 1988). To date however, only two empirical studies have examined the issue of media involvement in miscarriages. Firstly, that of Nobles and Schiff (2000) who demonstrated through their content analysis of newspaper articles, the changing newsworthiness of miscarriages of justice and its impact upon media involvement in this area; and secondly that of DeBurgh (2008a) who interviewed three journalists working on the British Broadcasting Corporation’s (BBC’s) ‘Rough Justice’ programme (which investigated miscarriages) about their work.

Although then, many sources, both anecdotal and academic, note the crucial contribution that the media can make to this area, no researcher, to date, has conducted a comprehensive examination of the media’s involvement in exposing/aiding exposure of miscarriages of justice. The research for this thesis aimed to meet this shortfall.

The Research Strategy

All research methods have their strengths and weaknesses. One possible answer to the weaknesses of each is to combine various methods. This reinforces their strengths and compensates for their weaknesses (Maxwell, 2005). Therefore, a combination of research methods was used for this study. The multiple investigative approaches employed included: documentary analysis, semi-structured interviews, questionnaires, and narrative analysis. Through adoption of such methods, this study examined and traced the involvement and activities of the local, regional, and national newspaper and television (TV) media, in miscarriages of justice cases (including any associated campaigns) involving the crime of murder, from the 1960s onwards. It particularly concentrated upon issues of: why some journalists get involved in this area, the ways in which they become involved, and the specific activities which they undertake and how they carry these out. It also compared the attributes and investigative approaches used by journalists in investigating miscarriages of justice, with those used by police detectives or criminal
investigators; with the aim of determining similarities and differences between these two
groups. In addition, the study examined the stories told by journalists in this area, their
aims in telling them, and how they tell them. Lastly, the study highlighted how the
media’s involvement and activities in this area have changed over time and considered
issues around future involvement.

**The Contextual Background of the Study**

The initial research interest was sparked by a study which was conducted by the researcher
and colleagues (at the University of Portsmouth) in 2004 which aimed to identify the
factors, (individuals, organisations, and campaigning tactics) in campaigns against
miscarriages of justice which were critical to their successful outcome, (defined first and
foremost as the quashing of a wrongful conviction). The project involved a semi-
structured interview programme with a cross-section of individuals and organisations
associated with miscarriages and extensive documentary and literature analysis of post-
war cases of miscarriages. The research revealed that the involvement of many ‘players’
was important in achieving campaign success, particularly that of the prisoner’s family
and friends. However, it also highlighted that “where there is success there is almost
always media involvement” (Savage, Grieve, & Poyser, 2007, p. 94). The findings of this
research and the fact that (as noted above) there is a dearth of literature upon this topic, led
the researcher to view the positive involvement of the media in miscarriages of justice as
an area ripe for study.

**Aims and Objectives of the Study**

This study had two primary aims. Firstly, to examine the positive role of the media (local,
regional, and national, newspaper and TV) in miscarriages of justice cases (and any
associated campaigns) involving murder in England and Wales; and secondly to examine
the changing involvement of the media in miscarriages of justice cases from the 1960s
through to the present day. In order to undertake the research for this study, these aims
were divided into the following ancillary objectives:

The first objective of the research was to establish the importance of the media in
miscarriages of justice cases. This objective was achieved through performing phase 1 of
the research. Phase 1 involved the researcher conducting semi-structured interviews with
a sample of individuals and organisations (N=23) who had been involved in miscarriages
of justice cases involving murder, in England and Wales, spanning the years 1960-2007. Phase 1 of the research methodology is detailed in chapter 6 (pages 109-112). The findings of the research in relation to this objective are detailed in chapter 7 (pages 135-137) and discussed further in chapter 11 (pages 233-238).

The second objective of the research was to examine why some journalists get involved in miscarriages of justice cases and others do not get involved. This objective was achieved through performing phase 2 of the research. Phase 2 involved the researcher conducting semi-structured interviews with a sample of local, regional, and national newspaper and TV journalists (N=27) who had been associated in some way (primarily through investigative work) with miscarriages of justice cases involving murder in England and Wales from 1960 to 2007. Phase 2 of the research methodology is detailed in chapter 6 (pages 113-114). The findings of the research in relation to this objective are detailed in chapter 7 (pages 137-147) and discussed further in chapter 11 (pages 238-244).

The third objective was to determine how journalists get involved in miscarriages of justice cases, what they do once involved, and how they do it, particularly in terms of their investigative methods and strategies utilised. This objective was achieved through performing phase 2 of the research (mentioned above). The findings of the research in relation to this objective are detailed in chapters 7 (pages 147-154) and 8 (pages 156-165) and discussed further in chapter 11 (pages 244-251).

The fourth objective was to analyse whether journalists involved in this area required specific attributes (i.e. skills, abilities, and characteristics) in order to be successful in their investigations, and if so what these were. This objective was achieved through performing phase 2 of the research (mentioned above). The findings of the research in relation to this objective are detailed in chapter 8 (pages 165-171) and discussed further in chapter 11 (pages 251-253).

The fifth objective was to compare the attributes used by journalists conducting investigations into miscarriages of justice cases with those used by criminal investigators, with the aim of determining the similarities and differences in the attributes possessed by these groups. This objective was achieved through performing phase 3 of the research. Phase 3 involved the researcher administering a questionnaire (containing a list of 27 attributes) to a sample of journalists (N=30), consisting of 27 journalists interviewed for
phase 2 and 3 interviewed for phase 1 of the research. The same questionnaire was also administered to a sample of serving police officers (N=70) of differing ranks (all of whom were detectives) from seven police forces across England and Wales. Participants were asked to rate each attribute in terms of how important they viewed them to be in order to be a successful investigator. Phase 3 of the research methodology is detailed in chapter 6 (pages 115-120). The findings of this research in relation to this objective are detailed in chapter 8 (pages 171-186) and discussed further in chapter 11 (pages 253-262).

The sixth objective of the research was to examine the products of journalistic involvement in miscarriages of justice, (i.e. the stories which they produce, their aims in telling them, and how these stories were told). This objective was achieved through performing phase 2 of the research (mentioned above) and phase 4 of the research. Phase 4 involved the researcher conducting a form of narrative analysis termed ‘structural analysis’, utilising George Dove’s 7-step model of detective fiction (Dove, 1997). The structural analysis was performed upon a sample of (N=15) TV programmes (broadcast between 1966 and 2007) and a sample of (N=15) newspaper articles (written between 1966 and 2006) which told a story surrounding a possible miscarriage of justice involving murder. Phase 4 of the research methodology is detailed in chapter 6 (pages 120-131). The findings of this research in relation to this objective are detailed in chapter 9 (pages 188-214) and discussed further in chapter 11 (pages 262-270).

The seventh objective was to determine how and the why the media’s involvement in miscarriages of justice has changed over time. This objective was achieved through performing phase 1 and phase 2 of the research (mentioned above). The findings of the research in relation to this objective are detailed in chapter 10 (pages 216-231) and discussed further in chapter 11 (pages 270-279).

It is hoped that the results of this study will contribute to the knowledge of those who are involved in some way, in miscarriages of justice. It is envisaged that the findings will act as a resource from which to draw knowledge as to why and how journalists get involved in such cases, the importance of the methods/strategies used in their work, and of their products that often contribute towards them achieving success. This knowledge should benefit those involved in the campaigning process. Academic knowledge upon the media’s involvement in miscarriages should also be enriched with the findings of this research. In particular, the findings should contribute to the area of investigative
journalism, specifically in relation to informal and professional debates regarding whether journalists should remain involved in miscarriages of justice. The research should also add to a general developing literature concerned with the core attributes of successful investigators, which is of interest to many professions including journalism and policing.

**Organisation of the Thesis**

This chapter has explained why the issue of the positive role of the media in miscarriages of justice cases is worthy of study and has identified the specific aims and objectives of the research. It has also very briefly outlined the overall strategy used to accomplish the programme of research’s objectives.

Chapter 2 examines the question of ‘What is a miscarriage of justice?’ in the context of England and Wales. This includes an examination of the definitions, dimensions, forms, and often complex, causes of miscarriage of justice. Lastly, official and unofficial remedies against miscarriages of justice are discussed.

Chapter 3 provides an overview of the changing history and role of the media in society. Although many forms of media have played a positive role in miscarriages of justice, including magazine articles, films, books, and radio; the review of literature will focus upon two elements of the media which have proved to be the most important, namely (local, regional, and national) newspapers and TV.

Chapter 4 focuses upon a specific area of journalistic activity, namely investigative journalism. It examines the importance of the investigative journalist and his/her activities in society. Journalistic investigations into miscarriages are then considered, particularly the actions, activities, and constraints upon the work of journalists operating within this area. Lastly, the changing nature of such work is addressed.

Chapter 5 considers the issue of journalistic storytelling. It focuses upon how journalists select and produce stories (highlighting the differences daily news journalists and investigative journalists in this respect), and their aims in telling them. The chapter then considers miscarriages of justice as ‘newsworthy stories’, together with their production and changing newsworthiness.
Chapter 6 discusses and justifies the multiple investigative approaches employed within this study and demonstrates how they were used to examine the involvement, role, and products of the media in miscarriages of justice cases in England and Wales.

Chapter 7 reveals the nature of journalistic involvement in miscarriage of justice in the sample studied. Firstly, the importance of the media to miscarriages of justice is addressed. Journalists’ motivations for involvement and routes into cases are then discussed. The reasons why journalists might not to get involved in miscarriages are also noted. Finally, the different forms of journalistic involvement in this area are outlined (and examined further in subsequent chapters).

Chapter 8 explores ‘the investigative craft’, and particularly the investigations of journalists involved in miscarriages of justice cases in the sample studied. Whether the journalists adopted specific strategies in their investigations is also considered. Lastly, this chapter examines what attributes make a successful journalistic investigator in this field; and what such journalists might have in common with criminal investigators.

Chapter 9 examines the products (or stories) of journalists involved in miscarriages of justice cases in the sample studied, and how they tell them. This chapter highlights a response given by some journalists interviewed in this research, which was that miscarriages of justice stories are told like detective stories, and reveals the results of a comparison of journalists’ factual miscarriages stories to fictional detective stories.

Chapter 10 assesses the ways in which media involvement in miscarriages of justice has changed over time. It particularly concentrates upon issues of changing journalistic interests, changing resources, and changes in the very nature of journalism and the public response to it. Journalists’ views upon media involvement in this area in the future are also outlined.

Chapter 11 discusses the results of this PhD thesis, providing an assessment of the research objectives and demonstrating how this study contributes to the literature regarding miscarriages of justice in England and Wales. It also highlights issues which confronted the study and proposes an appropriate way forward for the future development of research in this area.
Chapter 12 offers a summary of the thesis and draws out recurring themes running through the research. This final chapter also presents recommendations for change in relation to key issues highlighted throughout this thesis.
CHAPTER 2: MISCARRIAGES OF JUSTICE

Introduction

This chapter introduces the study of miscarriages of justice and attempts to define what a miscarriage of justice is, in the context of England and Wales. The latter, it will be revealed, is no easy task. Definitions are influenced by a number of factors including one’s position, perspective, and perception, all of which can, in turn, be affected by cultural, social, and political change. A key issue explored, is the claim that contrary to popular belief, the notion of ‘innocence’ sits most uncomfortably alongside the notion of a miscarriage of justice. The dimensions, forms, and scale of miscarriages are also examined, together with their causes, which remain relatively consistent across countries and over time (Huff & Killias, 2010). Formal remedies against miscarriages of justice, such as the Court of Appeal and the CCRC are then discussed. Criticism of the activities and decision-making of these institutions is highlighted, alongside claims that they are by no means infallible in terms of recognising and rectifying miscarriages of justice. Lastly, the informal remedies available to victims are analysed.

The ensuing discussion draws upon a variety of sources from the field of miscarriage of justice scholarship, which is a theoretically impoverished area. This field contains three distinct types of literature (Leo, 2005, p. 210). Firstly, the ‘big-picture studies’ - academic texts (of which there are relatively few in England and Wales), which examine the nature, causes of, and remedies against miscarriages of justice (see for example, Brandon & Davies, 1973; Naughton, 2007). Secondly, the ‘specialised-causes literature’, which includes the works of experts, such as psychologists, and addresses particular causes of miscarriages (see Loftus, 1980; Gudjonsson, 2003). Thirdly, the ‘true-crime literature’, written by those who have either directly (victims) or indirectly (victims’ associates) experienced a miscarriage (see Kennedy, 1961; O’Brien, 2008). All of the aforementioned literature has contributed to our understanding of miscarriages and will be drawn upon throughout this chapter.

What is a Miscarriage of Justice?

Defining exactly what a miscarriage of justice is, can be very difficult. What we view as a ‘miscarriage of justice’ may partly depend upon our individual perspective and perception
(Quirk, 2007). It may also depend upon what we consider the terms ‘criminal justice’ and ‘justice’ to mean. This suggests that we should consider the nature and purpose of the Criminal Justice System (CJS) and its relation to the notion of justice.

William Blackstone’s (1858, n.p.) statement that “It is better that 10 guilty persons escape than one innocent suffer” forms the foundation of what Herbert Packer (1968) calls the ‘due process’ approach to criminal justice. This approach emphasises the presumption of innocence, individual rights, and the importance of protecting the individual from state power (Packer, 1968). Conversely, Packer’s ‘crime control’ approach stresses the importance of the forces of law, (primarily the police) being able to conduct their role of detecting the guilty without obstruction from excessive legal rules. The UK is said to operate under a due process system, geared towards favouring the innocent. However, Mc Barnett’s (1981) research examining 105 cases tried in Glaswegian courts, highlighted very high conviction rates in this allegedly due process system. Although the legal rules within the Scottish justice system differ slightly from those in England and Wales, this finding suggests that there is actually a gap between the rhetoric (guiding principle) and substance of the law (i.e. what actually goes on) (Eady, 2003).

In such a system, what is justice? Hall (1994) notes that where the State seeks to sanction an individual, the process is, by its very nature, coercive and unbalanced. Thus, it is the minimisation of that coercion and imbalance to tolerable levels, which provides a limited but useful working definition of ‘justice’. This suggests that ‘justice’ is determined as much by the integrity of the process, (particularly by according people fair treatment and respecting their rights) as by its end product (Walker, 1999). Arguably, many rights may be affected by the CJS in action. For example, as crime has an adverse effect on people’s enjoyment of their rights, the CJS acts against offenders’ rights so as to protect the rights of others (Walker, 1999).

In the light of this discussion, how might the term ‘miscarriage of justice’ be understood? Although many have highlighted the inconsistencies and contradictions inherent in defining a miscarriage (see, for example, Forst, 2004; Quirk, 2007) one of the few comprehensive definitions, is that of Walker (1999, p. 33-4), who states that just as ‘justice’ should be defined with respect to rights, so should ‘miscarriages of justice’:
“...a miscarriage... occurs whenever suspects... defendants or convicts are treated by the State in breach of their rights, whether because of deficient processes or, the laws which are applied to them, or because there is no factual justification for the applied treatment or punishment, or whenever [such persons] ... are treated adversely by the State to a disproportionate extent in comparison with the need to protect the rights of others, or whenever the rights of others are not effectively or proportionately protected or vindicated by State action against wrongdoers or, by State law itself...”

Evidently then, a miscarriage of justice can occur not only within the confines of the court system, but also when for example: i) police unjustly exercise their powers on the street (Bowling & Delsol, 2010) through gratuitous stop and searches (Edmond, 2002); ii) arrests/detentions made, do not lead to charges (Greer, 1994), iii) there are failures in the application of laws; and iv) injustice is institutionalised within laws (Belloni & Hodgson, 2000).

Walker (1999) also argues that a conviction achieved through pre-trial or trial practices which breach an individual’s rights is a miscarriage, even if they have actually committed a crime. This point is supported by some judicial pronouncements, such as that of Lord Taylor, who in quashing the murder convictions of the Cardiff Three in 1992, declared that whether Steven Miller’s confession was true or not was ‘irrelevant’, it had been improperly obtained (Naughton, 2005a, p. 172). This indicates that just as ‘justice’ is not only a ‘result’ it is also a ‘process’, the term ‘miscarriage of justice’ cannot be restricted to wrongful ‘outcomes’ (Kennedy, 2004). Interestingly Holmes (2002), unlike most of the scholars in this area, distinguishes between a ‘miscarriage of justice’ and a ‘wrongful conviction’, stating that whilst both terms refer to someone who has been illegally convicted, in the former, the individual may/not have committed the crime; whilst in the latter, the person is factually innocent. However, in reality, it is very difficult to identify the wrongly convicted innocent (Bedau & Radelet, 1987).

Some of the problems evident in the definitions above are partly due to the nature of the trial process itself which is not concerned with ‘absolutes’ such as ‘innocence’, but rather pragmatics (Eady, 2003). For example, although the criminal justice process may claim to attempt to uncover the truth about alleged offences, this is arguably not done at all costs (an issue returned to later in this chapter). Prosecutors only have to produce a sufficiency of evidence to establish ‘guilt’ in the legal sense (Edmond, 2002, p. 187). Similarly, as criminal appeals test only whether convictions are ‘un/safe’, a quashed conviction is an acknowledgement of a breach in the ‘carriage of justice’ rather than the appellant’s innocence (Naughton, 2007, p. 17). In this respect, it could be argued that campaigners...
and the media misconceive successful appeals as indicators of wrongly convicted innocents (Naughton, 2007).

It is now important to return to Walker’s (1999) category of miscarriages which arise through ‘failure to vindicate the rights of others’ (or rather, victims). This is because, arguably the concern of political, (and indeed public and media) discourse has shifted during the last twenty years, away from wrongful conviction of the innocent and towards wrongful acquittal of guilty defendants (Quirk, 2007). This is exemplified by a statement made in 2002 by then Prime Minister Tony Blair that “the biggest miscarriage of justice today is when the guilty walk away unpunished” (cited by Robins, 2011, n.p). Indeed, there are arguably victims of inaction (such as failure to properly investigate a crime or to protect potential victims from known threats), as much as there are of actions which lead to a miscarriage (Savage et al, 2007). This more recent focus upon victims and their place within the CJS, demonstrates how cultural, social, and political change can literally alter one’s perception, and thus definition, of a ‘miscarriage of justice’ (an issue returned to shortly).

The ensuing discussion will primarily use the term ‘miscarriage of justice’ to refer to wrongful conviction, however there are clearly numerous complexities involved in attempting to define a miscarriage and arguably further debate upon this issue is urgently required. This is crucial because how miscarriages are defined “…is important in legal, analytical, publicity, and political terms” (Quirk, 2007, p. 764) and determines which appeals will succeed, thereby affecting estimates of their scale.

**The Scale and Forms of Miscarriages of Justice in England and Wales**

Analysis of the literature concerning the scale of miscarriages in England and Wales suggests that “…the innocent are convicted far more frequently than the public…and...those who operate the system dare to believe” (Yant, 1991, p. 1). As previously noted, estimates of the scale of miscarriages may depend upon how a miscarriage of justice is defined, which in turn may depend upon one’s perspective. Whilst a lawyer for example, may claim that a miscarriage only exists once a conviction is quashed (Naughton, 2005a); a campaigner may argue that the CJS is imperfect in terms of recognising miscarriages and thus cannot guarantee that all wrongful convictions will be overturned (Morrell, 1999). From this perspective, estimates of the number of (unofficially recognised) miscarriages would be far greater (Woffinden, 1987). The
CCRC (2012, n.p) for example, openly admits that it cannot always refer cases to appeal which, after investigation, seem to constitute a wrongful conviction. In addition, it does not consider many others worthy of investigation. Thus, the currently 324 convictions quashed on referral to the Court of Appeal, out of a total of 14,778 applications made to the body since its inception (CCRC, 2012, n.p), are arguably a most conservative estimate of the number of people wrongly convicted since the organisation began work in 1997. Evidently, some victims may never fulfil the criteria of the appeals system and will be unable to overturn their convictions (Naughton, 2006). However, the discussion thus far has concerned wrongful convictions obtained in the Crown Court and, as noted previously, this is not the only ‘site’ where injustice can occur (Hall, 1994). Magistrates courts, which deal with 98% of criminal adjudications (many of them for serious crimes with most ending in conviction), are arguably the sites of numerous miscarriages (Ewick, 2009). Such miscarriages go unnoticed as individuals may never appeal because their sentence was not severe and/or they are dissuaded by poor legal advice regarding the ‘time loss rule’ (Ashworth & Redmayne, 2004).1

Appeals achieved via reference from the CCRC (or exceptional miscarriages) represent then, a fraction of the total number of annual successful appeals (Naughton, 2003). Indeed, if the number of convictions obtained in the Crown Court, routinely overturned by the Court of Appeal (routine miscarriages), is added to convictions obtained in the magistrates’ courts, successfully appealed against in the Crown Court (mundane miscarriages), it totals an annual average of 5,000 (Naughton, 2006, n.p.). When added to exceptional miscarriages over the past decade, this amounts to approximately 35,000 miscarriages of justice (Naughton, 2005b, p. 62).

There are also impediments to defendants continuing to maintain their innocence which must be considered in assessing the scale of miscarriage. These include the acts of charge, plea, and sentence bargaining (Sanders and Young, 2010). Research has found that deals offered by prosecutors may induce innocent people to plead guilty to crimes (Baldwin & McConville, 1979) and that most defence practices are geared “towards the routine production of guilty pleas”, thereby failing to act in an adversarial client-centred way (McConville, Hodgson, Bridges, & Pavlovic, 1994, p. 71). Lastly, outside of the court setting, ‘invisible injustices’ are regularly experienced by some on the street, including

1, i.e. if an appeal is unsuccessful a sentence may, very rarely, be increased (Ashworth & Redmayne, 2004).
unjustifiable, discriminatory police stop and search practices (Hall, Critcher, Jefferson, Clarke, & Roberts, 1978).

Although estimating the scale of miscarriages is difficult as most are not the subject of appeal, nor exposed by any other means (Belloni & Hodgson, 2000) arguably the number of undetected errors is far greater than we believe (Woffinden, 2010). We now turn to discuss these errors.

The Causes of Miscarriages of Justice

A single miscarriage of justice usually has multiple causes, starting from an individual’s first contact with the police and continuing to the end of their dealings with the CJS, when ‘problematic judgements’ are not readily rectified by appellate mechanisms (Walker, 1999). Many of the causes to be discussed here are similar across different countries and time periods (see Huff & Killias, 2010). Indeed, in relation to the latter, the causes discussed by Brandon and Davies (1973) in the first systematic study of miscarriages in England and Wales, remain evident in successful appeals today (Naughton, 2007).

i) Eyewitness Identification and Testimony

Within a criminal investigation and trial an important instrument of proof of guilt is that of establishing the culprit’s identity visually by eyewitnesses (Eady, 2003). However, many problems exist regarding the reliability of eyewitness identification and testimony which may lead to wrongful convictions. Wilcock, Bull, and Milne (2008) summarise much of the research on this area, illustrating how distortions in recall can result from: i) social perceptions such as prejudice or stereotyping (see Chance, Goldstein, & Sporer, 1996; Wells & Olsen, 2003); ii) situational factors such as type, complexity, and duration of the event, the level of emotion it arouses, or illumination at the scene; iii) demographic features of witnesses; and iv) interrogative situations including use of identification parades and photo-fits (see Patterson & Baddeley, 1977; Brigham & Cairns, 2006), despite their more recent replacement with video parades and E-fits (Davies & Griffiths, 2008). Such research, together with the revelation of many miscarriages involving problems with eyewitness identification, led Lord Devlin (1976) to state that eyewitness identification evidence was inherently unreliable and thus convictions should not generally be solely based upon it. Despite such recommendations and changes to procedure, mis-
identification remains the major cause of miscarriages today (Davies & Griffiths, 2008) as Table 1.1, Appendix 1 indicates.

**ii) Confessions**

Police-coerced false confessions (often accompanied by fabricated statements), have featured in many miscarriages of justice (Eady, 2003). In terms of how frequently false confessions arise, Gudjonsson (2003) identifies 22 high-profile cases in England and Wales between 1989 and 2001 where a disputed confession was central to the wrongful conviction. Since this time, a further eight cases have come to light (Milne, Poyser, Savage, & Williamson, 2009). However, as Gudjonsson’s (2003, p. 332) categorisation of false confessions (see Table 2.1) highlights, they do not always result from police pressure.

**Table 2.1: Types of false confession (adapted from Gudjonsson, 2003)**

<table>
<thead>
<tr>
<th>Type of false confession</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voluntary confession</td>
<td>Made by: mentally disordered people who confuse fantasy &amp; reality; those desiring notoriety; those wishing to protect someone. Suspects may ‘admit’ to offence without adopting/understanding the substance of the admission</td>
</tr>
<tr>
<td>Coerced-Compliant confession</td>
<td>The suspect knows the confession is false, but confesses for immediate gain/relief, such as the belief that questioning will end</td>
</tr>
<tr>
<td>Coerced-Internalised confession</td>
<td>The pressure of the situation leads suggestible individuals to temporarily distrust their memory, falsely believing they are guilty</td>
</tr>
</tbody>
</table>

Evidently, false confessions may result from suspects’ psychological vulnerabilities during interrogation, rather than coercive questioning. However, false confessions are not confined to those with mental illness/learning disabilities. Apparently ‘normal’ individuals may also incriminate themselves when interrogated (Gudjonsson, 2003).
Many legislative changes have impacted upon some of the issues mentioned above. Between 1912 and 1984, police handling of suspects was governed by safeguards contained within the Judges Rules (Eady, 2003), rules which police often ignored as evidenced by the number of false confessions highlighted in quashed convictions for crimes which occurred during this period (Allison, 2005). The Police and Criminal Evidence Act (PACE) enacted in 1984, aimed to give suspects more rights and made the investigative process more transparent by, for example, tape-recording interviews (Doward, 2011). However, although PACE, and subsequent initiatives such as the police interviewing approach, PEACE (see Clarke & Milne, 2001) have resulted in police interviews being less likely to result in wrongful conviction, they have still occurred in cases such as the Cardiff Three (Sekar, 2011).

The psychology of false confessions has aided our understanding of the causes of miscarriages, but so too have studies (which there is not space here to discuss) examining the impact of confession evidence upon the perceptions and decision-making of criminal justice officials and jurors (Drizin & Leo, 2004). Confession evidence is highly regarded within criminal law and appeals to common-sense notions, including the idea that innocent people do not confess (Kassin, 2008).

iii) Cell Confessions/Unreliable Witnesses

Inherently unreliable witnesses who may be suspects themselves, or who seek to gain something from giving evidence, feature as causes in many miscarriages (Eady, 2003). This takes many forms but is arguably most clearly illustrated by claims that suspects held on remand have confessed to fellow prisoners who then agree to testify in exchange for benefits (Innocent, n.d.). Despite this unsubstantiated evidence being inherently unreliable, courts continue to accept it (Bennetto, 2005)².

Unreliable witnesses have also caused miscarriages as a result of the police investigative method known as ‘trawling’. In 2002, a Home Affairs Select Committee report into the investigation and trial of people accused of sexual abuse in children’s care homes, raised concerns about police ‘trawling’ former residents and giving them opportunities to allege abuse (Eady, 2003). Many allegations made were based on events dating back 20-30 years, thereby seriously undermining the ability to mount a defence (Home Affairs Select Committee, 2002). Such cases demonstrate how victims’ testimony can contribute to

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² As the case of Michael Stone exemplifies (see Bennetto, 2005).
causing a miscarriage depending upon how they are interviewed, and particularly the role of leading questions (which may alter memory) in such interviews (Milne, 1999). This led to recommendations that all victims (and witnesses) should be video-interviewed (Clarke & Milne, 2001) and latterly digitally recorded (Zander, 2010).

**iv) Non-Disclosure of Evidence**

Some of the most notorious miscarriages in England and Wales have involved non-disclosure of evidence pointing to the innocence of suspects (Eady, 2003). In 1985, the Crown Prosecution Service (CPS) was established to bring an independent prosecutorial review into the system, thereby relieving the police of the dual role of investigating and prosecuting suspects, which some said often led to malpractice (Baldwin, 1986). Despite such changes, together with reform introduced by the Criminal Procedures and Investigations Act (CPIA) (1996) which sought to ensure advance disclosure, (i.e. ensuring that the prosecution alerts the defence to the existence of any ‘unused material’ gathered during the investigation), commentators continue to note instances of the CPS not acting in an independent manner and sometimes colluding with the police in withholding exculpatory evidence from the defence (Belloni & Hodgson, 2000). Certainly, non-disclosure remains a common cause of miscarriages today (Taylor, 2005) as the recent successful appeal of Sam Hallam indicates (Evans, 2012).

**v) Police Investigation**

The police investigative process bears much of the responsibility for causing miscarriages of justice (Savage & Milne, 2007). Some aspects of this process have already been discussed, however still to note are issues surrounding premature case closure and building the case for conviction (Martin, 2002). The concept of premature closure was first referred to in relation to police interviewing (see Shepherd & Milne, 1999, p. 126) as “the disposition to draw pre-emptive conclusions from information processed prior to conducting an interview”. However, the notion of premature closure may also be applied to the investigative process as a whole, so that investigations which start with ‘investigator openness’ to consider many potential lines of inquiry, at some early stage, close around a particular ‘thesis’ and suspect and thereafter “detectives, starting from a premise of guilt, selectively weave together available pieces of information…to produce a simplified & coherent story of ‘what happened’” (Sanders & Young, 2010, p. 368). Thus, premature closure operates around the logic of ‘case construction’ in that once a suspect is identified, the investigation alters from being an objective, continuing search, focussed upon ‘What
happened?’, to being a search for information that supports suspicions that the suspect is the culprit (Maguire & Norris, 1992). Such problems are recognised by the CPIA (1996, s. 23) which requires that all reasonable inquiries, both for and against the suspect, are pursued (Carson, 2007). Sometimes the process of case construction has proceeded beyond constructing a case around a suspect, to suppression, exclusion, or eradication of evidence that does not fit (Savage & Milne, 2007), and fabrication of evidence to ensure it does fit with the initial narrative (Rose, 1996).

The problem of case construction may help to explain how: “innocent people can end up in court with a ‘compelling’ case against them” (Eady, 2003, p. 69). Many miscarriages seem to indicate that investigations have operated upon pre-conceived notions of who was believed to be guilty, perhaps due to institutional cynicism around ‘the usual suspect’, i.e. someone known to the police because they have previous convictions, quickly becomes the focus of their investigation (Taylor, 2005). In high-profile miscarriages where premature investigative closure seems to have been a root cause, media, political, and public pressure placed upon the police investigation may also be partly responsible (Huff & Rattner, 1988), as discussed shortly. Interestingly, premature investigative closure may be a cause of miscarriages in terms of ‘case denial’ as well as ‘case construction’. This is exemplified in the Stephen Lawrence case, where officers who arguably had a ‘closed investigative mind-set’ to the notion that the crime was racially motivated, failed to gather evidence with this in mind (Savage & Milne, 2007).

vi) Police Malfeasance and Malpractice

The Stephen Lawrence case may also exemplify another cause of miscarriages of justice, namely police malfeasance and malpractice. Police files have recently revealed for example, that a senior detective involved in the case was part of a ring of corrupt police officers (Peachey, 2012) and that he may have had a relationship with Clifford Norris, the father of David Norris (recently convicted of Lawrence’s murder), which adversely affected the police investigation into the case (Gillard & Flynn, 2012). Interestingly, some studies identify ‘police malfeasance and malpractice’ as one of the most common causes of miscarriages, second only to eyewitness identification (Scheck, Neufeld & Dwyer, 2000) and certainly, allegations of such police behaviour permeate the history of miscarriages of justice (Rose, 1996; Sekar, 2012), with notable examples in the cases of
the Birmingham Six, Guildford Four, Maguire Seven (Roberts, 2007), and more recently, the Cardiff Three\(^3\) (Sekar, 2012).

There is also evidence to suggest that incidences of malfeasance and malpractice continue to occur within policing in England and Wales (Israel, 2012), as a recent Independent Police Complaints Commission (IPCC) report (2012) highlights. This found that 8,500 corruption allegations were made against police officers between 2008 and 2011. These allegations resulted in 13 police officers being found guilty of such offences, (an issue of concern to the IPCC, which stressed that it was only able to independently investigate 21 of the most serious cases due to limited powers and resources\(^4\)) (Lewis, Dodd, & Evans, 2012).

Although no system could ever be made full proof against police malfeasance and malpractice (Zander, 1993), many steps have been taken to reduce and control this behaviour (Wright, 2007). It is arguably vital that this continues (Sherman, 1973), not only so as to reduce this particular cause of miscarriages (Savage and Milne, 2007), but also because such behaviour arguably undermines public trust and confidence in the police and indeed ultimately, may reduce public cooperation with the organisation (Lewis et al, 2012).

\(\textit{vii) Forensic Science and Expert Testimony}\)

Forensic science and expert testimony have contributed to causing many miscarriages, often because the evidential value of expert testimony is over-estimated due to a belief in its infallibility (Walker, 2002). Scientific evidence tends to be highly valued but is often a matter of opinion, rather than fact (Eady, 2003). Scientists have been criticised for exaggerating their level of confidence, for venturing into realms where they possess little experience, and for failing to explain evidence properly (Edmond, 2002). This is worrying as many lawyers admit to viewing scientific evidence as a ‘closed book’ (Walker & Stockdale, 1999). There are also instances of forensic scientists colluding with police officers in suppressing evidence, so as to support the prosecution case (Rose, 1996). Problems surrounding the collection, quality, and handling of forensic material,\(^5\)

\(^3\) After the exposure of this miscarriage, three prosecution witnesses, who claimed the police had forced them to lie, were convicted of perjury and sentenced to 18 months (Sekar, 2012). Here, the trial judge, Mr Justice Maddison, acknowledged that the three were: "...seriously hounded, bullied, threatened, abused and manipulated by the police...to agree to false accounts suggested to them" (cited in Campbell 2012, n.p).

\(^4\) Individual forces investigated their own officers in the remaining cases (IPCC, 2012).
particularly in relation to contamination must also be considered and mean that even DNA
evidence should be viewed cautiously (McCartney, 2006). Lastly, whilst the prosecution
have the resources to employ top experts within the Forensic Science Service for the
testing of samples, defence scientists are resource-poor, often possessing inadequate
training and experience to assess the significance of materials (Edmond, 2002).

viii) The Adversarial Trial, Quality of Defence Representation, and the Judiciary

The adversarial system itself has been labelled as a major cause of miscarriages of justice
as it is more of a ‘battle’ of perspectives (Hill, Young, & Sargant, 1985, p. 218), using
evidence which has been filtered into a selective version of ‘the truth’, than an inquiry into
what actually happened in a case. This is then the subject of a debate in which advocates
try to present their evidence in the most favourable light (Eady, 2003). However, whilst
the prosecution have full control of the investigation process and superior resources, many
miscarriages indicate that defence barristers have been poorly prepared to argue their case
(Humphrey & Westervelt, 2002). They also highlight huge differences in the competence
and conscientiousness of solicitors, a concern, as it is very difficult to overturn a
conviction on the grounds of inferior defence representation (Allison, 2005). Importantly,
criminal defence work has more recently become increasingly financially unsustainable,
as advocates are paid less for case preparation (Evans, 2012). There is also no longer a fee
payable for reading the unused material served by the prosecution on the defence,
therefore if non-disclosure has occurred it may not be spotted (Evans, 2012). The future
may therefore, see more miscarriages caused by a defendant's own solicitors.

The judiciary also arguably bears much responsibility for many miscarriages through their
reluctance to question the integrity of police and/or their evidence, particularly in
magistrates’ courts (Ashworth & Redmayne, 2004). Some judges have also failed to act
as impartial umpires, instead favouring the prosecution evidence in their summing up
(Belloni & Hodgson, 2000). They have also made mistakes at trial, as outlined by
journalist Peter Hill, who reports that in a case he investigated, the judge made 51 errors of
fact, most of them being corrected by the prosecution counsel! (Hill et al, 1985).
ix) Appeal Procedures

Appeal procedures themselves can be a cause of miscarriages, in situations where the system does not readily rectify mistakes made before/during trial (Savage et al, 2007). The seeming reluctance of the Court of Appeal to quash convictions, even when presented with strong evidence, led to a major critique of the appellate system in relation to the cases of the Guildford Four, Birmingham Six, and Maguire Seven (henceforth referred to as the ‘Irish cases’), and ultimately the establishment of the CCRC in 1997 (Ashworth, 1998). However, many also highlight the inadequacy of the CCRC in remediying mistakes (an issue discussed further shortly).

x) The Media

Hitherto, this discussion of causes has primarily concerned the role of professionals working within/on the periphery of, the CJS. However, a powerful ‘institution’ residing external to the CJS, which has also contributed to causing miscarriages, is the media. The media may cause miscarriages through pressure placed on the police to obtain a ‘result’ in high-profile murder cases (Savage et al, 2007). Horrific crimes, including sexually motivated stranger and mass murders, are particularly ‘newsworthy’ (Chibnall, 1977) and are swiftly reported upon in detail, often resulting in a media-induced moral panic (Cohen, 2011) and intense media pressure on the police to arrest the culprit/s before they offend again (Humphrey & Westervelt, 2002). This may, as previously mentioned, result in detectives taking investigative short-cuts/making mistakes which may ultimately result in a miscarriage of justice.

The media may also cause miscarriages through prejudicial reporting prior to/during a trial, which may influence jury decision-making (Stephens & Hill, 1999). Arguably, a free press, reporting on matters of public interest, plays a key role in a healthy democracy (Sprack, 2002). In relation to the coverage of trials it also helps to maintain the health of the CJS, as justice is seen to be done and criminal justice professionals are encouraged to act with propriety (Kennedy, 2004). However, for the accused person there is a risk of unfavourable publicity, which may lead to prejudice in the finder of fact (Corker & Young, 2003). This arguably occurred during the murder trial of Michelle and Lisa Taylor (R v Taylor (1993) 98 Cr App Rep 361) when many newspapers went beyond intimating,
to actually constructing a set of facts about them which assumed guilt (Stephens & Hill, 1999). 5

**Miscarriages of Justice and ‘The Truth’**

Before moving on to address the causes of miscarriages of justice, the notion of ‘truth’ (and associated concepts), deserves attention, particularly as it is frequently discussed in relation to the issue of justice and miscarriages of justice. The notion of truth is often viewed as a rather slippery concept. To many, truth is indefinable (Matthews, 2009). Others, such as relativists, suggest that there is actually no such thing as ‘truth’ - only perspectives or interpretations (Nietzsche, 2003); whereas sociologists often claim that whilst truth exists, the general populous are often shielded from it by social, cultural, and political conditions (Luckmann & Berger, 1991).

For the purposes of this thesis, it is necessary to provide what might be termed a working definition of ‘truth’ and of the associated concepts of ‘fact’, ‘evidence’, and ‘proof’. The Oxford English Dictionary (n.d, n.p) defines ‘truth’ as: “...agreement with reality; accuracy, correctness...conformity with fact” and ‘fact’ as: “a reality...something that has really occurred or is actually the case...a particular truth known by actual observation or authentic testimony”. It goes on to suggest that fact, and therefore ‘truth’, can be established through investigation, i.e. through the collection and analysis of evidence, which it describes as: “Information...in the form of personal testimony...documents, or...material objects” (Oxford English Dictionary, n.d, n.p). Evidence then, is essential in aiding criminal justice practitioners to get to the truth of what happened in criminal cases. It serves as proof, demonstrating or establishing the truth of a statement (Wall, 2009).

In the criminal courts the **burden** of proof is often discussed. This is the obligation of a party to prove its allegations at trial by shifting the accepted conclusion of ‘not guilty’ to ‘guilty’. Evidence is the currency by which the prosecutor fulfils the burden of proof (Wall, 2009). There are varying legal standards of proof. In civil trials for example, the standard of proof is ‘more likely than not’, a much lower level of proof than required in a criminal trial where an allegation must be proved ‘beyond reasonable doubt’, i.e. in order to convict, juries must be persuaded ‘so that they are sure’ (Herring, 2004). This is the

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5 The sisters were convicted but soon had their sentences quashed partly due to the judges’ view that it was impossible to say whether the jury had been influenced by such reports (Stephens & Hill, 1999).
degree of certitude that proof must reach. Presenting evidence in court to prove/disprove the point at issue is strictly governed by rules, including those concerning whether or not that evidence is relevant and admissible (Herring, 2004). In relation to the latter, evidence may for example, be excluded from consideration at trial due to its unreliability based upon the manner in which it was obtained (Coleman and Mackay, 1993).

The aforementioned discussion however, particularly in relation to the fact that not all evidence/information available surrounding a criminal case actually reaches the trial process, arguably demonstrates that ‘legal truth’ (which will be mentioned in a number of areas throughout this thesis) is not the only truth which might exist. There may, for example, be important information which does not make it into the narrative presented by the prosecution (and indeed the defence) in court which may lead an individual to come to a different conclusion concerning the events discussed, i.e. a different truth. This is often claimed to be the case by those who argue they have suffered a miscarriage of justice. This suggests that perhaps, as Nietzsche (2003) argues, there is no such thing as truth, rather only perspectives or interpretations, which for the individual concerned amount to truth. This relativist definition of truth is therefore, the definition which will be adopted within this thesis.

**Addressing the Causes**

The last 50 years have seen major reforms occur in response to exposure of particularly high-profile wrongful convictions which have attempted to address/reduce the causes of miscarriages through altering the practice of criminal justice professionals (Carlen, 2004, p. 268), including the Royal Commission on Criminal Procedure (RCCP) and the Royal Commission on Criminal Justice (RCCJ).

The roots of the RCCP (1981) date back to 1972 and the wrongful conviction of three youths for the murder of Maxwell Confait (Price & Caplan, 1977). The subsequent quashing of those convictions prompted the Fisher Inquiry and report which highlighted failures throughout the CJS concerning: prosecution decision-making, evidential and interviewing processes, and the role of expert evidence (Milne et al, 2009). The RCCP (1981) tackled these issues and recommended changes to the working practices of criminal justice professionals. PACE (1984) then enacted many of these recommendations and provided a detailed legislative framework for the operation of police powers and suspects rights (Sanders & Young, 2010). The RCCP (1981) also led to the Prosecution of
Offences Act, 1985 which created the CPS to take over the prosecution function from the police.

Despite such legislation, during and after the mid-1980s, a number of miscarriages with causes similar to those in the Confait case were revealed. This, some suggest, led to a decline in public confidence in the CJS, and pressure once again to tackle the causes of miscarriages (Hodgson, 1994). In response, the RCCJ was established to examine the conduct, role, and practices of criminal justice professionals (Walker, 2002). Although some positive reforms were recommended in the RCCJ’s final report (1993), including establishment of the CCRC, many recommendations focussed on making the justice system more ‘efficient’, rather than better protecting the accused (Bridges & McConville, 1994). This was perhaps due to a new climate of heightened societal fear of crime and of criminals ‘getting away with it’ and declining popularity for the Conservative government, which had to be seen to be doing something about law and order issues, thereby matching the opposition’s promise to be ‘tough on crime and its causes’ (Nash & Savage, 1994).

The RCCJ’s report then, arguably helped to influence a shift in public opinion from concern over conviction of the innocent, to concern over the acquittal of the guilty (Eady, 2003). Indeed, many argued that its effect was to weaken due process protections for suspects/defendants (Kennedy, 2004). Thus, for example, whilst confession evidence was shown to be unreliable, police powers of questioning were increased and suspects’ rights to silence, curtailed (Sanders & Young, 2010). The RCCJ had arguably not only failed to address the causes of miscarriages but had increased the likelihood of them occurring in the future (Naughton, 2001, p. 65). Something which the Criminal Justice Act (2003), which introduced disclosure of previous convictions, abolition of the double jeopardy rule, and the use of anonymous and hearsay evidence, further cemented (BBC, 2011). Considering the aforementioned issues, arguably the formal mechanisms established to rectify miscarriages must do so readily and effectively.

**Formal Remedies Against Miscarriages of Justice**

The history, role, and performance of the formal institutions in England and Wales established to remedy miscarriages, namely the Court of Appeal and CCRC, is examined below.
The Court of Appeal

Up until the early 1900s, there was very limited scope for appeal against criminal conviction (Sanders & Young, 2010). Attempts to try to introduce an appellate court were continually rejected until 1907 when, in response to public and media outcry regarding numerous high-profile wrongful convictions, it was finally established (Sanders & Young, 2010).

The Court of Appeal, composed of high court judges, considers appeals from the position of a reviewer of what happened at the original trial (Quirk, 2007). It does not re-hear all of the evidence from that trial, nor does it substitute its own view for that of the jury (Quirk, 2007). It is generally assumed that the court is only be able to overturn convictions on legal technicalities or fresh evidence not available at trial, however it actually has broader powers, including the power to review evidence presented at trial. Despite this, historically it has favoured quashing convictions on legal points (Eady, 2003).

Over the years, the Court of Appeal has been urged to show greater willingness to reconsider fresh evidence in cases and to overturn verdicts more readily (RCCJ, 1993). However, in reality its working practices have changed little, so that whilst the Court now seems more willing to hear more cases with fresh evidence, it seems to be no more receptive to it as grounds for quashing a conviction (Roberts & Zuckerman, 2004).

Criticism of the Court of Appeal’s failure to deal effectively with miscarriages led to changes in the system of case referral to it (Eady, 2003). Prior to the mid-1990s, wrongly convicted persons who had exhausted their rights of appeal had to petition the Home Office (Nobles & Schiff, 2000). Here, petitions were evaluated by legally unqualified civil servants in a department named C3. C3 was under-staffed, rarely proactive on behalf of prisoners, and lacked resources to conduct investigations into cases (Belloni & Hodgson, 2000). Although C3 sometimes asked the police to re-investigate a case, many suggested that they were more likely to hide, than expose, what was often their own wrongdoing (Sanders & Young, 2007). When a re-investigation was ordered, its subsequent report was confidential to the Home Secretary, thus the petitioner’s lawyer could not assess the findings. This system was criticised for being slow, secretive, and devoid of independence (Sanders & Young, 2010).

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6 including that of Adolf Beck, whose 16 attempts to have his wrongful conviction for fraud re-examined by the Home Office were rejected (Sanders & Young, 2010).
On the rare occasion when the Home Secretary decided to act, he could refer a case back to the Court of Appeal (or grant a pardon). However, this occurred in very few cases (Belloni & Hodgson, 2000: 183). Importantly, legal aid was not available for the preparation of petitions, which needed to be convincingly argued (Eady, 2003). Some prisoners managed to engage lawyers to act for free and/or journalists to fight for them. This, in reality, was the most effective method of persuading the Home Secretary to act (Sanders & Young, 2010).

Interestingly, media revelation of a number of high-profile miscarriages, (including the ‘Irish’ cases) from 1989-92, led to the Court of Appeal temporarily becoming more willing to quash convictions (which made the Home Office more willing to refer cases) (Mullin, 1996). This led to calls for the creation of an independent non-judicial body, which, once the standard appeal channels had been exhausted, might still investigate cases and refer them back to appeal (Ashworth & Redmayne, 2004). This body was the CCRC.

The CCRC

The CCRC, the first publicly-funded body of its type in the world, began its work in 1997 (Roberts & Weathered, 2009). The body has been praised for a more receptive attitude to cases than C3 and greater willingness to communicate with applicants (Elks, 2008). It also has a high success rate (70%) in cases referred back to appeal (Woffinden, 2010). The CCRC is however, under-resourced with a backlog of cases and long waiting times for applicants (Woffinden, 2010). It is also argued that it still requires major effort to persuade the body to review cases, and that therefore applicants still depend on their cases being professionally presented/argued (Sanders & Young, 2010). The only help available to applicants in this respect is through the Green Form scheme (two hours of free legal advice) which seems inadequate for this purpose (Robins, 2011). Arguably, legal advice at this stage should be free, but is unlikely, considering recent criminal justice cut-backs (Robins, 2011).

The CCRC has also been criticised for not utilising its extensive powers of investigation (to, for example, demand files, scrutinise police disciplinary records, and commission independent forensic reports); instead often restricting itself to ‘paper’ case reviews (South Wales Against Wrongful Conviction, n.d.). However, the biggest criticism of the body is

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7 (from 1972-1992, the annual average was five, which can be juxtaposed against 700-800 petitions to re-open cases made annually) (Belloni & Hodgson, 2000, p. 183).
8 During this time, 37 out of 38 appellants referred back to the Court, had their convictions quashed (Mullin, 1996).
that it remains restrictively bound in its review of cases by the “straightjacket of its statutory remit”, i.e. by the ethos of the Court of Appeal (Naughton, 2008, p. 8) and that in this respect it differs little from its predecessor C3. Legal rules governing its practice mean that it cannot re-examine evidence that the defence had/might have obtained at the original trial, (despite any new significance it may have years later) and that it may only refer a case when it believes there is a real possibility, (deemed by ‘second-guessing’ the future decision of the Court of Appeal) that the conviction would not be upheld (Ashworth & Redmayne, 2004). This has recently led to allegations that the CCRC is ‘unfit for purpose’ based upon arguments that whilst the public think it is an innocence-oriented organisation, it is actually legally barred from conducting investigations which are capable of revealing many claims of innocence (Robins, 2012). As the CCRC’s website (2002; para 51) acknowledges, it cannot refer a case simply because it thinks a miscarriage has occurred, (if, for example, it finds evidence of innocence which was available, but not used at trial) it can only do so if it finds fresh evidence casting doubt upon the safety of the conviction.

The CCRC then, arguably amounts to no more than a ‘bureaucratic tinkering’ of the system (Walker, 1999, p. 57), which possibly explains why only 3–4% of applications result in a referral (CCRC, n.d). In addition, and rather worryingly, the CCRC may be getting even more cautious in referring cases, as indicated when in 2009, it revealed its lowest referral rate ever - only 27 of 1,087 in 2008 (Campbell, 2010, n.p.). Nobles & Schiff (1995) however, argue that such formal remedies will always be ineffective because the legal system always looks to its own structures for solutions to the problem of rectifying miscarriages, i.e. it tries to find solutions to problems within the confines of the structures that created the problems initially. This leads to the establishment of reforms, like the CCRC, which, the authors argue, always ultimately fail to ‘live up’ to expectations of them.

As the formal systems in place to deal with miscarriages are by no means infallible in exposing them, informal remedies available to victims may become important.

**Informal Remedies Against Miscarriages of Justice**

Just as each miscarriage often has multiple causes, each is often remedied by a multitude of factors, including extra-judicial activities (Belloni & Hodgson, 2000). Most wrongly convicted individuals are dependent upon the hard work of others in helping to overturn
their conviction (Eady, 2003). Sometimes these entities come together to establish a campaign.

**Campaigns Against Miscarriages of Justice**

Despite their importance in fuelling some major reforms within this area, to date the only study of campaigns and their role in remedying miscarriages is that of Savage et al (2007), whose interviews with individuals involved in campaigns revealed the informal mechanisms which aided exposure of miscarriages of justice. The researchers contended that miscarriages campaigns are single-issue pressure groups (Katz, 1999) which engage in public protest, lobbying authorities, trying to gain publicity, and requesting support from societal elites (Morrell, 1999). They are usually long-running, involve many people, and aim to target the CJS/Government so as to redress a miscarriage.

Savage et al (2007) suggested that a critical element in helping single-issue groups to achieve campaign success is the formation of campaigning networks, i.e. mutually respecting and trusting relationships (Szreter, 2000, p. 57). If a powerless victim/their family can gain access to social networks, involving for example, the media or legal profession, which possess power/influence, they in turn may become more powerful. Support from such entities may also add credibility and legitimacy to claims of wrongful conviction (Eady, 2003). Miscarriage campaigns can be effective then, when they establish ‘horizontal contacts’ with like-minded people in key positions of power (Naughton, 2007, p. 112), thereby establishing a ‘chain of fortune’ (Eady, 2003, p. 54).

Once a conviction has been quashed, most campaigns end as they have achieved their goal of ‘individualised justice’ (Savage et al, 2007). However, others continue fighting for ‘generalised justice’, where success is gained through for example, exposing deficiencies within the CJS and bringing about change in relation to criminal justice policy or practice (Savage et al, 2007).

**Who is Involved in Miscarriages Campaigns?**

Many entities may help a campaign to achieve success, however, when an innocent individual goes to prison, their first need is for someone who believes in their innocence. This is usually a family member (Brandon & Davies, 1973). Some prisoners have no
support from their families, perhaps due to the stigma of the conviction (Eady, 2003) however in most successful campaigns, families act as the driving force and influence others to get involved (Savage et al, 2007). Individual family members can also play a tactical role, acting as the campaign’s ‘human face’ and presenting a powerful media image in terms of case presentation (Morrell, 1999).

Members of Parliament (MPs) have also played an important role in campaigns. Prior to the CCRC’s establishment, it was felt particularly important for a miscarriage campaign to enlist an MP who might help to prepare petitions and persuade government ministers to personally examine a case (Brandon & Davies, 1973). Although political lobbying has become harder since the CCRC’s establishment, an MP can still raise a case for discussion in Parliament, seek a meeting with the CCRC to discuss it, and possibly speed up allocation of a caseworker (Morrell, 1999). Clearly, MPs retain power in this area, and their continuing importance is demonstrated by the fact that most miscarriage campaigners still recommend enlisting their support (Inside Doubt, 2007). MPs may also have links with lawyers with an interest in miscarriages, who may be persuaded to take a case on (Eady, 2003).

Despite the establishment of the CCRC, it remains essential to engage a solicitor in order to have a chance of overturning a wrongful conviction (Sanders & Young, 2010). The CCRC distributes a list of solicitors prepared to do CCRC work, however most are overloaded (Evans, 2012). Thus, those lawyers prepared to take on such cases are highly prized. Such lawyers also often appreciate how the media can be utilised by a campaign (Savage et al, 2007), possessing links with specific journalists who may be persuaded to become involved in a case. Some are also part of Innocence Projects, working alongside university students to provide free assistance to prisoners through investigating their cases (Naughton, 2008). However, sympathetic lawyers often need convincing that a case is worthy of attention. Here campaigning organisations can be crucial (Savage et al, 2007).

Many campaigning organisations aid miscarriages campaigns, including those which exist to: i) expose miscarriages of justice in general (see Innocent, n.d); ii) expose miscarriages brought about by specific causes (see The Five Percenters, n.d.); and iii) embrace miscarriages as part of their broader campaigning agenda (see Socialist Worker Online, n.d.). However, such organisations rely upon volunteers and have no resources to carry out casework, their role being limited to providing information and moral/practical
support to victims/families and sometimes organising demonstrations (Eady, 2003). Importantly however, they can offer victims ‘recognition’ that something has gone wrong in their case and may provide links to specific journalists interested in this area (Savage et al, 2007).

Since its inception in 1957, one of the most famous campaigning organizations, ‘Justice’ received requests for help from prisoners, alleging wrongful conviction. In response, its secretary, Tom Sargant assisted with petitions to the Home Secretary (JUSTICE, 1989, p. 1). In the early 1980s, the BBC asked Sargant to suggest cases which its new TV series ‘Rough Justice’ could investigate. This he did, and from 1982 ‘Rough Justice’ began to produce programmes in groups of three, each addressing a single case (O’Hagan, 2011). The first three programmes resulted in the quashing of two (of the three) convictions examined. This shocked the authorities (House of Commons Select Committee on Home Affairs, 1982) particularly as these cases had previously been the subject of petitions to the Home Office, which now admitted that the information contained in the programmes made it re-examine the facts with ‘fresh eyes’ (Tough Justice, n.d.). This was the beginning of a successful relationship between campaigning organisations and journalists which resulted in many convictions being quashed (Tough Justice, n.d.). Evidently the media can play an important role within this area.

*The Importance of the Media to Miscarriages of Justice Cases*

The importance of local and national TV and newspaper journalists in this area has been recognised by many, including victims (O’Brien, 2008) and campaigners, who state that “…every single righting of injustice has involved some form of journalism” (Morrell, 1999, p. 12), and academics, particularly Savage et al (2007) whose research found that next to the involvement of the prisoner’s family, the media’s involvement appeared to be crucial to campaigns. Media involvement in a case can be important in terms of lending it increased credibility and legitimacy, (as it appears emblematic of the victim’s innocence) (Savage et al, 2007). Journalists have received most recognition however, for publicising and investigating miscarriages of justice.

*Publicity*

Many miscarriages campaigners argue that the quickest way to disseminate information about, and raise the public profile of, a case is through publicity (Savage et al, 2007). It is
said that publicity can aid campaigns in terms of mobilising public opinion, which may in turn move the problem up the political agenda and exert pressure on the authorities to respond to a case (Grant, 1989, p. 81). This might ultimately bring about ‘individualised’ and ‘generalised’ change (Savage et al, 2007). Unfortunately however, one has no control over how one’s story will be portrayed. Thus, if a case has an element to it which could be portrayed as salacious, the media may focus upon this, rather than the story of the individual (Eady, 2003). There is also a need to be tactical about the use of publicity. Publicity to exert influence requires a reasoned case presentation, not open criticism of the CJS, as this may serve to alienate the very authorities responsible for righting the miscarriage (Whiteley & Winyard, 1987).

In addition, miscarriages cases seem to vary considerably in the extent to which they are able to attract media interest and therefore publicity (Eady, 2003). This, in turn, depends upon their newsworthiness (Chibnall, 1977). This issue is discussed in Chapter 5. Here, it is important to note that some miscarriages seem to be ‘bigger news’ than others, meaning that some have a higher probability of being exposed than others (Huff & Rattner, 1988). Indeed, whether or not a case receives media attention may have little to do with its strength (Walker, 2002).

Importantly, the newsworthiness of miscarriages appears to have diminished over time, something which campaigners note has affected media involvement in cases (Eady, 2003). This is discussed further in chapters 4 and 5. Here it is suffice to say that whilst the years 1989-1992 saw a frenzy of media interest in wrongful convictions (Nobles & Schiff, 2004), the mid-90s onwards saw reduced media interest in them, leading some campaigners to suggest that prisoners today should not put too much faith in journalists (Allison, 2004, n.p). However, there is evidence that some prisoners/families are now turning to the Internet to get their story into the public arena themselves through development of their own websites (see for example: Eddiegilfoyle, n.d.).

Investigations

Members of the senior judiciary have publically praised journalistic investigations into miscarriages, as occurred when legal action was taken by two prisoners over their right to be visited by journalists investigating their cases. This resulted in a High Court judgement (R v Secretary of State for the Home Department ex parte O’Brien and Simms [1999] 3 All ER 400) which ruled that the Prison Service may not refuse permission for
prisoners to talk to journalists in person about their case. Here, Justice Latham noted that journalistic investigations post-appeal are often vital in overturning wrongful convictions (Walker & Wood, 1999) - see Appendix 2, note 2.1.

Some newspaper and TV journalists have had formidable success in this area (Tough Justice, n.d). However, whilst journalistic investigations into miscarriages are important, they seem to be the exception rather than the rule. Indeed, many campaigners assert that whilst journalists should be outraged by injustice and engage in fearless investigation; they usually do no more than superficial digging and produce a balanced story representing both defence and prosecution (Pardue & Pardue, 2004). Clearly, even if campaigners are successful in attracting media attention, it may not lead to a journalistic investigation (Eady, 2003).

Conclusion

This chapter introduced the study of miscarriages of justice, and in doing so examined the various definitions, forms, scale, and causes of miscarriages. It was stressed that miscarriages are an enduring feature of all legal systems and that many of their causes remain as much a problem today as they did decades ago (Brandon & Davies, 1973). However, whilst the causes of miscarriages may have remained relatively constant over time, the definition of miscarriages has, this chapter revealed, changed. Indeed, since the early 2000s, a stronger political (and public and media) focus on victims and their place within the CJS seems to have led to a societal shift away from focussing upon a miscarriage of justice as ‘wrongful conviction of the innocent’ and towards focussing upon them as ‘wrongful acquittal of the guilty’ (Quirk, 2007). The chapter also argued that the formal remedies in place to deal with wrongful convictions, including the more recently established CCRC, are often unwilling or unable to reveal and rectify them. As a result of this situation, prisoners often turn to informal entities in order to try to right the wrong they have suffered. These entities include the media. It was highlighted that the involvement of the media in this area appears to be very important, particularly in terms of offering prisoners publicity and/or a chance to have their case investigated. However, it was also revealed that there appears to have been a reduction in media interest/involvement in miscarriages over recent years. The importance of the media’s role in this area can be juxtaposed against the fact that there is no empirical research providing a detailed examination of that role and its changing nature. This thesis aimed to
address this shortfall. In order to do this, it is important to firstly examine the history and role of the media, in England and Wales.
CHAPTER 3: THE HISTORY AND ROLE OF THE MEDIA IN SOCIETY

Introduction

This chapter outlines the history of the media (which includes newspapers, TV, radio, and the Internet) (Franklin, Hamma, Hanna, Kinsey, & Richardson, 2005, p. 2) in England and Wales, focusing primarily on the period from the 1960s through to the present day and the most popular mass media, namely newspapers and TV (Franklin, 1997), as these are the focus of this thesis. The history of the mass media can be regarded as a history of debates, expressing diverse and changing views concerning the role of the media, the journalist, and particularly the investigative journalist within society. It is also a history of changes, both internal and external to the media, (including political, social, cultural, and technological changes), which have impacted upon that role. For this reason, the first part of this chapter analyses the various scholarly theories concerning the media’s, (and particularly the investigative journalist’s) role in society, and debates concerning whether the media primarily serves ‘the powerful’ (and is therefore driven by money-making and self-interest) or ‘the people’ (and is therefore driven by morals and the public interest). However, firstly the terms ‘media’ and ‘journalism’ are considered, together with what a journalist is and what basic activities and functions s/he carries out within society.

The Media, Journalists, and Journalism: What are they and What do they do?

The term ‘media’ refers to “the mediating agencies that allow for the relay of information to take place within society” (Zelizer, 2004, p. 26) and is often used interchangeably with the terms, ‘mass media’, ‘news media’, and ‘journalism’, (as occurs within this thesis), even though the term actually refers to phenomena that extend beyond the scope of news making per se (Zelizer, 2004). The word ‘journalism’ entered the English language in 1833, and refers to “the activity of gathering and disseminating news” (Stephens, 1997, p. 3). However, the term has broadened in usage, now referring to a range of activities associated with news-making, including current affairs and documentary-making (Zelizer, 2004, p. 21). Types of journalism include: quality, tabloid, citizen, online, and investigative journalism (McQuail, 2005, p. 378).

Whichever type of journalism is practised, journalists arguably engage in four main activities. They: i) identify information which will attract readers/audiences; ii) collect
materials needed to tell the story; iii) assess/interpret that information, selecting the best material; and iv) present that material through reportage (Harcup, 2009). Through these activities, journalism is said to have both basic and mediating functions within society, the latter of which see the journalist as a kind of ‘middle-man’, mediating between information and the public, in an inactive (e.g. a mirror, simply reflecting social reality) or active (e.g. an interpreter) way, as Table 3.1 indicates.

<table>
<thead>
<tr>
<th>The basic functions of journalism. Journalism…</th>
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</thead>
<tbody>
<tr>
<td><strong>Information</strong></td>
</tr>
<tr>
<td><strong>Surveillance</strong></td>
</tr>
<tr>
<td><strong>Correlation</strong></td>
</tr>
<tr>
<td><strong>Transmission or Continuity</strong></td>
</tr>
<tr>
<td><strong>Mobilisation</strong></td>
</tr>
<tr>
<td><strong>Entertainment</strong></td>
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<table>
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<tr>
<th>The mediating functions of journalism. Journalism…</th>
</tr>
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<tbody>
<tr>
<td><strong>Mirror</strong></td>
</tr>
<tr>
<td><strong>Container Child</strong></td>
</tr>
<tr>
<td><strong>Service</strong></td>
</tr>
<tr>
<td><strong>Filter/Gatekeeper</strong></td>
</tr>
<tr>
<td><strong>Window</strong></td>
</tr>
<tr>
<td><strong>Interpreter</strong></td>
</tr>
</tbody>
</table>

Table 3.1: The basic and mediating functions of journalism in society (adapted from Lasswell, 1948; Zelitzer, 2004; McQuail, 2005)
Informed partner in conversation responds to questions in a quasi-interactive way.

Disseminator passes on information.

Forum is a platform for presentation of ideas, often with possibilities for response.

Such descriptions highlight that journalism has a special social role to play in aiding the public in one way or another and certainly Zelizer (2004, p. 32) outlines how the journalists interviewed in her research, regarded the public dimensions of what they did as critical to their work. This is further supported by Kovach and Rosenstiel’s (2007, p. 5-6) and Randall’s (2007, p. 2-3) research which revealed that both citizens and journalists feel that journalism’s purpose is to provide people with the information they need to be free and self-governing, and that in order to fulfil this task, journalists must engage in activities outlined in Table 3.2.

Table 3.2: The purpose of journalism within society (adapted from Kovach and Rosentiel, 2007; Randall, 2007)

<table>
<thead>
<tr>
<th>The purpose of journalism within society</th>
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<tbody>
<tr>
<td>Kovach and Rosenstiel (2007) Journalists must be:</td>
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<tr>
<td>loyal to citizens over everyone else</td>
</tr>
<tr>
<td>able to exercise their conscience</td>
</tr>
<tr>
<td>impartial, comprehensive &amp; proportionate in reportage</td>
</tr>
<tr>
<td>truth-tellers &amp; truth verifiers</td>
</tr>
<tr>
<td>an independent monitor of power</td>
</tr>
<tr>
<td>able to make the significant, interesting</td>
</tr>
<tr>
<td>able to provide a forum for public debate</td>
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Journalism’s principles and purpose then, appear to be defined by the positive function that news and information play in people’s lives and appear to highlight the importance of what Cohen (1963, p. 1) terms the ‘active-participant’ stance of the journalist in society. This is the notion of the journalist as a strong advocate of the public interest, feeding and sustaining the democratic process by supplying citizens with information required to make rational decisions on matters of social importance and scrutinising/critiquing in an investigative, ‘watchdog’ manner, the activities of the powerful on behalf of citizens (McQuail, 1987, p. 146). This journalistic stance, with its appeal to social reform, is, many claim, the most important in society (DeBurgh, 2000a), however others suggest that it is an idealised stance which few actually adopt (Seymour-Ure, 1991), an issue returned to shortly. Certainly, the adversarial position associated with the ‘active-participant stance’ is not easily reconcilable with the ‘neutral-informative stance’ which involves even-handed, neutral reporting of factual information in a mirror-like fashion and is preferred by many journalists (Cohen, 1963, p. 1), due partly to the need to remain objective and impartial and to get information to the public quickly (Schlesinger, 1978). However, in reality there is strong support for both roles from practising journalists, as can be seen in Table 3.3 (which also demonstrates the dearth of British research in this area).

Table 3.3: Research findings regarding journalists’ views of their role in society (adapted from Fjaestad & Holmlov, 1976; Weaver & Wilhoit, 1971; 1986; 1996; Plaisance & Skewes, 2003)

<table>
<thead>
<tr>
<th>Research and where it was conducted</th>
<th>Research found…</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fjaestad &amp; Holmlov (1976) – Sweden</td>
<td>…over 70% of journalists endorsed two main kinds of journalistic purpose, namely ‘watchdog’ &amp; ‘educator/public informant’</td>
</tr>
<tr>
<td>Weaver &amp; Wilhoit (1971; 1996) – America</td>
<td>…some withdrawal from the ‘active-participant’ stance held by journalists in 1971 was found in 1996, (endorsement of the questionnaire item on ‘extreme importance’ of the media investigating claims made by governments, had dropped from</td>
</tr>
</tbody>
</table>
76% to 66%) & more support for the ‘neutral-informative’ stance was evident

Weaver & Wilhoit (1986: 116) – Worldwide

Role conceptions vary & are related to political and national news cultures. Weaker democracies emphasise the watchdog role less, whilst U.S/U.K journalists are very attached to it.

Plaisance & Skewes (2003) – America

…value priorities correspond with views on choice of dominant journalistic role. Opting for an ‘adversary’ role was correlated with personally endorsing: courage, independence, justice, open-mindedness; Opting for ‘disseminator’ role accompanied minimising harm, fairness, self-control. Emphasises element of personality determination in role choice.

Jouralists’ views of their role are important to consider because, in addition to news values (discussed in chapter 5) they can directly influence what actually becomes news. The most important finding (for this thesis) from Table 3.3 is that of Weaver & Wilhoit (1971; 1996) who found a decline in journalists’ prioritisation of the ‘active-participant’ role over time (an issue further explored shortly).

**The Role of the Media in Society: Theoretical Perspectives**

The study of the media is underpinned by an extensive body of theory, falling into three main types, those: i) relating to the process of mass media communication; ii) focussing on one area of media communication, such as content; and the primary focus of this chapter, iii) theories concerning the media and society - also termed the ‘social science tradition’ (Williams, 2003, p. 7). Within the social science tradition sits a form of inquiry into the media termed political science inquiry. This considers the role (and content, performance, and structure) of the media in different types of political systems (Zelizer, 2004). Those engaged in political science inquiry often focus on how journalism can better serve the public in democratic societies, including normative scholars who argue that journalists’ basic role should be to gather and communicate information to the public.

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9 For comprehensive accounts of theory in relation to i and ii (which are not the focus on this thesis) see Manning (2001) and McQuail (2010).
so as to sustain the democratic process (Manning, 2001, p. 2). Although the topic of investigative journalism remains under-theorised (Bromley, 2008), political science theorists do, to some extent, discuss its role and purpose within society. Hence, political science inquiry will be focussed upon from herein.

Within political science inquiry, there are two overarching theories of the role of the media in society, namely instrumentalism and pluralism, which present opposing ways of viewing the media (Williams, 2003). Put simply, journalists are either ‘servants of the powerful’ (instrumentalism) or ‘servants of the people’ (pluralism). These theories are now discussed, together with several differing perspectives which have emerged from them.

i) Journalists as ‘Servants of the Powerful’: Motivated by Money and/or Self-Interest

Instrumentalism reflects German philosopher Karl Marx’s contention that power lies with the owners of the means of production (Marx & Engels, 1974, p. 64-5). Marx located the role of the media in society in the context of the operation of the capitalist economy (Watson, 2003). Thus, newspapers for example, are owned by a dominant class who use them to disseminate ideas which affirm, rather than challenge existing patterns of power, thereby contributing to a ‘process of legitimation’ for the central tenets of capitalism (Miliband, 1973, p. 211). Here then, the media is an instrument of social control, serving the powerful and allowing them to impose their views upon society (Watson, 2003, p. 93). A number of theorists draw on Marx’s ideas to argue that journalism’s role is that of social reproduction in the service of society’s dominant groups thereby maintaining a structurally unequal society (McNair, 2009).

Variants of the ‘social reproduction thesis’ include the political economy approach, which examines the political and economic dynamics of media ownership and its effects on media practices (Golding & Murdoch, 1991). It argues that media organisations, structured by capitalist economies, are competitive businesses aimed purely at making profit (Chambers, 2000). Here, the journalist is not free and independent. Their role is structurally constrained by political and economic factors, which compel them to make money for media owners and promote the values of capitalism through following the proprietalor line in stories, winning and maintaining audiences (consumers), and ‘selling’ these consumers to advertisers (O’Sullivan, Dutton, & Raynor, 2003). This approach
suggests that journalists are loyal to vested interests, rather than the public interest and are restricted in terms of freedom of expression by political constraints and the level of private business interest in the media (Franklin, 1997).

In relation to the practice of investigative journalism, this approach argues that whilst the ‘journalistic watchdog’ is said to belong to, and serve ‘the people’, (thereby undertaking a democratic role); it actually belongs to big businesses, undertaking a profit-making role (Merrill, 1974, p. 118). Indeed, concentrated media ownership, it is argued, means that the notion of a fully independent investigative media that keeps powerful institutions at a distance, is flawed (Aucoin, 2005). Privately owned media, independent of the state but slave to the market, are at best, ‘episodic, unreliable watchdogs’ (Coronel, 2008, p. 5) and the extent to which investigative work is done, is done so only so as to succeed as businesses (Spark, 1999, p. 45).

Political economists particularly highlight the period of the 1990s when media deregulation and privatisation (discussed shortly) resulted in growing commercialisation of the media, and, they argue, subsequent erosion of the public service ideal due to a need to operate according to commercial logic and make money (O’Sullivan et al, 2003). Competition to survive in this new media market, resulted in pressure to produce content quickly and cheaply. This led to a decline in the product, from serious, worthwhile journalism to consumer-oriented, ‘infotainment’, with the journalist’s role becoming almost solely about producing a product which no longer served the public interest but served what the public were interested in, so as to gain and maintain huge audiences/readership and make profit (Waisbord, 2001).

Another variant of the ‘social reproduction thesis’ is the cultural approach. This approach goes further than the political economy approach in arguing that a conspiracy exists among elites (the State and corporate power) to control the news and information (Herman & Chomsky, 1988, p. 1). Here, rather than acting as an independent political agency on the public’s behalf, the media acts as an agent of a homogenous status quo, functioning to gain support for the actions of societal elites. The media inculcates citizens with the values, beliefs, and behaviours that will integrate them into the institutional structures of society. Thus, the journalist’s role is to sell ideology to audiences, i.e. to provide the public with information which supports an ideologically-loaded view of the world (Smythe, 1981). Arguably, the images/reports we read/view, encourage us to see the
established social order as natural, conditioning us to develop dominant interpretative frameworks rather than alternative ones (Glasgow University Media Group (GMG), 1982). This model is subliminal, hiding behind the media’s claims to neutrality (McNair, 2009). It argues that whilst journalists in democratic societies believe they are free to interpret the news objectively, ‘news filters’ built into the system, suppress much information, leaving a ‘cleansed residue’ available for broadcast/publication (McNair, 2009).

This approach views investigative journalism as ideological work, rather than as independent, objective practice on the public’s behalf (Carey, 1995). Despite acknowledging that some investigative journalists struggle against this role, it points to significant failures on their part to, for example, challenge the claims of authorities in relation to major events (Bennett & Serrin, 2005, p. 170). The notion of investigative journalism as a mobilising force is also challenged, alongside claims that most ‘investigative work’ is actually pre-determined through complicity with policy-makers rather than in collaboration with the public (Protess, Cook, Doppelt, Gordon, & Ettema, 1991, p. 249).

In summary, the aforementioned views see journalists as ‘servants of the powerful’, acting as their mouthpiece and promoting their interests. The notion of the journalist as independent ‘crusader’ is regarded as unrealistic as being owned by private capital s/he lacks any independent power (Street, 2001). Journalists are not investigative ‘watchdogs’ in the public interest but ‘lapdogs’ of partial interest (Mills, 1956, p. 315). This approach is often espoused by media scholars. Conversely, journalists themselves often espouse the pluralist approach.

**ii) Journalists as ‘Servants of the People’: Motivated by Morals and Public Duty/Purpose**

The pluralist approach views journalists as free, independent ‘servants of the people’ and of the public interest, and argues that ethical principles and morals direct their conduct (Kieran, 1998, p. 5). Here then, the journalist’s first duty is to the public, promoting their interests, providing them with a voice, and acting as a watchdog of the powerful on their behalf. This approach asserts that ownership of capital is not the only source of power in society. Due to media de-regulation, media ownership has been diffused and democratised, resulting in power being dispersed and a plurality of independent groups all
competing to reflect their opinions/interests (Williams, 2009). In addition, globalisation and technology mean that the ability to produce information for mass dissemination is no longer restricted to those in power (Maltby & Keeble, 2007). Some journalists clearly do demonstrate resistance to, and independence from, powerful interests and are critical of government (Chambers, 2000). This is partly because, on a day-to-day basis, editors and journalists control newspapers, not owners (Franklin, 1997) and means that rather than acting as an ‘agent of legitimation’ for dominant values, journalists may act as an ‘agent of change’ for those values (Glasser & Ettema, 1989, p. 17).

Such arguments have grown out of Classical Liberal theory which argues that the media occupy the constitutional role of the ‘Fourth Estate of the Realm’ (Conboy, 2004) - a term originally used to describe journalists sitting in the House of Commons’ press gallery: “There are three estates in Parliament [the executive, judicial, and legislative] but in the reporters’ gallery…sits a fourth…more important than them all” (Carlyle, 1841, cited by McQuail, 2005, p. 555). Classical Liberal theory suggests that a free press enlightens and empowers the public, permitting: i) people to engage with contrary opinions, thereby allowing them to decide for themselves on all matters and ii) public opinion to be expressed (through an independent press), thereby acting as a safeguard against misrule and helping to bring about positive change (Williams, 2003, p. 40). Investigative journalism is viewed as the embodiment of the fourth estate (Frola, 2007). Journalists are the ‘people’s champions’, representing their interests, and exposing the wrongdoing of dominant groups on their behalf (McQuail, 2005, p. 555). By casting its critical gaze upon the powerful, investigative journalism makes their actions subject to public scrutiny, thereby helping to make them accountable and more effective (Stapenhurst, 2000). It also helps to prevent their impropriety, as in monitoring how well they are fulfilling their duties it accustoms officials to: “an inquisitive media which will demand answers from them if they engage in wrongdoing” (Coronel, 2008, p. 14).

Classical Liberal theory is the original normative theory of the media, as it first assumed that there exists a proper role of the media in society (Ettema et al, 1987). Normative theories are the most popular and long-standing theoretical approach for explaining the role and purpose of investigative journalism in society. Other normative theories include social responsibility theory which argues that with media freedom comes a responsibility to serve the public good by exposing ‘truths’ to the community which have been hidden by the powerful (Luckmann and Berger, 1991), thereby serving their ‘right to know’
(Bromley, 2008, p. 177). This, it is argued, calls for investigation (rather than straight reporting of facts) and is therefore, the investigative journalist’s responsibility. Thus, the level of investigative journalism in a society is seen as an indicator of the level of democracy (Chesysheva, 2007).

Closely tied to the idea that journalism has a social responsibility is the notion of journalism’s public service role. Here, journalists have a responsibility to acknowledge their role in the circulation of political information to citizens, so that they can hold political elites to account (Manning, 2001, p. 2) and: i) have obligations to society that amount to a form of public stewardship; ii) must be truthful, accurate, fair, objective, and ethical in their conduct; and iii) must be free but self-regulated (Watson, 2003). Public Service Broadcasting (PSB) has, at its roots, the notion that broadcasters have a social responsibility to prioritise public affairs over individual consumer wants (the ‘market approach’) (McQuail, 2005) and is regulated to exclude any editorial influence arising from private interests (Watson, 2003, p. 97). This is also the case with a variant of social responsibility theory, namely mobilisation theory. This emphasises the media’s ability to intervene in the public interest by drawing public attention to issues of concern and encouraging public participation through for example, campaigning for reform (Protess et al, 1987). This model suggests that investigative journalists in particular, should adopt the role of ‘agenda-setter’ within society (McCombs, 2004), expanding our ideas of what we should think/care about or rather ‘setting the public agenda’ by independently spotlighting certain matters that require consideration (DeBurgh, 2000b, p. 67). This may, due to “interaction between citizens, journalists, and...political elites [result in] the placing of an issue of concern in the political and public domain” (Manning, 2001, p. 3). This notion is supported by Mayer’s (1981) reflection and reinforcement model, which suggests that the media reflect concerns of knowledgeable minorities and then inflate them into public issues. The media’s power in this area, derives from their access to readers and their ability to deny access to those in authority (DeBurgh, 2000c, p. 292).

The notion of the media contributing to the healthy functioning of the public sphere through its contribution to the political process, is also linked to the pluralist approach. Habermas (1989) argues that in early 18th century Britain a healthy public sphere existed, where the “exchange of information and views on questions of common concern [could] take place so that public opinion [could] be informed” (Dahlgren, 1995, p. 7). This was both a conceptual and physical space in that intellectuals met in London coffee houses to
debate issues rarely questioned by the powerful (Hackett and Carroll, 2006, p. 89) and collectively generated ideas which were then circulated through newspapers. This in turn, permitted the formation of public opinion and political movements which could hold private interests to account (McQuail, 2005). The press then, were key components of the public sphere, acting as a channel through which public opinion could be expressed and providing different information sources that one could use to sustain an argument (Barker, 2000). However, over time the transformation of the media into commercialised operations arguably corrupted the public sphere, so that today the selection of information placed in the public domain by the media is undertaken according to purely commercial and political interests (Bromley, 2008). This excludes citizens from meaningful participation in public debate and strips journalists of their role in political life (Habermas, 1989). Although convincing, this argument ignores evidence that many journalists remain engaged in critical commentary and that investigative journalism has helped to bring about change and improve society through encouraging public discourse around some issues (DeBurgh, 2000a).

In summary, the normative view argues that the motivation of journalists to undertake investigative work is: a feeling of duty to serve the public and a need to find/expose the wrongdoing of the powerful (and to hold them to account) in the name of the public’s right to know (Ettema & Glasser, 1998). Here then, investigative journalism is primarily motivated by moral purpose or outrage, with investigative journalists acting as ‘custodians of the public conscience’ or ‘moral arbiters’ within society (Ettema & Glasser, 1998)\textsuperscript{10}.

This overview of theory concerning the media’s role in society shows journalists as either servants of the powerful or the people. In relation to investigative journalism, most theorists agree that, even if flawed in practice, it is a ‘good thing’ (Bromley, 2008) but that it has become more difficult to ‘do’ due to changes which have occurred within the media. Such changes are now discussed.

\textsuperscript{10} Research studies involving interviews with investigative journalists about their work appear to support such assertions (Protess et al, 1991; Sanders & Canel, 2006).
The History and Changing Role of Print and Broadcast Media: From Servant of the People to Servant of the Powerful?

Whilst acknowledging the vast body of literature surrounding the history of the print and broadcast media from its inception, (for comprehensive accounts see Curran & Seaton, 2009; Williams, 2009) this section will be relatively brief. Rather, its main focus is upon the period from the 1960s to the present - the subject of this thesis. Only key milestones pre-1960s, which have relevance to events occurring post-1960s, will be mentioned. The discussion will also note the emergence of the journalist’s investigative role and changes which have impacted upon journalists’ ability to conduct investigations.

Pre-1960s: The Emergence of the Press and Broadcasting and the Ideal of Serving the People

The history of the mass media begins with the birth of the newspaper, which occurred in the late 15th Century with the invention of the printing press and the subsequent birth of the first news-book in 1621 (Williams, 2009). Despite the State banning and taxing of news-books during the 1600s and 1700s, a strong ideal of the press allied to the notion of freedom of expression developed, as key thinkers argued that press censorship discredited governments and demoralised citizens (Franklin, 1997, p. 75). Hence news-books continued to be produced and indeed, soon a radical press emerged, reiterating calls for a free press due to its importance in informing the people of Parliament’s doings (Barker, 2000, p. 15), alongside investigative periodicals promising to discover the “cheats in the great game of the Kingdom” (Sommerville, 1996, p. 65). The local newspaper was also born at this time (Raymond, 2005).

The 19th century saw the taxes on newspapers being lifted and newspapers beginning to take on advertising (Bromley, 2005). Some argue that this resulted in advertisers beginning to define newspaper content and role (Curran & Seaton, 2003, p. 38). However, others argue that advertising brought newspapers economic independence and allowed newspaper ownership to become a public service (Marr, 2004). Certainly serious, analytical journalism was now being produced, particularly in the local press, where alternative newspapers played a key role in local democracy, articulating and championing community concerns (Franklin, 2009). Here, at a local level, investigative journalism pursued for moral ends had arguably been born (DeBurgh, 2008b, p. 24).
The early 1900s were characterised by the beginnings of increased concentration of newspaper ownership due to the coming of the press barons who amassed numerous titles at this time (Franklin, 1997). Newspapers were now becoming more business-oriented and competitive, leading to the development of populist formats in some papers so as to attract readers (Brendon, 1982). This marked the beginning of a polarisation between the downmarket ‘tabloids’ and upmarket ‘broadsheets’ (Tunstall, 1996, p. 9).

From the late 1950s, the press barons began to be replaced by a new generation of owners, the most successful being Rupert Murdoch who came to Britain in the 1960s with his company ‘News International’ and further increased the concentration of press ownership, by purchasing many newspapers (McNair, 2009, p. 87). Importantly, however by this time another medium had developed which was beginning to transform the media, namely broadcasting.

Broadcasting began on 14 November 1922, when the newly established BBC broadcast its first radio programme (Conboy, 2004). Broadcasting was organised in the form of a public service monopoly, having a statutory duty or social responsibility to service British democracy and inform audiences about public affairs from (unlike newspapers) a politically impartial standpoint (Crawford Committee, 1926). The four principles central to PSB were that broadcasting would be: i) protected from the ‘profit motive’, through having its own assured source of funding; ii) under the BBC’s sole control; iii) available to, serve, and appeal to all, thereby nurturing a sense of national identity/community; and iv) a cornerstone of democracy, the embodiment of the public sphere, providing quality programmes of high moral standards/purpose, (educating, informing, and entertaining, in that order) (Murdock & Golding, 1974, p. 233). Broadcasting was not government controlled, however the State granted the BBC’s licence and appointed its board of governors (Crisell, 2002).

The BBC’s public service role continued with the birth of TV in November 1936 (Conboy, 2004). Over the next two decades TV established itself as a popular medium and the BBC soon began producing a range of programmes, including current affairs (a popular vehicle for investigative work), the first of which was ‘Panorama’ (Lindley, 2003). Panorama’s producer Grace Wyndam-Goldie (1977) believed that the media’s first duty was to the public and that the TV journalist should be a mediator between the public
and politicians, thereby marking the beginning of current affairs as a serious contributor to political debate (Lindley, 2003).

In 1955, commercial broadcasting was born in the shape of Independent Television (ITV) (Curran and Seaton, 2009, p. 161). ITV was developed as a system of 14 regions, with the provision of TV in a particular region being the responsibility of a single franchise (which drew revenue from selling advertising) (Paulu, 1981). A separate non-profit-making company, Independent Television News (ITN), was established to provide the network’s news (Crisell, 2002).

1960s and 1970s: Print and Broadcast Journalism, the ‘Golden Age’ of the Public Servant

ITV, like the BBC, had public service responsibilities and duly developed a number of serious current affairs programmes during the 1960s (Lindley, 2003). Indeed, both broadcasters became respected in acting as a critical eye for the public during this, and the following decade, the supposed ‘golden age of broadcasting’ (Wyndam-Goldie, 1977, p. 308). The broadcasters existed together comfortably, well-resourced, and both using those resources to operate in the public interest (Williams, 2009).

This period is also considered to be the ‘golden era’ of the press in terms of the public watchdog role becoming newspapers’ central mission (Tumber & Waisbord, 2004). The 1960s/early 1970s was an era of massive change in terms of societal attitudes, accompanied by greater questioning and scepticism of those in authority, and the growth of self-expression and individual rights (Tumber & Waisbord, 2004). This climate was most conducive to newspaper journalists’ investigative pursuits and many new well-resourced outlets emerged, aiming to serve the public (McGurk, 2004). Arguably, the high profile of investigative work, together with the fact that it was likely to gain editorial support, contributed to a self-fulfilling perception of investigative work as a core media function at this time, i.e. as something it ought to be doing (Franklin et al, 2005). This led to a spirit of journalistic independence, confidence, and risk-taking (Foot, 1999). National newspapers, such as the Sunday Times ‘Insight Team’ conducted numerous major investigations with far-reaching consequences and at a local level the most revered investigations were conducted by the ‘Northern Echo’ (Baistow, 1985).
The early 1970s also saw the birth of the advertisement-free, non-profit-making alternative left-wing local press which conducted investigations, supported active citizenship, and gave a voice to less powerful groups (Harcup, 2009), thereby fulfilling the fourth estate role laid down for newspapers by the Royal Commission on the Press (1977), namely: i) informing citizens about the world; ii) acting as watchdogs for citizens by scrutinising concentrations of power; and iii) acting as a means of communication amongst the community, promoting social cohesion. However, the late 1970s saw things begin to change in newspapers and TV. In newspapers a general economic slump brought declining circulations, financial problems, job-cuts and fewer resources, particularly for investigative work (Gibbons, 1998, p. 72); whereas broadcasters witnessed the publication of the Annan Report (Annan, 1977) which, for the first time, suggested that broadcasting should be a free marketplace of multiple, competing voices.

1980s: The Roots of Change - the Beginnings of a Move from Public Servant to Servant of the Powerful

By 1980, Margaret Thatcher and the Conservative Government had come to power and were set to bring about major structural changes in media ownership/organisation, changes which arguably signalled the start of a decline in the media’s public servant role (Harcup, 2009, p. 83). The relationship between government and press owners now changed, with Murdoch revealing himself as a politically interventionist owner, offering support to the government through his newspapers. This political bias of newspapers allied to increasing concentration of ownership led to questions surrounding how the press could possibly act as watchdogs, scrutinising concentrations of power, when Fleet Street itself was now just such a concentration of (personal) power, exercised by rich men who controlled the very instrument of scrutiny (Keeble, 2006).

From the mid 1980s, Murdoch also began to influence newspaper content, reducing editorial independence and setting down an over-riding agenda for his newspapers. Consequently, some topics, once the focus of journalistic investigations/stories in the public interest, now clashed with the paper’s ideological position (Williams, 2009, p. 250). Similar changes occurred in other newspapers, thereby enmeshing them in various business interests which made it difficult to investigate some issues for fear of damaging relations (Williams, 2009).

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11 In return, Thatcher is said to have ignored rules preventing excessive concentration of ownership, allowing him to take over a number of national newspapers (O’Malley, 1994).
In 1986, Murdoch moved his newspapers from Fleet Street to premises with new print technology in Wapping. This reduced production costs and increased profitability. Other newspapers soon followed, arguably reinforcing the notion that newspapers were just businesses, with profit-making being “the only real measure of socially worthwhile performance” (Stephenson, 1995, p. 22). This is said to have kick-started the real ‘tabloidisation’ of newspapers. What was ‘news’ began to be decided purely upon marketing grounds, leading to the beginnings of a gradual move away from expensive, serious journalism, towards cheaper, entertaining journalism (Baistow, 1985).

Whilst much work in the public interest continued during the 1980s in newspapers, despite dwindling time and resources, many felt that public purpose was better served at this time by TV, a seemingly more independent, better-resourced medium for investigative work (DeBurgh, 2000d). However, from the mid-80s, Thatcher’s government gradually began to gain greater control over broadcasters, which included censoring and banning investigative programmes (Frost, 2002).

The BBC is said to have suffered terribly under Thatcher, partly due to her belief in capitalism, the free market, and individual choice (Horrie & Clarke, 1994). She argued PSB as inefficient and protected from the ‘correcting force of competition’ (Curran & Seaton, 2003, p. 208). BBC current affairs programmes came under Thatcher’s sustained attack and allegations of bias12, (however, ITV’s public service programming was also lambasted). Perhaps the greatest threat to the BBC however, was Thatcher’s establishment of the Peacock Committee. In a similar scenario to the changes which had occurred in newspapers resulting in them becoming more like businesses and therefore prioritising profit over public service; Thatcher tasked the Peacock Committee to consider broadcasting as a commercial, rather than public service activity (Crisell, 2002, p. 234). Although Peacock’s report (1986) rejected Thatcher’s proposition, she subsequently produced the white paper ‘Broadcasting in the 90s: Competition, Choice and Quality’ (Home Office, 1988). This announced intentions to create a more competitive broadcasting environment and stated that new broadcasters, (including cable and satellite which began their services in the mid-80s) should not be obliged to produce public service programmes (Snoddy, 1992). Despite such problems, programming with public purpose, remained reasonably buoyant in the late-80s.

12 For example, she labelled a Panorama programme reporting dissent within Britain over the Falklands war, as ‘an odious, subversive travesty’ and another about the IRA as providing terrorists with the ‘oxygen of publicity’ (Franklin, 1997: 187).
The 1990s – A Major Decline in the Role of Public Servant

Many argue that the 1990s saw a major decline in the role of the journalist as public servant, with money-making now being prioritised over the public interest (Franklin & Murphy, 2007). There were certainly concerns regarding the spreading of tabloid values to the broadsheets (Bromley, 1998) as evidenced when in June 1996, 50 MPs signed an early day motion criticising the steep decline in broadsheets’ reporting of politics and current affairs (Peak & Fisher, 1996, p. 44). The broadsheets’ growing disinterest in investigative work was also observed “the time has ended when investigative journalism was largely led by the press” (Graef, 1996, cited by Peak & Fisher, 1996, p. 45).

A decline in serious journalism was also becoming evident in the local press, due to massive competition now presented by the emergence of free newspapers (Keeble, 2006) and the incorporation of most ‘locals’ into multi-national corporations, which focussed on the ‘global marketplace’, rather than the ‘parish-pump’, with local readers in mind (Franklin, 1997, p. 103). Such changes forced local newspapers to undertake cost-cutting measures, (including reducing staff and resources), which in turn reduced journalistic freedom and time (Hetherington, 1989). This resulted in local journalism becoming primarily a desk-job, with a much lessened prospect of fulfilling its traditional watchdog role of scrutinising the actions of the powerful on behalf of the people (Franklin & Pilling, 1998). An increasingly competitive market-place also resulted in fewer stories in the public interest and more sensationalised stories of interest to the public (to bring in readers and money) (Keeble, 2006).

To some, the latter demonstrated that the free-market was not compatible with a free press servicing democracy, rather it drove out public service journalism, thereby reducing the local journalist’s role from that of informer, educator, investigative watchdog, and entertainer to merely ‘entertainer’ or ‘infotainer’ (Franklin & Murphy, 2007, p. 226). However, some analyses of local journalism suggest that its role as public servant was exaggerated in the first place and that it is more often an upholder of the local establishment rather than its watchdog, reluctant to disturb vital contacts and old friendships (Murphy, 1976).

This move to provision of ‘infotainment’ in newspapers was also perceived by media managers to be less demanding for a public who seemed to be developing a ‘grasshopper’
mentality, requiring shorter, news ‘snippets’ to digest quickly (Franklin & Murphy, 2007). Interestingly, such changes were also observed in broadcasting, as audiences’ developed channel-hopping viewing habits, no longer spending enough time on one channel to watch lengthy in-depth programmes (Pavlik, 2001; 2008).

Changes in newspapers in the 1990s then, were mirrored by changes in broadcasting. Here, the Broadcasting Acts 1990 and 1996, enacted under the new John Major government, brought deepening competition for the BBC and ITV, affecting resource availability by creating a system requiring them to be even more sensitive to market forces (Barnett, 1991). In viewing audiences more as consumers, than citizens, they also paved the way for broadcasters to wholly prioritise low-budget popular, over expensive quality programming, meaning that once again current affairs programmes suffered (Winston, 2000).

The Broadcasting Act 1990 particularly affected the running of ITV, in forcing companies to tender ‘blind’, competitive bids for regional licences (McNair, 2009). It also relaxed requirements on these companies to produce serious programming (DeBurgh, 2000d). This, in addition to continuing competition presented by cable and satellite, meant that ITV’s commitment to expensive public service programming further diminished. Much of this, it replaced with cheaper, human interest formats (Winston, 2000), leading to claims that public purpose in its programme-making had been ‘sacrificed on the balance sheet’ (Williams, 2009, p. 190). Many of its investigative programmes, which could not guarantee peak-time profit, were culled or stylistically revamped to attract larger audiences (Harrington, 2008). Such changes also arguably brought about a change in the type of people in charge of ITV companies, who now seemed to prioritise financial acumen over belief in the public service ethos (Thussu, 2008).

The BBC did not escape commercial pressures brought about by the Broadcasting Act. It too became mindful of competition and audience ratings, which resulted in a softer approach to news, current affairs, and documentary output at the expense of more analytical work (Ursell, 2001). The Broadcasting Act 1996 further undermined PSB in favour of a system more sensitive to market forces as it provided broadcasters with greater opportunities to take each other over, leading to claims that “the most influential [part] of the media [TV]…has lost sight of…the essence of real journalism [i.e.] the search for information of use to the public... ” (Franklin, 1997, p. 5).
Barnett and Seymour’s (1999, p. 73) interviews with programme-makers and analysis of peak-time current affairs programmes support such claims in demonstrating that when compared to the previous decade, the scope and number of current affairs programmes on commercial TV shrunk between 1989 and 99, and a populist approach to current affairs output developed on the BBC. Journalists interviewed, blamed increasing competition, greater regulation and intervention in journalistic practice, (such as producers being told to sensationalise rather than investigate) and less journalistic freedom, for this. They also argued that increased casualisation of staff, meant less opportunity to conduct resource-intensive speculative investigations. Cheaper, less controversial, pseudo-investigative programmes, which placed minimal investment in investigations and adopted a magazine-type consumer format, thereby inhibiting deep analysis of topics, were particularly criticised. Barnett and Seymour (1999) concluded that current affairs programming was in crisis.

*2000 and Beyond: The Death of the Public Servant or just Public Service in a Different Guise?*

Some argue that, considering the massive upheavals within the media which occurred throughout the 1980s and 1990s, the journalist’s role as public servant has in the 21st century, virtually ended (Haxton, 2002) and serving the powerful and their pockets has become paramount. Others however, argue that the 2000s have seen more journalistic work in the public interest, than ever before, such as the Telegraph’s recent investigation into MPs expenses (Swaine & Allen, 2009; Leapman, 2012), the Sunday Times expose over Tory party donors (BBC, 2012a), and the Independent’s investigation into lobbying (Wright & Newman, 2011), whilst acknowledging that there are now fewer resources available, particularly for expensive journalistic investigations (Aldridge, 2003). Local and national newspaper ownership today, continues to primarily remain in the hands of a few powerful publishing organisations and there is much evidence of owners urging stories that aid, and avoiding stories that threaten, business interests (Laughey, 2007). This arguably curtails journalistic independence and ‘muffles’ the investigative watchdog role in terms of scrutinising officials (Randall, 2007, p. 19). With journalists being increasingly stripped of their role of informer/investigator, some argue that newspapers are increasingly “a business success but a journalistic failure” (Franklin, 2006, p. 4). In addition, local newspapers today are now so heavily reliant on official bodies for their
daily stories that they are arguably unwilling to undertake investigative stories which may antagonise them (Barnett, 2010).

National newspapers also appear to be becoming closer to powerful institutions through their increasing reliance upon the unchecked claims of their PR practitioners for cheap, quick stories (Stapenhurst, 2000). Fewer journalists today are able to go out and meet detectives and politicians to informally gain the ‘real story’ (Stapenhurst, 2000). Instead around 90% of local and 70% of national reporting is done over the telephone, meaning that journalists again risk becoming ‘tools’ of their sources (Keeble, 2006, p. 9).

The journalist’s role as scrutineer of the CJS, making evidence/argument publically known so that the public may judge for themselves the quality of justice administered, is arguably crucial to notions of ‘open justice’ and serves to maintain public confidence in the CJS (Laughey, 2007). However, there is now much reduced and/or inconsistent court coverage at local and national level, due to reduced manpower (Rozenberg, 2009; Thunder, 2012). Increasing usage of reporting restrictions, due to new laws enacted by politicians to ensure victims’ anonymity in some cases has also curtailed court reportage (Keeble, 2006).

TV today continues to offer some resources to investigative journalism (Greenslade, 2008). The BBC for example, has funded some original, risk-taking investigative work, despite being accused of sacrificing itself and the licence fee in delivering a commercial service (Lindley, 2003). However, generally scholarly discussion continues the pessimism of the 1990s, arguing that there is no longer any public purpose in broadcasting as the greater focus on the sensational, subordinates the journalistic role of ‘informer/educator’ to the more audience-friendly role of ‘entertainer’ (Gant, 2007, p. 194).

On terrestrial commercial TV, the notion of public purpose in programming appears to have significantly diminished, due to competition from cable, satellite, and latterly digital outlets, which has resulted in changes in news values so that at best, arguably cheap, populist ‘stunt investigative journalism’ is primarily conducted (Barnett, 2010, p. 16). This has led to allegations that investigative journalism in particular is now a ‘corrupted profession’, a minor sub-division of show-business (Harcup, 2009), ignoring most of the topics traditionally associated with the watchdog’s democratic role (Leigh, 2008). Perhaps however, such claims forget that journalism has always involved informing and
entertaining, and ignore the possibility that the two can co-exist and serve the public as one (Engel, 1997). Perhaps, the new conversational style and stronger focus on personalities within the media, makes audiences more likely to take note of public service content that would otherwise be ignored (Engel, 1997). However, others suggest that this new focus on entertainment does not sit alongside serious content, it accompanies a major decline in it (Berry, 2008). Whichever is correct, what quality and quantity of current affairs programmes will be available after the completion of the move to digital broadcasting, when ratings pressures become even stronger for commercial terrestrial channels is questionable (McNair, 2009).

Interestingly, despite all of the aforementioned difficulties and uncertainties regarding the future of journalism and of its role as public servant, research suggests that journalists themselves, remain inspired by their predecessors’ ideals, retaining the expectation that although they may perform as ‘clerks’, in their hearts they remain ‘crusaders’ on the public’s behalf (Franklin, 2006, p. 66). Thus, arguably the impact of changes within journalism is not matched by major changes in journalists’ perception of their role. Journalists still see journalism as a key safeguard of the democratic process and recognise their duty to society (Baistow, 1985).

Despite some suggesting that investigative journalism is coming to an end (Davies, 2008), history demonstrates that the urge to do, and popularity of, such work amongst the media and public has fluctuated over time, but never disappeared (Bennett & Serrin, 2005, p. 177). Certain historical periods, (particularly times of political, economic, and social turmoil) have been more conducive to watchdog reporting than others (Feldstein, 2006). Although of course, some journalists will always be prepared to engage in such work regardless of the surrounding climate (Feldstein, 2006). In this respect, perhaps the individual reporter’s desire to right society’s wrongs that fuels investigative journalism will mean it will never disappear. Thus, as long as journalists themselves continue to see the watchdog role as important, investigative work will arguably continue, albeit in “fits, starts... [and] cycles” and via new forms and outlets (Armao, 2000, p. 47). One of these newer outlets may be the Internet.
The Internet: The Public Serving Themselves?

The 21st century has seen Internet usage mushroom and the medium become a major means of distributing news (Harcup, 2009). With its very particular qualities of immediacy and interactivity, the Internet has transformed journalistic practice (Harcup, 2009). Online journalism for example, has no deadline, thus stories can be revised and updated over time, often incorporating citizens stories/viewpoints (Deuze & Dimoudi, 2002; Siapera & Veglis, 2012). Here, arguably the Internet blurs the boundaries between the journalist and the people, removing the top-down nature of news and allowing a bottom-up role for citizens (Briggs & Burke, 2009). This raises questions about the role of the journalist today. For example whereas at one time only journalists used to report on daily events, the Internet allows anyone to relay their experiences of such events through ‘citizen journalism’ (Allen, 2006, p. 166). Indeed, the Internet demonstrates that anyone can be a journalist thereby challenging traditional journalistic roles such as that of ‘gatekeeper’ of information and that of ‘public watchdog’. The Internet also offers citizens opportunities to identify and discuss amongst themselves the concerns of interest to them (Gillmor, 2006) through for example ‘blogging’\(^\text{13}\) and ‘twitter’\(^\text{14}\). In this way, it has pluralised the public sphere by extending the realm of media commentary and promoting active citizenship (Dahlgren, 2005). A conversational dialogue between journalist and citizen may now occur and citizens may engage in debating issues in public together at a global level (Gant, 2007).

As mentioned, journalists today are increasingly desk and budget-bound, which arguably hinders them in performing their investigative watchdog role (Allen, 2006). The Internet may offer opportunities for the revival of investigative journalism through aiding the sourcing of material, thereby reducing time/costs involved in finding information/people (Bunz, 2010). Collective knowledge and alternative interpretations of events can also be pooled upon an issue being pursued by a journalist via the Internet (Fleming, 2000). It can also provide new routes of access to international experts who may be able to answer a journalist’s complex questions (Sparks, 1999). In addition, it can provide a means of investigative collaboration between citizens and journalists. This has resulted in some stories, previously ignored by mainstream journalists, being pushed into national

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\(^{13}\) i.e. creating an online personal journal in real-time (Blood, 2002).
\(^{14}\) Twitter is a real-time information network connecting people to the latest stories, ideas, opinions and news. At the heart of Twitter are small bursts of information called Tweets. Each Tweet is 140 characters long (Twitter.com/about, n.d.).
prominence (Jeffries, 2010). In addition, the Internet may aid investigative journalists in disseminating the results of their investigation, as it permits an infinite amount of publication space, and allows the journalist greater autonomy in what is published (McNair, 1998, p. 141). Finally, journalists can publically ‘test’ their work for errors and invite extra information, turning the investigation into a public conversation (Bradshaw, 2008, p. 97). The opportunities offered by the Internet may mean that the future for journalism in the public interest looks promising (Fanning, 2010).

Conclusion

This chapter introduced the study of the media and outlined various scholarly theories concerning its role in society. The history of the media in England and Wales was examined. In so doing, the various debates concerning the role of the journalist within society, and historical changes which have impacted upon that role, were considered. The discussion particularly highlighted arguments concerning the democratic role of the journalist in maintaining a healthy public sphere and acting as an investigative watchdog for citizens by scrutinising the actions of the powerful and exposing their wrongdoing (DeBurgh, 2000a). It also noted the possible impact, over time, of increasing competition between different media, concentration of ownership, and the decline in resources, manpower, and time available for investigative work (Williams, 2009). It stressed then, that due to the changes mentioned above, journalists today generally find it much more difficult to undertake the role of ‘investigative watchdog’, and that where they do, these changes have dramatically influenced the content and presentation of their output. Whilst lamenting a reduction in journalists’ watchdog activities, the chapter highlighted that the Internet is already providing journalists and citizens with new opportunities in relation to investigative journalism (Allen, 2006). It is to investigative journalism that the discussion now turns.
CHAPTER 4: THE JOURNALIST AND HIS/HER INVESTIGATIONS

Introduction

Investigative journalism can essentially be considered in terms of product (the stories journalists tell) and practice (how they obtain those stories) (Ehrlich, 1996, p. 2). This chapter will address investigative practice, thereby providing an in-depth examination of the journalist as ‘investigator’ (chapter 5 addresses investigative product). The discussion begins by defining what investigative journalism is, what it involves, and how it may/not, be differentiated from daily news journalism. It is then debated as to whether investigative journalism requires journalists to work at a ‘higher level’ than they would in conducting daily news journalism, and if so, whether particular attributes are required in order to be successful. There is then broader discussion of the activities which investigative journalists undertake and methods/strategies employed. The major constraints experienced by journalists attempting to conduct investigative journalism in Britain are also discussed. After observing similarities between the investigative journalist’s work and that of criminal investigators, the attributes which literature identifies as being important in order to be a successful police detective are outlined. Finally, the limited literature concerning journalistic investigations into miscarriages of justice is examined. Journalistic investigations in this area are considered in terms of their importance, the attributes and motivations of journalists who undertake such work, and the methods used and obstacles encountered.

Investigative Journalism Scholarship

The ensuing discussion draws upon sources from the field of investigative journalism scholarship, which despite the importance placed upon, and the societal impact of, investigative journalism in Western democracies, is limited worldwide. The small amount of British literature on the topic consists of i) anecdotal literature written by journalists, detailing the story of their investigations and impact of their work (see Eddy, 1976; Grey, 2006); ii) ‘how to’ guides written by journalists, which provide other journalists with practical advice on conducting investigations (see Northmore, 1997; Forbes, 2005); and iii) a very small body of literature written by academics on the epistemology of investigative journalism (see McNair, 1998; Bromley, 2008). To date, the work of DeBurgh (2000e; 2008c) is the only broad academic study of investigative journalism in
the UK, merging discussion of history, theory, philosophy, practice, and case studies. DeBurgh’s work is most relevant to this thesis which aims to conduct similar research relating to the specific genre of journalistic investigations into miscarriages of justice.

There have been calls for scholars to urgently fill the gap in research into investigative journalism so as to provide a qualitative and quantitative analysis of the phenomenon in Britain, particularly to assess its demise or renaissance (Northmore, 1997, p. 14). DeBurgh (2008b, p. 3) specifically highlights the need for analyses of journalists who conduct investigations, their motivations, and practice, (using ‘internalist’ evidence, such as interviews), the stories they produce, and an area hitherto ‘untouched’ by research, namely their successes (and reason for success). Such work might, he argues, aid our understanding of the role the investigative journalist has played in British society over time. He also calls for studies examining specific genres of investigative journalism, particularly miscarriages of justice, due to its history of successes in righting wrongs. Calls to fill this gap in research have arguably recently become even more urgent in the light of the ongoing Leveson inquiry which is investigating the negative impact of the media upon society (Bailin, 2011). In the current climate, it is surely important to learn more about the importance of investigative journalism and its contribution to improving society.

**What is Investigative Journalism?**

Investigative journalism is, as chapter 3 noted, considered an essential ingredient of the fourth estate role of the journalist, crucial for the healthy functioning of democracies (Ho, Ho, and Ng, 2006). Thus, it is important to establish exactly what it is. At its most basic level, investigative journalism looks behind authorities’ interpretations of events. Success or results are achieved when injustice or wrongdoing is revealed, and through informing public opinion and extending public debate, change or reform is brought about (Forbes, 2005). In this way, investigative journalism may provide the first ‘rough draft of legislation’ (DeBurgh, 2008b, p. 3). It embodies the notion of the media as ‘activist’ and ‘reformer’, epitomising the ideals of social responsibility and public service, seen as the moral bedrock of journalism (Kovach & Rosentiel, 2007, p. 139).

In 1983, the Investigative Reporters and Editors Incorporation of America, developed a three-pronged operational definition of investigative journalism, describing it as “…the
reporting through one's own work...and initiative, matters of [public] importance...which [others] wish to keep secret (cited by Armao, 2000, p. 43). In 2007, Randall added a fourth prong, arguing that investigative journalism usually involves the journalist taking high (commercial, legal, and/or personal) risks. Thus, the essential ‘prongs’ of investigative journalism appear to be originality, the public interest, secrecy, and risk. However, importantly many suggest that the elements of secrecy and originality do not necessarily have to be present in order for work to qualify as investigative journalism (MacFadyen, 2008).

Investigative Journalism versus Daily Journalism

Investigative journalism is often called the ‘glamour job of journalism’, highly valued by journalists themselves as a specialised form of inquiry, one of the professions ‘highest callings’ (Haxton, 2002, p. 33). However, it could be argued that investigative journalism does not denote a particular type of journalistic inquiry and therefore that investigative reporters are not a ‘breed apart’ from daily reporters (Armao, 2000, p. 44). Interestingly, research involving interviews with over 100 daily news reporters revealed that their main stated principles embraced many of the core tenets of investigative journalism, including: a first obligation to the truth, a first loyalty to citizens, an essential discipline of verification, independence from those monitored, provision of a forum for public criticism, and obligation to exercise personal conscience (Kovach & Rosental, 1999, p. 12-13). Perhaps then, investigative journalism is more a state of mind than a separate genre, particularly as the focus of most investigations is ‘the stuff of daily news journalism’ (Kovach & Rosental, 1999).

However, although all journalists should be employing investigative techniques, in reality, the media’s prioritisation today of entertainment interests, coupled with journalists’ lack of resources, autonomy, and time to dig for information, means that in reality they may not be (Berry, 2008). In addition, the quality media seem to take their investigative role more seriously than the tabloids, whose investigations often amount to snooping into individuals’ lives as revealed by the ongoing Leveson Inquiry (Bailin, 2011). Thus, whilst investigative journalism has some of the same objectives as daily news journalism, in reality it is perhaps naive to suggest that it is no different from it. Indeed, some go further in suggesting that whilst the daily reporter is a ‘G.P’, the investigative journalist is a
‘neurosurgeon’, intellectually capable of “gathering and sorting...facts, building patterns, analysing options, and making decisions based on logic” (Protess et al, 1991, p. 4).

If the latter is the case, this is also perhaps why investigative journalism has been described as a ‘craft’ (Pilger, 2005, p. 2) suggesting that the investigative journalist is working at a higher level, as s/he has a greater hand in proactively ‘creating’ the news than the daily reporter who simply reports it (Berry, 2008, p. 1). Interestingly, Zelizer’s (2004) research involving interviews with investigative journalists revealed frequent references to ‘craft’. However, this image of the investigative journalist clashes with the idea of journalism as a profession, as many who hold this belief consider that professional training diminishes/removes journalism’s instinctive flair and creativity - an argument which interestingly has also been made in relation to police detective work (Zelizer, 2004). Nevertheless, if investigative journalism does involve working at a higher, ‘craft-like’ level than daily reporting, perhaps journalists undertaking it require particular attributes in order to get results or achieve investigative success (Schudson, 2008). This issue is discussed shortly. Firstly, what it means to get investigative results is examined.

**Getting Results or Investigative Success**

Arguably, ‘getting results’ may mean different things to the daily reporter compared to the investigative journalist. For the daily reporter, getting results could be described as constructing an accurate, objective, publishable story based on information from official sources (Keeble, 2006). For the investigative journalist notions of evidence and truth appear to take a more central role in his/her attempts to get results.

*The Importance of Evidence*

Unlike the daily reporter who views all information or ‘evidence’ s/he receives as ‘heavy’ as it derives from bureaucratically credible sources (see chapter 5); an investigative journalists’ work is often spring-boarded by less reliable sources, meaning that evidentiary weight is critical (Ettema & Glasser, 1998). Investigative journalism then, has greater demands upon it, in terms of evidential standards, than daily news journalism. Indeed, it can arguably be compared to a ‘commission of enquiry’, as it requires more than just asking sources questions and impartially reporting allegations/denials; rather resources are invested in probing issues and asking ‘Why?’ (Ross, 1997, p. 158).
The investigative journalist gathers all evidence together, almost as a detective would, thereby providing the proof to substantiate claims (Spark, 1999). It is also this very fact which is said to distinguish investigative journalism from ‘advocacy’ or ‘campaigning journalism’, which involves the journalist collecting facts to affirm a particular argument or cause which s/he supports (Waterford, 2002, p. 38). Here the journalist arguably lacks the necessary detachment of the ‘real’ investigative journalist, who minimises personal assumption, adopting what Ehrlich (1996, p. 14) terms, a ‘scientific model’ of newsgathering, involving meticulous collection and evaluation of evidence. Clearly, ‘evidence’ is crucial to investigative journalism. Indeed, as the ultimate result of an investigative expose is to bring about reform, it arguably carries a much greater weight of responsibility in verification of fact than any other form of journalism (Keeble, 2006). In this respect, investigative journalism is again similar to detective work, whilst remaining closely connected to the commercial activity of telling stories (De Burgh, 2008a).

The Importance of Truth

The latter, is in turn, linked to the claim that investigative journalists aim to discover the ‘truth’ (Ekstrom, 2002, p. 260). The job of the daily reporter is to simply report the claims of officials accurately and objectively. This is ‘truth’ in so far as it ‘agrees’ with the ‘reality’ (Oxford English Dictionary, n.d, n.p) of what officials say. The daily reporter does not seek to verify what s/he has been told through searching for evidence to prove/disprove the claims of officials. The investigative journalist however, does seek to verify information for his/herself through his/her investigations, which involve the collection and analysis of evidence (Ekstrom, 2002). In this respect, the investigative journalist might be said to engage in ‘truth-seeking’ rather than simply reporting the ‘truths’ of the powerful (Luckmann and Berger, 1991). Although of course, this ultimately still amounts to what the investigative journalist views as the ‘truth’ on the basis of evidence gathered and corroborated by various sources, (i.e. this, from their perspective becomes the truth) (Tapshall and Phillips, 2002). Some however, disagree that investigative journalists engage in ‘truth-seeking’ in the public interest. Rather they are viewed as purely ‘muck-raking’, aiming to inflame the masses with their sensationalist exposures in order to build audiences/readership, thereby serving the media’s self interest (Lucas, 1973). The issue of truth-seeking is discussed further shortly. Firstly, the obstacles to practising investigative journalism are examined.
Obstacles to Investigative Journalism

Obstacles or constraints upon the practice, (including the topics chosen and publication of) investigative work lead some to conclude that whilst investigative journalism is viewed as a core media role, it is amongst the least fulfilled (McQuail, 2005). In Britain in particular, the obstacles to investigative journalism are huge, as indicated by the ‘Reporters Without Borders’ (2009) International Press Freedom Index. This asked journalists, researchers, and lawyers to complete a questionnaire on a range of press freedom infringements and found that conditions for journalistic freedom in Britain were poor compared to many democratic nations (Hagerty, 2009, p. 3) and that the constraints upon their work were huge. These constraints include legal constraints.

Unlike in America, British investigative journalists work without any special legal rights. Their work is closely regulated by the codes of conduct of the National Union of Journalists, OFCOM, and the BBC, however it is also massively constrained by over 460 pieces of legislation relating to disclosure, official secrecy, contempt, and privacy (Hagerty, 2009, p. 4). These restrict how investigative journalists access, gather, and publish information. The UK also has some of the strictest defamation and libel laws in Europe (Vereniging van Onderzoeksjournalisten, 2006). These have caused journalists, particularly those working on small publications (which cannot afford costs associated with litigation) to avoid certain subjects (Welsh, Greenwood, & Banks, 2007). Such issues may be further affected by Lord Leveson’s forthcoming recommendations in this area.

The Contempt of Court Act (1981) is another major legal constraint upon the work of investigative journalists (Moore, 2000, p. 136). A principle of justice is that an accused person will be tried before a jury who will assume his/her innocence until proven guilty (Moore, 2000). Corruption of this process through publication of material which creates a substantial risk of prejudicing the jury against the accused constitutes contempt of court (Halliday, 2011). However, what amounts to substantial prejudice is often unclear. This often deters editors from covering some stories. Other legal restrictions constraining investigations are arrangements which restrict reporting of certain court proceedings so as to for example, protect witnesses from intimidation (Keeble, 2006). However, increasingly ‘closing’ justice in this way is obviously problematic for investigative journalists.
Investigative journalism is a time-consuming activity, which can be a problem for newsrooms needing to produce stories very quickly today (Nuttall, 2006). It is also risky. Threats of harassment, murder, and imprisonment have acted as major constraints to investigative work in Britain (Finkelstein, 2008). There are also financial risks. Investigative work can be costly and success is not guaranteed and whilst journalism may be a socially responsible institution, as has been noted, it is also a business focussed on making money (Pecke, 2004). However, investigative work does not always have to be costly (O’Neil, 2009). Online citizen-led journalism demonstrates that being resource-poor has not prevented many major investigations (Coronel, 2008, p. 6) and research has revealed that although finances help investigations, success rests more on basic journalistic professionalism (Berry, 2008).

Other commercial constraints today include media executives’ perception that the public are no longer interested in investigative journalism and thus that it will not attract large audiences/readership, resulting in an unsupportive newsroom culture (McBride, 2005). Investigative journalism is said to thrive best in newsrooms where the professional culture stimulates and supports creativity, giving journalists autonomy to risk ‘digging’ (without necessarily ‘finding’) supported by the critical eye of editors (Greenwald & Bernt, 2000). As chapter 3 noted, media deregulation in the 1980s, resulted in large corporations taking over the media and caused editors to begin to practice self-censorship in relation to risky topics which might offend media executives (Chambers, 2000, p. 104). Research has revealed that this confining atmosphere narrows the vision of all employees, blocking their ability to see the potential for a deeper story, meaning that investigative journalism is no longer seen as integral to newsroom culture (Waisbord, 2001, p. 391). There is also greater journalistic reluctance today to undertake investigations which may result in conflict with the organisations with which journalists enjoy privileged relationships in terms of sourcing daily news stories (Ettema and Glasser, 2007), a particular problem in local newsrooms, where journalists often have deep ties to local institutions (Doig, 1983, p.79).

Considering the aforementioned constraints, many argue that urgent change is required in order for British journalists to successfully fulfil their watchdog role (Cottle, 2005). Interestingly, as a result of the Vereniging van Onderzoeksjournalisten study (2006), the researchers created a list of ‘preconditions’ for watchdog reporting. These included ‘external factors’ such as press freedom, protection from risk, and laws that facilitate
investigations, allowing them to gather reliable information from official bodies; ‘internal factors’ such as journalistic autonomy, less authoritarian management, and greater organisational support (Coronel, 2008, p. 9); and ‘attributes of journalists themselves’, such as creativity and political, personal, and professional motives (Meek, 2005). The researchers concluded that an absence of any of these factors may constrain journalists’ ability to fulfil their watchdog role (Meek, 2005). We now examine the last of these, namely the attributes of the investigative journalist.

How to Get Results – Attributes of a Successful Investigative Journalist

Although no research has attempted to discover the attributes required in order to be a successful investigative journalist, the bodies of literature mentioned at the beginning of this chapter, do note singular attributes as being useful in this respect. These attributes are pooled in Table 4.1.

Table 4.1: Attributes identified by media literature as being important in order to be a successful investigative journalist (adapted from extensive list of contributors mentioned in Appendix 2, note 2.2)

<table>
<thead>
<tr>
<th>Personal qualities</th>
<th>Knowledge</th>
<th>Abilities and skills</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lateral thinking</td>
<td>Familiarity with the subject of investigation</td>
<td>Ability to:</td>
</tr>
<tr>
<td>Commitment</td>
<td></td>
<td>- distance oneself from &amp; one’s subject</td>
</tr>
<tr>
<td>Dogged determination</td>
<td>Some idea of scientific method</td>
<td>- think how offenders think &amp; create possible scenarios around this</td>
</tr>
<tr>
<td>Moral conviction</td>
<td></td>
<td>- work alone/as part of a team, depending size of project</td>
</tr>
<tr>
<td>Impassioned outrage</td>
<td>Knowledge of how to access &amp; rules governing information sources</td>
<td>- gain the confidence of nervous/reluctant sources</td>
</tr>
<tr>
<td>Extraordinary self-control</td>
<td>An understanding of statistics</td>
<td>- form good relationships with police &amp; villains</td>
</tr>
<tr>
<td>Energy</td>
<td></td>
<td>- read documents for significance</td>
</tr>
<tr>
<td>A flexible mind</td>
<td></td>
<td>- retrieve/analyse computerised data &amp; keep systematic records</td>
</tr>
<tr>
<td>Persuasiveness</td>
<td></td>
<td>Good interpersonal/social skills</td>
</tr>
<tr>
<td>Objectivity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open-mindedness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Credibility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-discipline</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inquisitiveness/curiosity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boldness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Obsession</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Persistence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stubbornness/stamina/‘bulldog tenacity’ to never let a story go</td>
<td>Knowledge that the most common</td>
<td></td>
</tr>
<tr>
<td>Single-mindedness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resourcefulness</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Bravery/courage
Pre-occupation with detail
Meticulousness
Terrific judgement
Empathy
Healthy dose of scepticism
Patience
Cunning
A lively imagination
An anti-establishment stance
Acceptance of being unpopular
A ‘nose for news’

investigative errors occur in the collection & analysis of facts & in the statement of events

Problem-solving skills

Analytical talent to understand scattered source material/honesty in that analysis, even if it goes contrary to the evidence collected

Interviewing skills

Interestingly, regarding the final personal quality mentioned in the list, i.e. ‘nose for news’ although many journalism scholars do not take this phenomenon seriously, research by Ettema and Glasser (1998) and Zelizer (2004) revealed that investigative journalists state that the first step in their investigations, (and one of their key motivations), often involves an intuitive sense of there being more to an issue than meets the eye. This was, the researchers claimed, a genuine ability to see meaning in what others might overlook, with frequent references to an instinctive ‘sixth sense’ or ‘nose for news’. Furthermore, this ‘nose’ seemed to grow over time and be linked to a reporter’s experience to see bits of information that suggest something bigger.

In relation to the final set of skills mentioned in Table 4.1, namely interviewing skills, journalists in Ettema and Glasser’s (1998) study viewed these as being crucial for investigative journalists to possess, because unlike in police investigations, people are not obliged to talk to journalists. The literature within this area also highlights the importance of keeping systematic records of all actions undertaken and sources of information, as investigative work is not only judged on how it is broadcast/written, but also upon how well it was conducted (Nuttall, 2006). Much like criminal investigations, one mistake will call into question the journalist’s professionalism, method, and solidity of the evidence as a whole, thereby possibly invalidating any conclusions (Nuttall, 2006).

Whilst noting that some have pinpointed singular attributes as being important in order to be a successful investigative journalist, few prescribe comprehensive sets of attributes. This is with the exception of Northmore (1997, p. 49-51) and Forbes (2005, p. 10) who outline combinations of attributes required in order to successfully undertake investigative journalism (see Table 4.2).
Table 4.2: Combinations of attributes required to successfully undertake investigative journalism (adapted from Northmore, 1997; Forbes, 2005)

According to Northmore (1997): a successful investigative journalist should possess:

<table>
<thead>
<tr>
<th>Personal traits - in ascending order of importance</th>
<th>Areas of knowledge/understanding - which must be developed</th>
<th>Skills/resources required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal integrity</td>
<td>Familiarity with forms of government, parliament, legislation &amp; records kept</td>
<td>Excellent administration skills, so as to operate well-organised filing systems</td>
</tr>
<tr>
<td>Objectivity</td>
<td>Knowledge of the history of scandals/previous investigations into authorities</td>
<td>Obsessive procedures for recording/storing information</td>
</tr>
<tr>
<td>Tenacity, A sense of morality</td>
<td>Knowledge of freedom of information laws &amp; how to extract information</td>
<td></td>
</tr>
<tr>
<td>Strong motivation to get to the truth - comprised of:</td>
<td>Understanding of the Courts system/law enforcement &amp; rules of evidence/admissibility</td>
<td></td>
</tr>
<tr>
<td>i) a controlled sense of moral outrage at the suspected wrongdoing</td>
<td>Familiarity with Hansard reports</td>
<td></td>
</tr>
<tr>
<td>ii) acknowledgement that the best chance of success &amp; maintaining credibility is through honest, fair dealings with sources &amp; subjects</td>
<td>Knowledge of the National Audit Office’s operations</td>
<td></td>
</tr>
<tr>
<td>iii) patience &amp; confidence that a persistent, systematic enquiry will produce evidence</td>
<td>Understanding of ethics/laws affecting journalists’ work</td>
<td></td>
</tr>
<tr>
<td>iv) willingness to admit it if one has made a mistake</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

According to Forbes (2005): a successful investigative journalist should possess:

<table>
<thead>
<tr>
<th>Personal qualities</th>
<th>Knowledge</th>
<th>Skills/abilities required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accuracy</td>
<td>Knowledge of the ‘local scene’ - this aids one in spotting when something is suspect</td>
<td>Research skills</td>
</tr>
<tr>
<td>An enquiring, intuitive mind &amp; a good memory</td>
<td>Knowledge of the ‘big picture’ – this allows one to be able to contradict information engineered to steer an investigation off-course</td>
<td>Recording and storage skills</td>
</tr>
<tr>
<td>Courage</td>
<td>Knowledge of the routes by which to legally access public information.</td>
<td>Legal skills</td>
</tr>
<tr>
<td>Integrity &amp; discretion</td>
<td></td>
<td>Meticulous editing skills</td>
</tr>
<tr>
<td>Ability to remain calm</td>
<td></td>
<td>Accounting skills, Forensic skills</td>
</tr>
<tr>
<td>Patience &amp; persuasiveness</td>
<td></td>
<td>Analytical skills</td>
</tr>
<tr>
<td>Resourcefulness</td>
<td></td>
<td>Critical thinking and problem-solving skills</td>
</tr>
<tr>
<td>Innovative &amp; flexible to change investigative direction</td>
<td></td>
<td>Ability to keep secrets &amp; think on one’s feet</td>
</tr>
<tr>
<td>Devotion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blood-hound like instinct</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Controlled sense of outrage &amp; determination to speak out</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Interestingly, some journalists have, as mentioned above, noted that the work of investigative journalists is similar to that of criminal investigators and that they require similar attributes (Ettema & Glasser, 1998). As one of the aims of this thesis is to compare these groups of investigators, literature outlining the attributes of a successful criminal investigator is now considered.

**Attributes of a Successful Criminal Investigator**

Literature concerning the attributes required in order to be a successful criminal investigator is relatively minimal. Relevant works within this area consist of step-by-step guides to crime investigation (see for example Jackson, 1962; Swanson, Chamelin, & Terrirto, 2003). As with the ‘How to’ literature on investigative journalism, this literature is primarily anecdotal, based on personal experience. They also consist of empirical work (see Cohen & Chaiken, 1987; Morgan, 1990; Maguire, Noakes, Hobbs, & Brearley, 1992; and McGurk, Platton, & Gibson, 1994). Taken together these bodies of literature suggest that a successful investigative journalist should possess the attributes mentioned in Table 4.3.

**Table 4.3: Step-by-step guides to criminal investigation and empirical research studies suggest that a successful criminal investigator should possess these attributes (adapted from Jackson, 1962; Cohen & Chaiken, 1987; Morgan, 1990; Maguire et al, 1992; McGurk et al, 1994; and Swanson et al, 2003)**

<table>
<thead>
<tr>
<th>Personal qualities</th>
<th>Abilities— the ability to:</th>
<th>Skills and training</th>
</tr>
</thead>
<tbody>
<tr>
<td>Courage</td>
<td>reach conclusions based on available evidence</td>
<td>Previous experience</td>
</tr>
<tr>
<td>Tactful</td>
<td>await judgement until evidence is available</td>
<td>Professional training</td>
</tr>
<tr>
<td>Ingenuity &amp; intelligence</td>
<td>recognise &amp; control bias/prejudice</td>
<td>Report writing</td>
</tr>
<tr>
<td>Energy</td>
<td>be ethical withstanding</td>
<td>Interviewing skills</td>
</tr>
<tr>
<td>Vigilant</td>
<td>temptation &amp; cynicism</td>
<td>Good observational skills</td>
</tr>
<tr>
<td>Must-known man</td>
<td>face obstacles</td>
<td></td>
</tr>
<tr>
<td>Technical ‘know-how’</td>
<td>utilise scientific aids &amp; experts</td>
<td></td>
</tr>
<tr>
<td>Knowledge of life/people</td>
<td>make many contacts &amp; win people’s confidence</td>
<td></td>
</tr>
<tr>
<td>Honesty</td>
<td>be resourceful</td>
<td></td>
</tr>
<tr>
<td>Perseverance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good reasoning ability &amp; memory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Curiosity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sensitive to people’s feelings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>feelings/compassionate</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Not over-zealous in testifying
Self-disciplined
learn from colleagues
use initiative &
inductive/deductive
reasoning
use legally approved
methods

According to empirical studies a successful criminal investigator should possess:

<table>
<thead>
<tr>
<th>Personal qualities</th>
<th>Abilities and knowledge</th>
<th>Skills and training</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teamwork</td>
<td>Ability to:</td>
<td>Skills related to:</td>
</tr>
<tr>
<td>Judgement</td>
<td>Communicate (ideas</td>
<td>Public/victim satisfaction</td>
</tr>
<tr>
<td>Initiative</td>
<td>verbally &amp; in writing)</td>
<td>Prosecution</td>
</tr>
<tr>
<td>Involvement/dedication/commitment</td>
<td>Seek &amp; obtain</td>
<td>Personal performance</td>
</tr>
<tr>
<td>Motivation</td>
<td>information</td>
<td>Qualifications</td>
</tr>
<tr>
<td>Persistence/perseverance</td>
<td>Interpret feelings, ideas, facts Tolerate/evaluate</td>
<td>Gathering information</td>
</tr>
<tr>
<td>Stability</td>
<td>uncertain conflicting information</td>
<td>Field operation</td>
</tr>
<tr>
<td>Intelligence</td>
<td>Deal with people</td>
<td>Arrests</td>
</tr>
<tr>
<td>Approachable</td>
<td>Understand meaning of ideas/words</td>
<td>Spadework/“digging’</td>
</tr>
<tr>
<td>Gut feeling</td>
<td>Organise disorganised information</td>
<td>Education &amp; training-related qualifications</td>
</tr>
<tr>
<td>Objectivity</td>
<td>Listen</td>
<td>Organisational skills</td>
</tr>
<tr>
<td>Tenacity</td>
<td>Produce/articulate ideas, selecting the most apt, unusual or clever solution to problems</td>
<td>Fife construction</td>
</tr>
<tr>
<td>Patience</td>
<td></td>
<td>Interviewing</td>
</tr>
<tr>
<td>Common-sense</td>
<td></td>
<td>Cultivating informants</td>
</tr>
<tr>
<td>Inquisitiveness</td>
<td></td>
<td>Presenting evidence</td>
</tr>
<tr>
<td>Independence of thought</td>
<td></td>
<td>Recognition/extraction</td>
</tr>
<tr>
<td>A ‘nose’ for the job</td>
<td></td>
<td>of relevant information</td>
</tr>
<tr>
<td>Empathy</td>
<td></td>
<td>from documents</td>
</tr>
</tbody>
</table>

In addition to the attributes mentioned in Table 4.3, Cohen and Chaiken’s (1987, p. 17) interviews with investigators highlighted the importance of officers possessing experience, education, and training-related qualifications in order to be successful. Morgan’s (1990, p. 66) research, (involving 52 officers from Devon and Cornwall Constabulary completing a questionnaire and participating in focus groups), also identified having the time to pursue investigations and just like journalists, a degree of luck, together with information from victims, witnesses, and the public, as being important to investigative success (in solving volume crime). Interestingly, both Morgan’s research and that of Maguire et al (1992) (who studied the criminal investigation courses, investigative files, and detectives of six constabularies), identified the ability to communicate as the most frequently cited attribute for successful investigators to possess. Later research by McGurk et al (1994) found that
getting, combining, and critically appraising information, together with organisational and practical problem-solving skills and specialist knowledge, were crucial to investigating critical incidents.

Work more relevant to this thesis however, concerns that which has identified attributes which are key to success in investigating serious crimes, such as murder (the topic of journalistic investigations studied within this PhD thesis). Smith and Flanagan’s (2000) interviews with ten Senior Investigative Officers (SIOs) revealed that three skills sets, namely investigative ability, knowledge, and management skills were important for a successful SIO to possess. These skills sets were then dissected into core skills (see Table 4.4). Arguably, the seminal study in this area however, is that of Innes (2003) who conducted interviews with, and observed the work of, murder detectives. Innes concluded that although they conducted fairly routine tasks of finding, marshalling, and collating facts (together with the attributes mentioned in Table 4.4) successful murder detectives also seemed to possess a particular flair for their work and to develop their skills through instinct as well as experience.

Table 4.4: The attributes required by SIOs in order to achieve investigative success
(adapted from Smith & Flanagan, 2000; Innes, 2003)

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision-making</td>
<td>Streetwise intelligence</td>
</tr>
<tr>
<td>Interpersonal skills</td>
<td>Creative thinking</td>
</tr>
<tr>
<td>Adaptation</td>
<td>The ability to quickly interpret and draw inferences from information</td>
</tr>
<tr>
<td>Administrative competence</td>
<td>Adroitness in using/ manipulating information</td>
</tr>
<tr>
<td>Appraisal of information</td>
<td>Integrity</td>
</tr>
<tr>
<td>Appropriate delegation</td>
<td>A working knowledge of technical/legal requirements</td>
</tr>
<tr>
<td>Awareness of future developments</td>
<td></td>
</tr>
<tr>
<td>Optimising team knowledge through consultation</td>
<td></td>
</tr>
<tr>
<td>Handling expert advice</td>
<td></td>
</tr>
<tr>
<td>Innovative investigative style</td>
<td></td>
</tr>
<tr>
<td>Competence</td>
<td></td>
</tr>
<tr>
<td>Leadership</td>
<td></td>
</tr>
<tr>
<td>Maintaining the investigation’s professional integrity</td>
<td></td>
</tr>
<tr>
<td>Managing the communication process</td>
<td></td>
</tr>
<tr>
<td>Planning/organising the mechanics of the investigation</td>
<td></td>
</tr>
<tr>
<td>Resource management</td>
<td></td>
</tr>
<tr>
<td>Staff development and support</td>
<td></td>
</tr>
<tr>
<td>Strategic awareness</td>
<td></td>
</tr>
</tbody>
</table>
Since the work of Innes (2003), many changes in terms of legislation, policy, and practice have occurred in relation to investigative work, which may in themselves have affected the attributes required to conduct serious crime investigation. More recent practice documents in this area include the Core Investigative Doctrine (CID) (Centrex, 2005a), the Professionalising Police Investigation Programme (PIP) (Centrex, 2005b), and the Murder Investigation Manual (MIM) (ACPO, 2006). PIP’s accompanying practice advice document addresses the issue of investigative mind-sets, stating that investigators must remain open-minded throughout an investigation and “be receptive to alternative...explanations...about the meaning of...material or...reliability of its sources” (Centrex, 2005b, p. 63). Similarly, the CID (Centrex, 2005a, p. 23) argues that investigators must: ‘think creatively’ and question assumptions made, the validity of all information, and whether it is possible to explain/interpret it in a different way. Indeed, both the CID and PIP encourage investigators to create multiple hypotheses and to ‘test the null hypothesis’ i.e. seek to disprove a theory, rather than seek evidence to support it (Savage & Milne, 2007). This is supported by Osterburg and Ward (2000, p. 347) who recommend the ‘hypothetico-deductive’ scientific approach to investigation, likening the investigation to a reconstruction of the past.

This literature concerns the issue of professionalising police investigation and concentrates more upon investigative strategies and enhancing the investigative process by training/development of crime investigators, rather than identifying specific attributes required. Interestingly however, some of the investigative strategies mentioned are similar to those mentioned in scholarly texts concerning the methodology of journalistic investigations (discussed below).

**How to get Results: The Journalist’s Investigative Methodology**

Although investigative reporting can be journalism at its most methodologically rigorous, investigative journalists themselves rarely discuss the methodologies involved in their work (Levine, 1980, p. 637). Consequently, scholars have tended to produce rather sketchy overviews of the phenomenon (see, in particular, Forbes, 2005; Woodhead, 2005). This is with the exception of the work now examined.
i) The Investigative Methodology of TV Journalists

Ettema and Glasser’s (1985, p. 191-201) research involving interviews with TV investigative journalists revealed that their investigative methodology could be reduced to simply the need to obtain information from sources (‘getting facts from people’) and documents (‘getting facts from records’). This process was aimed at verifying knowledge claims and gradually justifying their assertions through the telling of a story that embodied those claims, and involved four main steps: i) ‘screening for tips’; ii) ‘weighing the evidence’; iii) ‘fitting the pieces’; and iv) ‘evaluating the story’ (see Figure 4.1).

At step 1, whistle-blowers, anonymous tip-offs, trusted contacts, or more rarely the reporter’s gut instinct bring a potential investigative project to the journalist’s attention. Verification of the tip is not yet possible, thus the journalist attempts to justify embarking upon an investigation by pitching the potential story to the editor. If the editor accepts the pitch, step 2 begins.

At step 2, a mound of evidence is collected from people and paper-based sources, not with the notion that it will prove the story but that a preponderance of evidence will justify the assembly of a story that can be further scrutinised. The journalist seeks/assesses both ‘inculpatory’ and ‘exculpatory’ evidence. If there is more exculpatory than inculpatory evidence, the investigation is abandoned. If not, it continues. The journalist also engages in attempting to refute his/her main hypothesis, i.e. to ‘poke a hole’ in the case. If this fails step 3 begins.

Step 3 involves attempts to piece together a ‘jigsaw puzzle’ to reveal the ‘big picture’. The fit of the pieces provides mutual validation of each piece (information) and the picture as a whole. Accepting the story as true is increasingly justified as more pieces fit. A rigorous process of corroboration amongst accounts occurs. The journalist rarely gets all the pieces (a full account) rather an account is produced that can be accepted as authoritative. Establishment of timelines of events and use of the ‘interlocking directorate schematic’ - involving examining the relationships of individuals to each other and to events, (to discover who knew what, when, and how) often reveals previously unseen connections.
Step 4 sees the story emerging from the process with the reporter becoming morally certain that s/he cannot disconfirm it, however the reader must make up their own mind, on the basis of published facts and the viewpoints of several sources. Broadcasting is part of the control/corrective process as the story is further tested through scrutiny by the public and other journalists covering it.

**Figure 4.1: The investigative method of TV journalists, a 4-step model aimed at verifying knowledge claims and justifying the telling of a story embodying those claims (adapted from Ettema & Glasser, 1985)**

<table>
<thead>
<tr>
<th>Step 1: ‘Screening for tips’</th>
<th>Step 2: ‘Collecting &amp; weighing the evidence’</th>
<th>Step 3: ‘Assembling and evaluating the story’</th>
<th>Step 4: Justification and equivocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigative project comes to journalist’s attention</td>
<td>Aim to verify the story through ‘legwork’- evidence collection</td>
<td>Piecing together jigsaw to reveal big picture. Fit of the pieces provides mutual validation of each piece &amp; picture assembled</td>
<td>If once assembled, story cannot be disconfirmed, it emerges as fully justified – the pieces fit so well that the reporter has become morally certain that he cannot disconfirm it</td>
</tr>
<tr>
<td>The tip cannot yet be verified but justification is sought for embarking upon an investigation</td>
<td>Aim to justify assembly of a story that can be further scrutinised</td>
<td>Accepting the story as true is increasingly justified as more pieces fit.</td>
<td>Considerations re: packaging &amp; revealing</td>
</tr>
<tr>
<td>Story pitched to editor stressing that tip could:</td>
<td>Getting facts from people &amp; from records - ‘mound’ of evidence built</td>
<td>Attempt to establish timelines &amp; ‘interlocking directorate schematic’ used</td>
<td>Facts speak for themselves; sources express viewpoints - viewer decides</td>
</tr>
<tr>
<td>be real, be doable, result in a story with an impact</td>
<td>Evidential weight assessed</td>
<td>Editorial probing of evidential reliability/ sufficiency</td>
<td>Publication tests reliability of the evidence - public review/scrutiny &amp; other investigators covering the story dis/confirm it</td>
</tr>
</tbody>
</table>
In Summary, the steps above involve the collection, weighing, corroboration and evaluation of evidence, and formulating and dis/proving of hypotheses, with the aim of arriving at an independently verified ‘truth’ (Ehrlich, 1996, p. 14).

**ii) The Investigative Methodology of Newspaper Journalists**

Protess et al’s (1991, p. 205-30) research involving analysis of six successful newspaper investigations reveals a similar investigative process to that outlined above. This ‘investigative agenda-building’ consists of five stages: initiation, conceptualisation, and investigation - comprising the ‘investigative phase’; and presentation and investigative influence - comprising the ‘storytelling phase’ (elements of which are also discussed in chapter 5).

Stage 1, *initiation*, concerns how a story gets onto the investigative agenda. As with Ettema and Glasser’s model, information comes in via either a source or the journalist themselves. A story is more likely to survive stage 1 if: i) after assessing sources’ reliability or examining documents, the information appears credible; ii) the investigation seems doable; iii) competitors have been beaten to the story; and iv) the journalist is interested in the topic and thinks the story could have impact.

At stage 2 *conceptualisation*, the journalist decides the meaning of the information already gained and tries to ‘frame’ the genre of wrongdoing, locating the ‘moral compass’ of their story. Often ‘vivid cases’ are generalised to systemic societal problems and a particular ‘species’ of moral disorder genre emerges. The story’s potential dramatic value and audience appeal is considered and it is pitched to editors for resource-investment so as to conduct a ‘full probe’.

At stage 3 *investigation*, credible evidence is gathered through talking to people and obtaining documents. During this information-seeking exercise, some journalists undertake an ‘activist-reformer’ role in the policy-making process, forming coalitions with officials, hoping to elicit a pre-emptive response from those keen to protect their image. Others adopt an ‘information messenger’ role, hoping to bring change through public pressure as a result of the expose. Journalists also gather the ‘other side’ of the story. As more information is obtained, journalists re-assess the credibility of original
allegations, deciding whether a convincing argument can be made. If so the storytelling phase begins.

Stage 4, *presentation* concerns writing/production of the expose and deciding on a final form to grasp audience attention. Evidence is selected from all information gathered, with reporters emphasising the most dramatic and compelling cases that fit the storyline (due to space constraints). Reporters aim to achieve correspondence and coherence (discussed further in chapter 5). Simple causal links and clearly portrayed victims/villains, allow readers to draw clear inferences about blame, however facts are fairly presented.

Stage 5, *investigative influence* concerns post-publication decision-making and the societal impact of the story. Conditions are specified under which stories influence public/policy-makers’. Importantly, once an expose is published, the journalist may continue to develop new leads and cover various reactions in a succession of follow up stories.

**Figure 4.2: The investigative method of newspaper journalists – a two-phase, five-stage model (adapted from Protess et al, 1991)**

<table>
<thead>
<tr>
<th>Investigative Phase</th>
<th>Storytelling Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stage 1:</strong> ‘Initiation’</td>
<td><strong>Stage 2:</strong> ‘Conceptualisation of the story’</td>
</tr>
<tr>
<td>How a potential story gets onto the investigative agenda</td>
<td>Journalist decides what this information means</td>
</tr>
<tr>
<td>Source or journalist-generated</td>
<td>Tries to ‘frame’ the genre of wrongdoing</td>
</tr>
<tr>
<td>Story may survive if:</td>
<td>Consideration of story’s dramatic value/ audience appeal</td>
</tr>
<tr>
<td>- information seems credible</td>
<td>Story is pitched to editor for resources for embarking upon a ‘full probe’</td>
</tr>
<tr>
<td>-story appears doable &amp; scoops competition</td>
<td></td>
</tr>
<tr>
<td>-topic interests journalist &amp; story is potentially high impact</td>
<td><strong>Stage 3:</strong> ‘Investigation’</td>
</tr>
<tr>
<td></td>
<td>Developing the evidence through fact-gathering</td>
</tr>
<tr>
<td></td>
<td>Information gathered so as to document wrongdoing</td>
</tr>
<tr>
<td></td>
<td>‘Other side of the story’ gathered</td>
</tr>
<tr>
<td></td>
<td>Activist- reformer or Information messenger role</td>
</tr>
<tr>
<td></td>
<td>Reassess credibility of original allegation - Can a convincing case be put to the audience?</td>
</tr>
<tr>
<td><strong>Stage 4 &amp; 5</strong></td>
<td><strong>Stages 4 &amp; 5</strong> ‘Presentation &amp; investigative influence’</td>
</tr>
<tr>
<td></td>
<td>Reporter emphasises dramatic and compelling cases</td>
</tr>
<tr>
<td></td>
<td>Aim: Correspondence &amp; Coherence &amp; simple causal links re: blame</td>
</tr>
<tr>
<td></td>
<td>Villains/victims clearly, &amp; facts accurately/fairly, presented - reader decides</td>
</tr>
<tr>
<td></td>
<td><em>Investigative influence upon public/policy-makers’</em></td>
</tr>
</tbody>
</table>
Interestingly, Sanders and Canel’s (2006, p. 455) research which involved interviews with twelve British and Spanish journalists who had investigated cases of political scandal in their respective countries, found that they adopted similar investigative processes to those outlined by Ettema and Glasser (1998) and Protes et al (1991). To date however, attempts have not been made to apply them to the case-work of investigative journalists working within other genres of investigative journalism, including the genre of investigations into miscarriages of justice, a genre which this discussion now examines.

Investigative Journalism and Miscarriages of Justice

Journalists have investigated, and been crucial in revealing, many miscarriages of justice over the last century, serving as unofficial counsel for the defence in cases where they have often been prisoners’ only feasible recourse (Shapiro, 2003, p. x). As previously noted, journalists are vital to the CJS in their role as the fourth estate (Carlyle, 1841), ensuring that the trial process is kept under public scrutiny and that justice is seen to be done, thereby maintaining public confidence in that system (Kennedy, 2004). However, journalists can also have a crucial role in questioning that confidence, through their re-investigations into, and exposure of, miscarriages of justice (Woffinden, 1987). Such journalists have not only impacted upon victims’ lives but, as chapter 2 notes, upon the CJS itself in relation to the establishment of legal reforms and new legal bodies (Sanders & Young, 2010).

Discussion of journalistic investigations into miscarriages is wholly dominated by anecdotal texts. Some of these, written by journalists who have conducted such investigations, detail what tasks they undertook, the constraints encountered, and the results of their work (see Kennedy, 1961; Hale, 2002). To date however, the only empirical work examining investigative journalism and miscarriages, is research by DeBurgh (2008a), consisting of interviews with three journalists who investigated miscarriages for the BBC’s ‘Rough Justice’ programme. This research is discussed shortly. Firstly, a brief history of journalistic investigations in this area is outlined.
A Brief History of Journalistic Investigations into Miscarriages of Justice

Pre-1960s

Evidence surrounding the history of journalistic investigations into miscarriages of justice is rather patchy, however certainly the media were involved in investigating cases over 100 years ago. This is evidenced in local newspaper editor, W. T. Stead’s ‘crusading journalism’ of the late 1800s, which included an investigation into the murder convictions of Isreal Lipski (Lloyd, 2002) and Florence Maybrick (Stead, 1892). The early 1900s saw the author Sir Arthur Conan Doyle investigating and writing articles questioning the murder convictions of George Edalji (alongside the newspaper ‘Truth’) and Oscar Slater (alongside journalist Ernest Palmer) (Weaver, 2006). Both investigations resulted in the men’s acquittal (Whittington-Egan, 2001). Press coverage of, and investigations into many cases at this time, particularly that of Adolf Beck (see chapter 2) raised public awareness of individual injustice and eventually led to the establishment of an appellate court in 1907 (Sanders & Young, 2010). The ensuing discussion however, focuses upon journalists’ work from the 1960s onwards (the period most relevant to this thesis).

The 1960s and 1970s

The 1960s and 70s saw few journalistic investigations into miscarriages of justice. In relation to those which did occur, miscarriages campaigners at this time, were more likely to turn to newspapers, (than TV) as they were seen to occupy a fourth estate role of protecting the ‘small man’ from ‘scandalous outrage’ (Carlyle, 1841, p. 171). This occurred in relation to the murder conviction and hanging of Timothy Evans, whereby Harold Evans, editor of the local newspaper ‘The Northern Echo’, in conjunction with Ludovic Kennedy conducted an 11 month ‘Man on Our Conscience’ campaign (in 1965), publishing an article every week and then sending them to members of the Houses of Commons and Lords (Lloyd, 2002). This led to the 113 MPs demanding an inquiry into the case and eventually to a Royal Pardon for Evans (Price & Caplan, 1977).

It was not until 1966, that a ‘Panorama’ investigation into the case of James Hanratty marked TV’s first fore into this area (Tickell & Maguire, 1993). This was followed in the 1970s by TV investigations into wrongful convictions in the Maxwell Confait, Luton Post Office, and ‘Torso murder’ cases (Tickell & Maguire, 1993).
The 1980s and 1990s

The 1980s and 1990s saw more journalistic investigations into miscarriages of justice (O’Neil, 2009) and the first TV series on the topic being produced (in 1982), namely the BBC’s ‘Rough Justice’. Rather than producing one-off investigations into cases (as programmes before it had done), this series was solely dedicated to the area. The programme’s producers were heavily influenced by the 1950s American TV series ‘Court of Last Resort’ (Gardner, 1956) in which crime writer Earle Stanley Gardner investigated miscarriages and presented findings to the public for their informed opinion, ultimately saving at least 12 men from execution (DeBurgh, 2000a, p. 8). ‘Rough Justice’s’ first set of three programmes, brought fresh minds and resources to three separate cases and resulted in all of them being re-opened and re-investigated by the Home Office (Hill et al, 1985, p. 175). Overall, ‘Rough Justice’ achieved a 50% success rate in over-turning convictions investigated (Morrell, 1999, p. 12). Many other extensive investigations were conducted by TV journalists during this decade, including those by ‘World in Action’ and ‘First Tuesday’, examining the ‘Irish cases’ (McKee & Franey, 1988).

In newspapers, some of the most extensive miscarriages investigations during this period were conducted by Paul Foot who published his findings in his ‘Daily Mirror’ column and several books (see Foot, 1973; 1986; 1989). His most extensive investigation into the Bridgewater Four case led to the discovery of crucial new evidence presented at the men’s successful appeal in 1996 (McGurk, 2004, n.p). Foot’s efforts were mirrored by those of newspaper journalist Chris Mullin who conducted an extensive investigation into the Birmingham Six case and uncovered new evidence and witnesses, crucial to the men’s successful appeal in 1991 (Gudjonsson, 2003).

The late 1980s/early 1990s, saw a great deal of local, regional, and national newspaper and TV involvement in miscarriages of justice (Belloni & Hodgson, 2000), including Channel Four’s ‘Trial and Error’, (a series which mirrored ‘Rough Justice’s’ efforts on the BBC) which proved to be very successful, with 90% of the convictions examined, being quashed (Jessell, 1994, p. 203). Such heightened media coverage and exposure of miscarriages had, some argue, a major impact upon public confidence in the CJS, providing the major impetus for the RCCJ (1993) and establishment of the CCRC in 1995 (Woffinden, 2010). Interestingly however, this very year, John Ware, a ‘Rough Justice’ presenter, became a victim of crime and published an article in ‘The Spectator’ entitled ‘Unjustly Not Imprisoned’ (Rose, 1996, p. 116). He argued that in a climate of rising
crime, TV should begin to devote its investigative resources to pursuing those who were not being punished for crimes committed. This article arguably indicated that the national debate on criminal justice was moving away from suspects’ rights and towards victims’ needs/protection and ‘rebalancing’ the CJS in favour of the victim (Rose, 1996).

By the late-90s, print journalists found it difficult to gain publication space for miscarriages stories and most miscarriages programmes, apart from ‘Rough Justice’ were axed (O’Hagan, 2011). Some felt that it was no longer journalists’ duty to tackle such issues, arguing that “It isn’t part of the ITV system to get people out of prison” (Carlton TV’s Paul Jackson, cited by Barnett and Curry, 1994, p. 249). However, other journalists continued to investigate cases, including local newspaper editor Donald Hale whose six-year investigation into Stephen Downing’s murder conviction, using his own resources, discovered evidence crucial to a successful appeal after 27 years of imprisonment (Hale, 2002).

*From 2000 Onwards*

During the early 2000s, the lack of media interest in this area began to be voiced and problematised by many, including campaigners who argued that despite the existence of the CCRC “…investigative journalism [was still] virtually the only way that new evidence to overturn a conviction [could] be found” (Eady, 2003, p. 8). The ‘Rough Justice’ unit at the BBC closed in 2007, after 27 years of investigating cases, signalling for some, that many wrongly imprisoned people would remain in prison, the public remaining ignorant of the system’s failings (Holmwood, 2007, n.p). Nevertheless, some journalists have still been motivated to investigate cases, as the 2006 ‘Panorama’ investigation into the conviction of Barry George (Rowe, 2007) and John Sweeney’s investigation into the conviction of Suzanne Holdsworth (BBC, 2008) demonstrate.

**Motivations of Journalists Investigating Miscarriages of Justice**

The only empirical work to-date, addressing the motivations of journalists operating within the genre of miscarriages of justice is that of DeBurgh (2008a). This revealed that the motivations for the ‘Rough Justice’ journalists’ work included the belief that these were socially worthwhile stories, and moral outrage and frustration at the misuse of power against the powerless. In addition, journalists working within this area have highlighted
that one of their prime motivations, is to reveal the difference between the *CJS’s* or ‘legal’ determination of ‘the truth’ and the journalist’s determination of ‘the truth’.

As mentioned in chapter 2, in a criminal investigation, evidence is collected by police officers and presented by the prosecution at trial to serve as proof of its allegation that a defendant is guilty ‘beyond reasonable doubt’ (Herring, 2004). If the jury are so convinced on the basis of evidence presented, it can be said that ‘truth’ has been established (i.e. the defendant did commit the crime) in the legal sense. In order to establish this ‘truth’ however, it is important to note that prosecutors had to produce a *sufficiency* of evidence, rather than *all* of the evidence which might actually exist in relation to the case (Edmond, 2002, p. 187). In other words, there may be evidence which exists, which was, in some way, ‘lost’ or ‘filtered out’ of the investigative or trial process. This may occur through, for example, i) flawed/inadequate police investigations, where potential lines of inquiry are not followed or ignored; ii) evidence being inadmissible at trial (due to legal rules governing such issues); iii) requirements of witnesses to *only* answer ‘yes’ or ‘no’ to questions at trial; and iv) amongst alternative arguments which expert witnesses are paid to promulgate at trial (Stephens and Hill, 1999, p.272). This may mean that a case is presented in court which provides evidence to meet the legal standard of proof required, but which does not correspond with what actually happened.

In addition, it is argued that evidence may also be ‘lost’ or ‘filtered out’ at appeal as a result of legal rules governing evidence which cannot be considered, such as that which was available, but which was not used at the original trial (regardless of any new significance it may have years later), and restrictions governing the work and decision-making of the CCRC, which mean that it can only test the legal system within specific rules (Stephens and Hill, 1999, p.272).

The aforementioned observations form the basis on which journalists argue that ‘legal truths’ are based upon a *sufficiency* of evidence (Stephens & Hill, 1999). Conversely they argue that the investigative journalist does not rely on rules of evidence or precedent, rather s/he has the freedom to assess *all* available (and new) evidence, including that which could have been, but was not, produced at trial, in their search for the truth (Nobles & Schiff, 1995). In this respect then, journalists suggest that, they use ‘common-sense’ in believing that in order to get to the truth of what happened, one must consider *all* available
information (Stephens & Hill, 1999, p. 276). However, journalists also have to overcome obstacles when working within this area.

**Obstacles to Getting Results in Miscarriages of Justice Investigations**

Although there has been no empirical work detailing the obstacles experienced by journalists investigating miscarriages, journalists who have undertaken such work, reveal that abuse, threats, violence, and obstruction, denial, and suppression from the authorities are common (Young & Hill, 1983). There are also investigative constraints in that journalists undertaking such work have, unlike the police, no legal right to, for example, interrogate witnesses/command production of evidence (Jessell, 1994). Other constraints include obstructions from other journalists, particularly local journalists, who may resent national journalists, suggesting that local police, with whom they often have built key relationships as news sources, have made a mistake (Spark, 1999). This may lead to refusal to publish appeals for information or local witnesses (Mullin, 1990). Editors have also attempted to suffocate journalistic investigations into miscarriages, so as to avoid upsetting people in power (Cohen, 2002).

**Attributes and Methods Employed by Journalists Investigating Miscarriages of Justice**

No empirical work has examined the attributes of, and methods employed by, journalists investigating miscarriages, excepting that of DeBurgh (2008a). Here the three ‘Rough Justice’ journalists stated that the attributes required for success were: persuasiveness, an analytical brain, strategic planning, and knowledge of how to relate to the police. Some working within this genre claim that this is ‘simple detective work’, using ‘detective-like methods’ and that journalistic investigators can be just as, if not more, successful than criminal investigators in investigating cases (Mullin, 1996) perhaps because they bring a different ‘cast of mind’ to an investigation from that of detectives, one not bound by rules of evidence or professional convention (DeBurgh, 2008a, p. 297).

Canadian journalist Cashore (2003, p. 1-4) whose investigations have uncovered several wrongful convictions for murder, also argues that in conducting their investigations in this area, journalists are undertaking the same activities as police officers and encounter the same dilemmas, the most important being deciding when to abandon a particular
investigative theory due to facts not supporting the suspicion (see Table 1.2, Appendix 1). This indicates that just as journalistic investigations may be similar to criminal investigations in terms of methods employed and attributes required; they may also be similar in terms of problems encountered or rather investigator fallibilities which may impact upon the robustness, and conclusions of, their investigations.

**Conclusion**

This chapter has examined in detail the role of the journalist as investigator. It attempted to detail what investigative journalism is, what it involves, and how it does/not differ from daily news journalism. Regarding the latter, it was found that investigative journalism may involve journalists working at a higher level than daily news journalism and that possession of particular attributes may benefit those who undertake such work. The attributes identified by the literature as being important in order to successfully undertake this role were then compared to attributes which literature concerning criminal investigation deems to be important in order to successfully conduct police investigations. The motivations, activities, and methods employed by investigative journalists were also explored. The chapter then turned to examine literature concerning the history, role, and practice of journalists conducting investigations into miscarriages. It was revealed that whilst the topic of investigative journalism is hugely under-researched, the topic of journalists investigating miscarriages has been virtually untouched. This is interesting considering journalists’ history of successes in righting wrongs through investigations and storytelling (DeBurgh, 2008b, p. 9). It is to this storytelling role of the journalist that we now turn.
CHAPTER 5: THE JOURNALIST AND HIS/HER INVESTIGATIVE STORYTELLING

Introduction

In telling stories, investigative journalists aim to not only inform, but to bring about change within society in some way (Ettema & Glasser, 1998). Therefore, their narrative engagement with an issue, (how they produce/publish investigative results) is as important as their investigative engagement with it. With this in mind, this chapter provides an in-depth analysis of the journalist, and particularly the investigative journalist, as producer, and teller of stories. The discussion firstly outlines how journalists in general select stories, highlighting the role and importance of, for example, news values and newsworthiness and the impact of journalistic, cultural, and ideological values upon story selection. Research analysing how the investigative story is told is then discussed. Here, there is reference to the journalist as a storyteller and therefore to journalistic work as narrative. Finally, the chapter examines available literature upon the selection, production, and changing newsworthiness of investigative stories about miscarriages of justice. Chapter 2 noted that the newsworthiness of miscarriages appeared to have changed over time. Suggestions as to why this may have occurred are provided in this chapter by Nobles and Schiff (2000) who, (with the exception of this thesis), have conducted the only research to date into this phenomenon.

Journalism: Story Selection and Production

Journalists often refer to news events/issues as ‘stories’, thus it crucial to begin by detailing what ‘news’ is, i.e. what constitutes a ‘story’ for journalists. News could be said to be “…new, fresh…information…[on] matters in the public interest” (Randall, 2007, p. 26). The main ways of selecting stories are: ‘hunter-gathering’, (collection of ‘surface phenomena’ as stories) and ‘cultivation’, (planned collection of stories from familiar authoritative sources) (Mannheim, 1998). A rarer, subsidiary type of news selection is investigative newsgathering (McQuail, 2005). The selection of stories excludes all but a small number of events considered newsworthy (Wykes, 2001). Many influences affect what bits of reality become news. These include internal features of potentially newsworthy items and practical issues such as resources, time, accessibility, publication space, commercial, and legislative pressures, the type of organisation the journalist works for and their audience, and ideologies of the political system under which journalists work.
These issues are discussed shortly. Firstly, the importance of objectivity, impartiality, and truth to journalistic work is discussed.

**i) The Importance of Objectivity, Impartiality, and Truth**

Objectivity, “...present[ing] that which is not affected by one’s own assessment, i.e. the facts” (Wein, 2005, p. 4) is the journalistic ideal around which other notions important to journalists, such as impartiality, (i.e. neutral and proportional presentation of both sides of an argument) revolve (Corner, 1999, p. 66). As can be noted from the discussion above, journalists are not objective in terms of how they select stories. Rather their claims to objectivity lie in their presentation of stories and refer to accurate, balanced reporting which minimises journalistic opinion and distinguishes fact from comment (Schudson, 1978, p. 293). These are concepts related to notions of a free press and the journalist as public watchdog, trusted to expose the ‘truth’ of events in the public interest. The use of the rule of objectivity then is said to mean that stories can be trusted to represent the ‘truth’ in the form of independently verifiable facts (Ehrlich, 1996, p. 14). Interestingly however, all accounts of reality presented in journalists’ stories are selective and value-laden in themselves, in the respect that they consist of the perspectives of the sources which provide those stories or the journalists’ own interpretation of the truth of an event which they have directly observed. Objective reporting then, in the sense of journalists producing value-free accounts of reality is unachievable. However, in terms of story presentation, objectivity is still prioritised and manifests itself in a set of practices or strategic rituals (Tuchman, 1972, p. 661).

**Table 5.1: How adopting a set of strategic rituals assists journalists in constructing an account of reality that can at least be justified in the name of objectivity (adapted from Tuchman, 1972):**

<table>
<thead>
<tr>
<th>Journalists’ strategic rituals</th>
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<tr>
<td>i) Presentation of conflicting possibilities</td>
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<tr>
<td>ii) Presentation of supporting evidence</td>
</tr>
<tr>
<td>iii) Use of quotation marks</td>
</tr>
<tr>
<td>iv) Structuring information in an appropriate sequence</td>
</tr>
<tr>
<td>Ensuring that one version of events is balanced against competing versions; Facts are gathered to inform on a topic; Signalling distance between a source’s account and the journalist The most important being placed at the beginning of stories</td>
</tr>
</tbody>
</table>
As Table 5.1 indicates, strategic rituals assist journalists in constructing an account of reality that allows them to defend their product as objective. They provide a particular kind of ‘voice’ that signifies factuality through presenting a balance between competing ‘truth’ claims (Fulton, Huisman, Murphet, & Dunn, 2005, p. 232). Importantly however, these truth claims usually sit in a ‘hierarchy of credibility’ demonstrating that the right for one’s version of the ‘truth’ to be heard within the media is differentially distributed (Becker, 1967, p. 241). Thus, whilst some non-official sources may be sought by journalists so as to balance official sources’ truth claims, generally journalists regard the viewpoints of the politically marginal, resource-poor, and ‘advocates’ of particular causes, as less credible, partial, and distorted, meaning that they will be less likely to report them (Allan, 1999, p. 71). Indeed, some argue that objectivity is compromised by the media giving ‘structural preference’ to the opinions of the powerful, such as the police, who then have a built-in advantage in setting news agendas and becoming the primary definers of issues discussed by journalists (Hall et al, 1978, p. 58).

**ii) The Importance of News Values and Gate-Keeping**

As mentioned earlier, story selection and production is affected by a number of internal features of news-making. These features include news values, (journalists’ unwritten ‘rules of thumb’ about what makes a good story) which govern journalistic decisions concerning selection of events (Critcher, 2003). News values are always relative. Thus, an event of interest now will eventually be eclipsed by another more interesting one. However, generally for an event to be newsworthy it must meet certain journalistic criteria (McQuail, 2005, p. 310). Many researchers have attempted to isolate these criteria, the first being Galtung and Ruge (1965) who viewed potential news items as guests arriving at a hotel, with ‘Media Perception’ allowing some to pass through the ‘media gates’ (to be reported) and ejecting others back on to the street (Watson, 2003, p. 135) – hence the notion that news values manifest themselves in ‘gate-keeping’ (McQuail, 2005, p. 556). Entrance through the gates also depends upon the institutional/personal preferences of media owners, external influences upon the organisation, and the status of sources bringing items to the gates, with the gates being more likely to be opened to ‘Knowns’ (elites/officials) than ‘Unknowns’ (Watson, 2003, p. 124). Galtung and Ruge (1965) argue that events are more likely to make it through media gates, being selected as stories, if they satisfy one or more of the requirements in Table 1.3, Appendix 1. Different values may determine the selection/presentation of events by different news media, however
importantly once one newspaper treats an event as news, other newspapers will usually
follow suit because newspaper journalists read their own/others’ newspapers looking for
continuities which their own reporting has constructed (Rock, 1973, p. 77-8). In addition,
broadcast journalists usually follow the press in deciding what is newsworthy (Rock,
1973).

A number of scholars have revised Galtung and Ruge’s original framework of news values
(see Bell, 1991), however revisions most relevant to this thesis are those relating to crime
news stories (see Chibnall, 1977; Jewkes, 2010, Table 1.3, Appendix 1).

iii) Crime-Related Stories as Morality Tales

Stories about crime, particularly the crime of murder, (and related issues of criminal
justice, investigation, and victimisation) are prominent across all media (Chibnall, 1977).
Crime satisfies all news values and exemplifies an over-riding news value, that of
‘deviance’ (i.e. events which disrupt/deviate from expectations) (Watson, 2003, p. 163).
In this respect, the media and public’s interest in crime and related issues is arguably due
to their moral implications. Indeed, through symbolic demonstrations of good versus evil,
crime stories can arguably be viewed as a form of morality storytelling (Innes, 2003, p.
64), giving audiences a chance to engage in a ‘daily ritual moral workout’,
questioning/confirnng their own moral fortitude and ‘shaping up’ their moral attitudes
(Katz, 1987) an issue returned to later.

iv) The Newsworthiness of Victims within the CJS

An interesting point to emerge from Jewkes’ (2010) work (see Table 1.3, Appendix 1) is
the increased newsworthiness of crime victims and their stories. This is said to be the
most significant change in media representations of crime ever to have occurred and has
occurred against a backdrop of greater political focus on victims over the last 15 years or
so (Jewkes, 2010). This also however, seems to mean that offenders/their representatives
have become more unpopular within the media (Greer, 2007, p. 41).

Some victims, those who signal ‘respectability’, (white, middle-class, young females for
example) appear to be more newsworthy than others (Doyle, 2003). However, victims’
stories may also become more newsworthy if they feature evidence of serious institutional
failure. Attribution of blame is core to the construction of a compelling crime narrative. Thus, criminal cases wherein officials have failed/faltered, have strong potential to develop into a story and often receive sustained critical coverage (Greer, 2007, p. 32). Here, the victim’s ‘symbolic power’ sometimes extends beyond their individual case to become representative of wider issues relevant to many and may through generating collective moral outrage, help to pressurise those authorities publically implicated in the failure to bring about reform (Innes, 2003). Due to media coverage then, these crimes, such as the murder of Stephen Lawrence, not only impact upon the victim, but also upon wider society (Savage, Poyser, & Grieve, 2009). Such cases also raise the issue of the newsworthiness of serious crime investigation, in relation to which the defaulting/ineffective detective is a ‘story’ (Chibnall, 1977, p. 142).

v) Agenda-Setting

Before leaving the issue of newsworthiness, agenda-setting, which is related to gate-keeping and news values, (as issues come onto the media agenda via those gateways discussed), must be mentioned. Agenda-setting theory suggests that the order in which the media report particular issues and how often they report them, influences public awareness/debate around them (McCombs & Shaw, 1972). The media indicates what the main issues of the day are, and this is reflected in what the public perceive to be the main issues, and the more the media reports about a topic, the more importance the public attribute to it (Keeble, 2006). In conferring ‘status’ on public issues, the media may ultimately help to cultivate a sense that ‘something must be done’ about them and ultimately initiate organised social action (Laughey, 2007, p. 234). Newspapers are the main agenda-setters as they expose the public to an issue over a longer period than TV. Indeed, stories rarely exist for TV unless they have first appeared (and therefore been validated) in print (Tumber, 2001). However, as TV rarely mentions a topic, even a single mention via this medium indicates its high importance. Thus, TV is the most important determiner of public opinion (Tumber, 2001).

vi) News Framing

Agenda-setting is also linked to news framing and the notion that the media structure reality for audiences, i.e. how people think about an issue is dependent upon how the media frame it (Bignell, 2004, p. 96). Frames, which consist of preferred definitions of
situations, organise and structure journalists’ stories (Gitlin, 1980). The media assign issues to certain categories and package them in stock ways so that audiences can easily comprehend them (Allan, 1999). Once a particular news frame is adopted for a story, its principles of selection ensure that only information deemed appropriate within the frame’s conventions appears in the account (Entman, 1993). Frames define problems/causes, make moral evaluations, link to audiences’ attribution of blame, and suggest remedies (Entman, 1993). News framing is an issue highlighted in some theoretical approaches to journalistic storytelling.

Theoretical Approaches to Journalistic Storytelling

A Voice for the Powerful and the Profiteers

As mentioned previously, some argue that in their storytelling, journalists are more likely to draw upon the statements of powerful institutional sources (Fleming, Hemingway, Moore, & Welford, 2006). Their definitions about controversial topics are more readily accepted by journalists as they are seen to possess the most accurate information (Schlesinger & Tumber, 1994). This however, arguably results in these sources framing the initial interpretation of a topic and setting the limits of debate from therein (Hall et al, 1978, p. 58). This Marxist notion suggests then, that rather than independently and autonomously creating news items, journalists are ‘cued in’ to specific topics by powerful sources (Laughey, 2007, p. 130). Thus, news systematically favours dominant groups’ ways of seeing things and marginalises dissenting voices (GMG, 1982, p. 3). In relation to crime stories, this has the effect of bolstering the law and order stance of reporting, in that as the police control most information on crime, it is primarily filtered through their perspective (Hall et al, 1978, p. 58).

Related to the aforementioned stance is the notion that journalistic storytelling consists of the media providing a voice which suits profiteers (Laughey, 2007). Crime is a topic that is particularly constrained by the media quest for populist, profitable storytelling and this arguably has consequences for the production and dissemination of crime/criminal justice knowledge (Laughey, 2007, p. 164). Today, investigative stories about crime tend to concern safer, less expensive, consumerist issues and to be presented more sensationaly so as to impact upon audiences, (ensuring they continue to read/watch) rather than upon public policy, thereby serving the ‘public good’ (Gaber, 2008, p. 254). Crime news is
profitable as it draws in readers/watchers who become audiences for advertisers, thereby making the media money. Thus, controversial, complicated crime, (including investigative) stories are avoided or dumbed-down, thereby increasing their commercial viability (Fowler, 1991).

A Voice for the People

The aforementioned ideas have been criticised by liberal pluralists for ignoring the complexities of relationships between journalists and sources and instances in which alternative explanations have achieved prominence in journalists’ stories (Harcup, 2009). These theorists argue that journalists retain a degree of autonomy and can act independently on behalf of the public, using their intellectual freedom from powerful influences, in news selection/production (Schlesinger & Tumber, 1994, p. 15). This may lead to journalists investigating and exposing an issue in the name of the public’s right to know, and providing a voice for powerless ‘counter-definers’ with ideas which challenge primary definers, in for example, campaigning for criminal justice reform (Greer, 2005). Liberal pluralists may however, understate the influences within newsrooms which limit journalists’ freedom, such as the importance of reflecting particular editorial positions (Marr, 2004).

A Voice of Convenience

The aforementioned theories view journalistic storytelling as being shaped by ideologies, however Tuchman’s (1978, p. 21) notion of a ‘news-net’ argues that it is actually shaped by journalism’s daily work requirements, (including the need to gain a cheap, convenient flow of information, by set deadlines). This means that journalists organise themselves around institutions more likely to generate news stories that they can ‘scoop up’ in their net and explains why official sources dominate journalists’ stories (Langer, 1998). This is also why journalists categorise stories into particular types (see Table 5.2). Arguably, identifying the story as a particular type, in turn, pinpoints the sources that journalists speak to (Ericson, Baranek, & Chan, 1987). The story type therefore, means that although journalists are more likely to air the views of the powerful, sometimes their stories challenge official sources (Allan, 1999).
Table 5.2: How daily news journalists (national and regional) categorise events (adapted from Tuchman, 1973; Brunsdon & Morley, 1978; Langer, 1998; DeBurgh, 2000e)

<table>
<thead>
<tr>
<th>How journalists categorise events</th>
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<tbody>
<tr>
<td>Hard news (about daily events)</td>
</tr>
<tr>
<td>Soft news (human interest stories)</td>
</tr>
<tr>
<td>Spot news (about unexpected events)</td>
</tr>
<tr>
<td>Developing news (where facts are still emerging)</td>
</tr>
<tr>
<td>Continuing news (series of stories on same subject)</td>
</tr>
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<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

In this respect, Schlesinger and Tumber (1994) view crime news as a competing arena of conflicting viewpoints, with not only formal criminal justice institutions, but groups critical of the establishment, being given a voice in journalists’ stories, depending upon their organisational and presentational skills (Reiner, 2007). However, although this view stresses that alternative voices can be heard through the media, it warns that their novelty value will eventually diminish, leading to reduced media attention and to well-resourced official sources, (such as criminal justice agencies), gaining the advantage once more. This approach emphasises a powerful media which can use its discretion in deciding how issues are reported and can challenge the primary definers (Schlesinger & Tumber, 1994, p. 32). It explains how although the police for example, are a prime source of information for journalists and stories concerning their misconduct are likely to prove detrimental to the journalist’s relationship with them, s/he may still sometimes challenge this institution.

Thus far, we have primarily examined how and why daily news journalists select stories, however how they tell them is also important to briefly mention here (an issue discussed further in chapter 6).
Considering Journalistic Product as Narrative

Narrative, deriving from the Latin word ‘narre’, meaning ‘to make known’ (Tomascikova, 2009, p. 1) is an interpretive device, a means by which humans make sense of, and represent, their experience (Cortazzi, 1993, p. 1). Narratives contain action and characters, brought together in a plot which has a linear sequence of cause and effect (Franzosi, 1998). Narratives have a point, such as a moral message about how the world should be and can help to solve problems and resolve dilemmas (Ochs & Capps, 2001).

Arguably, journalism consists of the act of telling a ‘story’. Indeed, narrativity could be considered to be the central factor structuring news work (Jacobs, 1996, p. 73). Structuralist theorists, who assume that key structures underpin all stories, go further in claiming that journalists’ stories contain the same basic structure as fictional stories (Ehrlich, 2000, p. 105). This issue is examined further in chapter 6. Here, it is enough to say that journalistic, like fictional storytelling, arguably involves a process of invention and utilises narrative devices such as plot, action, dramatisation, causation, and characterisation (Ehrlich, 2000). Stories are built around characters possessing easily recognisable traits such as victims and villains. In this respect, journalists’ stories may fit the oldest master narrative framework, the fairytale formula (Propp, 1968), whereby such oppositional relationships advance, and give meaning to, the narrative. Interestingly, research which has succeeded in isolating the victim and villain within journalistic stories, argues that their identification consistently supports the powerful (see GMG, 1982). However, investigative journalists’ stories always identify the villain as the powerful (Ettema & Glasser, 1998) as discussed shortly.

Investigative Journalism: Story Selection and Production

Many scholars suggest that investigative stories differ from daily news stories, in terms of how they are selected and told. As previously mentioned, daily news stories are ‘passive’, descriptive outlines of public events, selected according to their newsworthiness. Investigative stories however, are proactive pieces which ‘hijack’ the news agenda on the audience’s behalf (Nuttall, 2006). They involve a topic that the journalist has chosen according to their own definition of news values and which s/he insists from a moralistic stance should be on the news agenda (DeBurgh, 2000a, p. 14). These stories have a purpose, i.e. to reveal the wrongdoing of/hold to account the powerful, and to ultimately
achieve a result, i.e. to bring about a change to some situation (McQuail, 2005). Cordell (2009, p. 123) argues that in order for a story to be classified as investigative it must meet the criteria outlined in Table 5.3.

Table 5.3: The criteria which a story must meet in order to be classified as investigative (adapted from Cordell, 2009)

<table>
<thead>
<tr>
<th>An investigative story must contain the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) there must be a clearly defined powerless victim to empathise with and a powerful villain (individual/institution) to blame</td>
</tr>
<tr>
<td>ii) the information revealed about the villain (which they want suppressed) must be in the public interest</td>
</tr>
<tr>
<td>iii) it must offer ideas so as to initiate public dialogue around what must change</td>
</tr>
<tr>
<td>iv) it must pursue the issue beyond a balanced representation of allegation and denial, through meticulous collection/evaluation of evidence to support and refute allegations</td>
</tr>
</tbody>
</table>

Interestingly, although investigative stories present specific injury/injustice they usually have a meaning which transcends the facts of the particular case, such as the breakdown of social systems (Ettema & Glasser, 1998, p. 11).

Investigative Stories as ‘Truth-Telling’

In their examination of the production of investigative stories by American investigative journalists, (which involved interviewing journalists about their work and interpretation of their narratives), Ettema and Glasser (1998) consider some of the issues mentioned above in terms of the differences in the epistemologies of daily news and investigative journalism. As mentioned in chapter 4, daily reporters do not need to decide whether they believe information reported to be true. The credibility of this information comes through virtue of it being provided by officials whose position means that what they say can be accepted, by the reporter at least, at face value (Fishman, 1980). As long as what officials say, is reported accurately, the reporter can be said to have reproduced the ‘truth’ of officials (i.e. their reportage agrees with the ‘reality’ of what officials have said) (Ekstrom, 2000, p. 271). Because of these practices, daily news stories are perceived, by journalists at least, to be objective. Objectivity is however difficult in investigative storytelling, as here, the journalist is deciding what they believe to be true on the basis of information gathered and analysed (Manning, 2001, p. 70), often because stories have arisen from
unofficial sources. In producing stories, the investigative journalist must justify the knowledge claims presented, and take responsibility for this, particularly as such stories usually aim to place blame (Hallin, 1994, p. 21). These knowledge claims then, are rooted in a process which yields some level of certainty about the convergence of facts into a truthful story (Ettema & Glasser, 1998, p. 159).

The journalistic investigative process has been likened to a scientific model of news-gathering in terms of its rigors of inquiry, meticulous collection/evaluation of evidence, and minimisation of personal assumption. What is accepted as a sufficiently corroborated thesis is determined by how the facts were gathered and supported (Ekstrom, 2002, p. 272). This is similar to the work of the police detective. Both investigators cannot, in their investigations, reconstruct what exactly happened in a case. The best they can produce is an ‘event narrative’ of what occurred, when, and by whom, based upon their interpretation of evidence and evidential corroboration among victim/witness accounts. This, Ekstrom (2002, p.140) terms the practical production of ‘truth’. The ‘event narrative’ created, and later presented in court or published in, for example, a newspaper (Maguire, 2003, p.366), must be fair, (covering allegations from both sides) and, as mentioned, must be underpinned by evidence so as to justify that narrative. Both investigators are thus involved in a process of justification, a process which demonstrates their grounds for presenting their particular ‘event narrative’ as ‘true’ (Maguire, 2003).

Investigative Stories as Moralistic Tales

Investigative journalism is said to be motivated by moral indignation and pursued for moral ends (Ettema & Glasser, 1998). It is not surprising then that investigative stories are described as evidence-based moral stories, containing a narrative style and cast of characters (including victims and villains) which aim to present an activity as morally wrong, thereby engaging the public conscience, evoking moral outrage, and causing citizens to call for change (Tapshall & Phillips, 2002).

As mentioned previously, whereas daily news stories usually present the State/its officials as guardians of the moral order, investigative stories, present them as blameworthy (Spark, 1999, p. 4-6). Here, the journalist occupies the role of moral guardian – a position which perhaps conflicts with the professional requirement of journalistic storytelling to be
objective (Gans, 1979, p. 56). However, investigative journalists arguably try to meet the requirement for detached objectivity in their storytelling in the ways outlined in Table 5.4.

### Table 5.4: How investigative journalists try to meet the requirements for their moralistic stories to be objective (adapted from Ehrlich, 1996; Ettema & Glasser, 1998; Rabiger, 1998)

<table>
<thead>
<tr>
<th>Storytelling strategy adopted</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citing established moral standards/standards of conduct drawn from explicit criteria such as the law or recognised experts</td>
<td>Establishes that the instance of wrongdoing is ‘wrong’</td>
</tr>
<tr>
<td>Reporting only empirically incontrovertible ‘black and white’ instances of wrongdoing. Subject matter limited to violation of widely held values</td>
<td>An appeal to common-sense – the facts of the story speak for themselves, thus appearing as obviously unfair/wrong</td>
</tr>
<tr>
<td>Showing the public what it would be like if it happened to them.</td>
<td>An appeal to common decency, so as to engage the public conscience. It is obvious that the violation is not just technically wrong, but morally wrong</td>
</tr>
<tr>
<td>Use of irony, i.e. what is, is juxtaposed with what should be</td>
<td>Audience led to feel that they, like the story’s victim, have foolishly trusted officials, thereby being unknowingly complicit in this injustice</td>
</tr>
</tbody>
</table>

Adoption of such strategies, arguably serves to insulate the journalist’s story from charges of bias and slant, allowing them to appear objective whilst dealing with issues of right and wrong (Ehrlich, 1996, p. 27). Indeed, the investigative story always stops short of explicitly pronouncing that the activity being exposed is wrong (Ehrlich, 1996).

Part of aiming to appear objective involves investigative stories achieving *correspondence* to reality through techniques, such as interviews with eye-witnesses, and *coherence*, (produced when facts are embedded into a narrative with a structure familiar to audiences, so that they recognise it as a particular story-type and comprehend its meaning) (Ehrlich, 1996, p. 273). The latter relates to how investigative stories are categorised and framed.
The Categorisation and Framing of Investigative Stories as Moralistic Tales

As mentioned previously, daily news journalists categorise events into particular categories and different framing techniques are used according to the requirements of each category. Interestingly, DeBurgh (2000a, p. 17) argues that investigative stories can also be categorised in this way (see Table 5.5):

### Table 5.5: Categories for investigative stories (adapted from DeBurgh, 2000a)

<table>
<thead>
<tr>
<th>Categories for investigative stories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identifying a shameful practice as a transgression of moral law</td>
</tr>
<tr>
<td>Revealing abuse of power</td>
</tr>
<tr>
<td>Questioning the factual bases upon which assertions are made</td>
</tr>
<tr>
<td>Showing that justice has been corrupted</td>
</tr>
<tr>
<td>Challenging an official account</td>
</tr>
<tr>
<td>Demonstrating how laws can be circumvented</td>
</tr>
<tr>
<td>Exposing the gap between profession &amp; practice</td>
</tr>
<tr>
<td>Disclosing a cover-up</td>
</tr>
</tbody>
</table>

As mentioned journalistic framing ‘tells’ the audience how they should feel about the issue being represented. Thus for example, an event becomes a tragedy, when placed within the context of a structured set of events which are read as tragedy (Ettema & Glasser, 1998, p. 34). It is this storytelling technique of framing that ensures that audiences receive the message intended for them. Investigative stories appear to commonly use a moralistic master-frame, (where good versus evil) thereby permitting emission of a moral message (Acohido, 1997) – see Table 5.6.

### Table 5.6: A master-frame for (or core structure of) investigative journalists’ stories (adapted from Ettema & Glasser, 1998)

<table>
<thead>
<tr>
<th>A master-frame for (or core structure of) investigative journalists’ stories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial</td>
</tr>
<tr>
<td>Demonstration of a pattern of harm/wrongdoing</td>
</tr>
</tbody>
</table>
The above is told in four parts:

What’s going on?  How is it going on?  Why isn’t someone regulating it better?  What ought to change?

Within this moralistic framework investigative journalists highlight the need to present the story in human terms, with clarity and simplicity, particularly on TV which has far fewer words available than newspapers and usually only tells a tale once (Ross, 1997, p. 167). Villains must be clearly, unambiguously illustrated and juxtaposed against easily identifiable victims, who must be defined as innocent enough to make their suffering a moral outrage (Protess et al, 1991, p. 225). Simple causal links allow audiences to draw clear inferences about who is to blame. Empathy is often created for victims through narrative strategies such as privileging their emotionally-charged account and framing their experiences as tragedies involving suffering at the hands of an indifferent system (Protess et al, 1991, p. 177).

Investigative Stories as Detective Narratives

Closely related to the notion that investigative stories are presented as morality tales, is the notion that they are similar to fictional detective narratives. As previously highlighted, the way in which journalists build/present their investigative narratives is similar to the way in which detectives build/present theirs. It is not surprising then that journalists’ investigative stories have been likened to the detective genre of fictional stories. This genre transforms crime into a complicated puzzle of investigation and pursuit (Cawelti, 1976) and falls into three main types - see Table 5.7:

Table 5.7: Types of fictional detective story (adapted from Cawelti, 1976; Todorov, 1977; Todorov, 1988; Berger, 1992; Dove, 1997)

<table>
<thead>
<tr>
<th>Type of fictional detective story</th>
<th>Features</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The ‘Whodunit?’, ‘Mystery’, ‘Curiosity’ or ‘Classical’ formula</strong></td>
<td>Amateur detective solves complex crimes (through use of detached intelligence, rationality &amp; common-sense) which bungling police cannot. Story proceeds from ‘effect’/disruption of equilibrium (discovery of corpse), then reconstructs events to reach ‘cause’ (culprit). The story’s plot is the account of the investigation &amp; audience is involved in</td>
</tr>
</tbody>
</table>
interpretation of clues and attempting to place them in a complete & rational scheme of cause & effect – so as to reduce the problem to a point where the solution, (which can be implied) is inevitable. This establishes a new equilibrium.

**The ‘Hard-boiled’, ‘Tough-Guy’ or ‘Suspense’**

The detective is a private investigator, a common, but honourable man, reflective. Far less detached than the classical detective, with ambivalent relations with the police. Movement is from ‘cause’ (gangsters preparing a crime) to ‘effect’ (corpses) & it ends leaving a residue of mystery.

**The ‘Procedural’ or ‘Thriller’**

The detective belongs to a police force & uses their own resources to catch criminals.

Whichever the type of detective story, action focuses on the crime or initial disturbance, finding the explanation for the disturbance, (here the detective ‘hero’ is tested) and identifying the criminal, usually a killer (Cawelti, 1976). To do so, the detective acquires information including witness, documentary, and forensic evidence, and assembles it into a narrative of the crime (Bignell, 2004, p. 128).

Research by Beattie (2004, p. 193) highlights how journalists’ investigative stories about foreign affairs have a similar narrative structure to fictional detective stories, (particularly in relation to how they set about advancing an argument) and that the journalist’s role in these stories is that of ‘lone detective’ embarking on a journey, involving the audience in their investigation. These programmes portray, he argues, the mystery being resolved in a way which not only reveals the facts but also demonstrates the investigator’s prowess, just like a detective story. Of particular interest however, is Campbell’s (1991, p. 40-60) study of the American TV investigative series ‘60 Minutes’, which investigated and solved murders (the subject matter investigated by journalists in this thesis) and his likening of these narratives to detective stories, particularly ‘Whodunits?’, (with journalists portrayed as detectives solving puzzles using rationality and common-sense) – see Table 5.8.
Table 5.8: How a ‘60 Minutes’ narrative is similar to fictional detective narratives
(adapted from Campbell, 1991)

<table>
<thead>
<tr>
<th>Narrative proceeds from effect to…</th>
<th>...reconstruction of events, twists and turns, conflict, finding and interpretation of clues, so as to reach…</th>
<th>Solution or cause</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) Notion of victim established</td>
<td>ii) Transformation of crime into puzzle</td>
<td>iii) Search for clues</td>
</tr>
<tr>
<td>Filming at the victim’s graveside</td>
<td>Experts &amp; lawyers shot amid professional settings - establishes professional legitimacy (but they cannot solve the puzzle)</td>
<td>Accumulation of evidence, often requiring travel</td>
</tr>
<tr>
<td>Victim personalised as individual standing for virtue</td>
<td>Reporter must find out what has happened</td>
<td>Reconstitution of crime</td>
</tr>
<tr>
<td></td>
<td>Reporter granted more visual space than expert/lawyer, as voice of common-sense directs audience attention to detective’s ability &amp; demonstrates that only his superior mind can solve it</td>
<td>Interviews with characters (including witnesses) reveal clues &amp; case building continues</td>
</tr>
</tbody>
</table>

Campbell (1991, p. 49) observed that the journalists in these programmes had by the end of the story, like fictional detectives, solved problems, revealed the ‘truth’ according to the evidence discovered, resolved conflicts, and reaffirmed social order. Most stories did not feature a specific ending with the criminal’s apprehension and confession. However, this is not necessary as the ‘Whodunit?’ is more concerned with the isolation/specification of guilt (Cawelti, 1976, p. 52).

Like fictional detectives, the reporter in ‘60 Minutes’ stories controls the situation whilst being apparently detached, (thereby concealing his overt moral stance). The reporter affirms widely held values of efficiency and justice. These are juxtaposed against the
counter-values of villainous inept institutions, the equivalents of the bungling, inefficient fictional police detective (Cawelti, 1976, p. 65). The common-sense frame, a narrative device used in the fictional ‘Whodunit’, (see Table 5.7) was also found to structure these investigative stories. Campbell (1991, p. 44) argues that the journalist helps the audience to interpret the world through the common-sense frame of the narrative and to encourage distrust of institutions which seek to convolute common-sense. He solves the puzzle by outwitting more formally educated characters who lack his common-sense.

Ettema and Glasser’s (1998, p. 47) analysis of investigative stories also found that journalists relied on common-sense and rational instinct, like their fictional detective counter-parts, and in using this, combined with moral detachment and neutral reporting (see Table 5.4), succeeded where official investigators failed. The investigative reporter, like his fictional detective counterpart, appears distanced from events, enabling him/her to see the ‘whole picture’, using the ‘scientific mind’ to gather facts and document the empirical ‘what is’ (Ettema & Glasser, 1998, p. 48).

The Aims of Investigative Storytelling

The most extensive research examining the aims of investigative storytelling is that of Ettema and Glasser (1998, p. 188-9). This revealed that in telling investigative stories, journalists have three main aims:

Publicity

This involves enlightening the public about instances of wrongdoing/injustice and thereby contributing to the ‘transformation of visibility’ (Thompson, 1995) whereby the operations of the powerful become increasingly subject to public scrutiny (Stapenhurst, 2000, p. 7). Here then, a moral (and political) agenda is set, changing the way an issue is perceived and debated, and reframing the public sphere (Habermas, 1989, p. 187), an arena which can be real enough to matter to policy-makers who must respond to the image of an outraged public (Habermas, 1989).
Accountability

This involves calling wrongdoers to account, demanding that not only victims have a voice, but that villains respond to accusations. Here, investigative stories can act as a ‘public interlocutor’, demanding answers from authorities, thereby helping to produce explanations essential for deliberative democracy (Cottle, 2005, p. 112). Like the courts, the media can compel testimony and “those who decline a journalist’s call to accountability [through their story] can be held in contempt of the public” (Cottle, 2005, p. 194).

Solidarity

This involves creating a compassionate/empathetic bond between victims and the audience through a story’s appeal to our moral sensibilities (see above). Investigative storytelling arguably invites us to identify with the plight of the powerless, to engage our conscience (as we discover that some of us are being treated unjustly) and to acknowledge our shared vulnerability to injustice (Ettema & Glasser, 1998).

Journalists interviewed in Sanders and Canel’s (2006, p. 455) research (mentioned above) stressed that through telling evidence-based stories placed within a moral framework, they aimed to bring wrongdoing into the public gaze (fulfilling the publicity function) and call wrongdoers to account (fulfilling the accountability function), ultimately aiming to bring about change. However, the journalists were unsure that their stories created bonds of compassion between the public and victims (fulfilling the solidarity function). Research by Protess et al (1991, p. 4-5) involving interviews with investigative journalists found that they had similar aims but that they also aimed to build agendas through storytelling.

Agenda-Building

Agenda-building is a process related to agenda-setting (previously mentioned) by which some issues become important in policy-making arenas (Lang & Lang, 1983). Protess et al (1991, p. 4-5) use this term to describe how investigative reporters make certain issues more salient through their stories to the media, policy-makers, and the public in the hope of eventual reform. In terms of their influence upon other media, as investigative stories usually expose issues which meet all the criteria for newsworthiness, they are normally
covered widely by other media after publication (Protess et al, 1991, p. 232). In terms of their influence upon policy-makers, Protess et al (1991, p. 183) argue that investigative storytelling can produce three types of policy-making outcomes, namely: deliberative (official commitment to discuss/investigate the problem which might include commissioning studies); individualistic (sanctions are applied against wrongdoers identified); and substantive (changes in laws, policies, or creation of official bodies). In terms of their influence upon the public, investigative stories may lead to changes in public opinion, which may in turn mobilise the public to push policy-makers to bring about change (Lloyd, 2002, p. 15).

Of course, sometimes investigative stories do not change public opinion (Coronel, 2008). Research suggests that public opinion is more likely to change if an issue’s coverage is simple, clear, widespread, and lengthy, and if villains/victims are unambiguously presented alongside uncomplicated evidence, clearly indicating where blame lies (Protess et al, 1991, p. 172). In addition, although investigative stories may change public attitudes, they do not necessarily mobilise the public to push for reform and even if they do, research demonstrates that most reforms occur regardless of the public’s reaction to an investigative expose, (sometimes being announced before the expose is published due to pre-publication transactions between journalists and policy-makers) (Protess et al, 1991). Indeed, Protess et al (1991) argue that generally, the actual process of investigation, (involving this ‘coalition journalism’) brings about change, not public pressure being placed upon policy-makers in response to the publication of the investigative story.

Investigative Storytelling about Miscarriages of Justice

An area wherein journalists aim to arguably have major influence with their stories is that of miscarriages of justice. We now consider miscarriages as newsworthy stories, how stories around miscarriages are told, and journalists’ aims in telling them. This discussion is relatively brief due to the dearth of literature in this area.

Miscarriages of Justice as Newsworthy Stories

From the earlier discussion regarding newsworthiness, it might be assumed that all journalistic stories about miscarriages would be very newsworthy as they possess many of the news values mentioned in Table 1.3, Appendix 1. However, as chapter 2 indicated
miscarriages actually vary considerably in the extent to which they are able to attract media interest (Pardue & Pardue, 2004). In addition, their newsworthiness may also depend upon other factors as discussed below.

The Changing Newsworthiness of Miscarriages of Justice Stories

To date, the only piece of empirical research examining the changing newsworthiness of miscarriages of justice is that of Nobles and Schiff (2000). This research involved a content analysis of over 1000 broadsheet newspaper articles between 1987 and 1996. The results of this study pinpointed the period 1989-1992 as a time when the newsworthiness of miscarriages increased massively.

Figure 3.1, Appendix 3, indicates how, according to Nobles and Schiff (2000), periodically convictions arise which journalists identify through their investigations and stories as miscarriages and which the CJS does not then readily rectify. This is because the basis on which a miscarriage becomes high-profile within the media and journalists’ belief in a prisoner’s innocence will, the researchers argue, have been generated by processes outside of the legal system. These include journalistic investigations producing evidence, for example, material found in defence files, which was accessible at trial, (which, due to legal rules, the appellate court cannot recognise). Even if evidence can be legally considered, if the appellate court finds other explanations for events which it feels the jury might have accepted, it will uphold the conviction (Nobles & Schiff, 2000, p. 100).

Where journalists have become convinced of the innocence of certain individuals, their frustration at the appellate process’s inability to satisfy their demands to quash convictions, can spark a ‘trial by media’ of the legal system itself. This, in turn, may create the conditions which can eventually build into a media-constructed meta-narrative of crisis of public confidence in the CJS (Nobles & Schiff, 2000, p. 110). Nobles and Schiff (2000) argue that as this meta-narrative develops, it generates a general perception of systemic failure and intolerance of the existing appellate system; and in doing so increases the newsworthiness of miscarriages more generally. A prime example of this is the period 1989 to 1992, when the researchers state that the media gradually integrated high-profile cases into a meta-narrative of ‘criminal justice in crisis’ and subsequent miscarriages revealed were reported through this meta-narrative (Nobles & Schiff, 2000, p. 124).
Figure 3.2, Appendix 3 illustrates this scenario. During the 1980s (before the ‘crisis’), journalists had conducted investigations and produced stories questioning guilt in the ‘Irish cases’. When the Birmingham Six’s appeal failed in 1988 some newspaper stories began to construct the notion of ‘crisis’ by citing the views of eminent lawyers and linking them to an interpretation of the causes of miscarriages, many of which seemed to run through the Irish cases. However, the quashing of the Guildford Four’s convictions signalled the true beginning of the meta-narrative of crisis and the most prolific era of journalistic investigations into and storytelling around miscarriages. Stories were from now on linked by investing events with a common meaning. Thus, the individual deficiencies arising out of the Guildford Four case were now linked to general perceptions about the CJS as a whole, with stories beginning to contain phases concerning diminishing public confidence (Nobles & Schiff, 2000, p. 121). Importantly, Nobles and Schiff (2000) suggest that the media’s construction of a meta-narrative of crisis was internal to the media itself, i.e. journalists were able to write that a crisis of public confidence existed because other journalists were reporting this.

The highest level of media coverage of miscarriages occurred from 1990-92 (Nobles & Schiff, 2000, p. 122). The many high-profile convictions quashed during this time served to ‘fuel’ the crisis and permitted the media to use these successful appeals as ‘evidence’ of a ‘tip of an iceberg’ of many yet undiscovered miscarriages (Nobles & Schiff, 2000, p. 281). Other cases of miscarriages were given a higher profile than normal, and media discussions of the scale of miscarriages were tied to discussion of reform proposals.

With the quashing of the Birmingham Six’s convictions in early 1991 the Home Secretary announced intentions to set up the RCCJ, which journalists stories reported as an indication of the depth of the ‘crisis’. When the Maguire Seven convictions were quashed in mid-1991, the media continued to consider other miscarriages cases as newsworthy, bringing about a self-fulfilling prophecy, i.e. the greater likelihood of publicity, exacerbated the feeling evident in many articles that there were now more miscarriages than ever before (Nobles & Schiff, 2000, p. 132), supported by them being continually in the news. By late 1991, the meta-narrative of crisis had developed to a stage where the appellate system was reported as being in need of reform (Nobles & Schiff, 2000).

Nobles and Schiff (2000) contend that by 1992, journalists were anticipating the publication of the RCCJ report and although successful appeals continued to be reported, some of the focus of the reporting changed. The ability to reiterate the theme of a crisis of
public confidence in relation to the latest miscarriage began to diminish and the debate about reform proposals began to take over. From 1993, the meta-narrative of crisis gradually disappeared from stories, taking with it the focus upon individual cases. Indeed, when the RCCJ reported in 1993, with its intention to establish the CCRC, the idea that it might restore public confidence was virtually ignored in the media as the meta-narrative of crisis had disappeared (Nobles & Schiff, 2000, p. 158).

Clearly, Nobles and Schiff’s analysis demonstrates that not only was the crisis of public confidence in the CJS written into and out of existence by and within the media, (regardless of any changes in public opinion), but miscarriages are much more newsworthy when there is an overall linking theme. This is supported by their observations that by 1995-6, media revelations of miscarriages referred much less to previous high-profile cases, (despite the fact that they often revealed failings which could be linked to such cases) and were not linked to a general theme of loss of confidence/crisis (Nobles & Schiff, 2000, p. 165). The structuring of stories around such a meta-narrative had passed and as a result journalistic interest in miscarriages had dwindled.

Arguably, there continues today to be reduced media interest in miscarriages, however Nobles and Schiff (2009, p. 468) argue that they will become newsworthy again because media constructed ‘crises’ around them reappear over time. This is indicated by the fact that a similar media-constructed ‘crisis’, occurred around the Adolf Beck case and others prior to the establishment of the Court of Appeal in 1907. Such crises occur because of the legal and media ‘systems’ inability to communicate with each other. This means that discussion of reforms around miscarriages in journalistic stories cannot easily be transformed into reforms of the legal system. The establishment of the Court of Appeal therefore did not result in the material basis of the appellate system changing (Nobles & Schiff, 2000). From this perspective, Nobles and Schiff (2009) argue that legal reforms will always ultimately fail to meet journalistic expectations and will eventually result in another media meta-narrative of crisis developing, which will again make miscarriages very newsworthy.
How Journalists Tell Stories about Miscarriages of Justice and their Aims in Telling Them

The only research within this area is that of DeBurgh (2008a) who, as previously mentioned, interviewed three ‘Rough Justice’ journalists. These journalists revealed that their stories about miscarriages differed from most investigative stories in focussing upon particular cases, rather than classes of injustice. They also revealed information about how they told their stories and their aims in telling them.

How Journalists Tell Stories of Miscarriages

The journalists in DeBurgh’s (2008a) research revealed that they structured their stories using a specific narrative form, consisting of three sequences, as Table 5.9 indicates:

Table 5.9: The specific narrative form used to structure ‘Rough Justice’ stories (adapted from DeBurgh, 2008a)

<table>
<thead>
<tr>
<th>Part one</th>
<th>Part two</th>
<th>Part three</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conviction, i.e. all prosecution evidence</td>
<td>The human story</td>
<td>Production of evidence which destroys the prosecution case, including the most important piece, which is always related to the programme’s title.</td>
</tr>
</tbody>
</table>

They also detailed how their stories presented the evidence (corroborated facts) which their investigations had found, in a balanced and fair manner (including the prosecution case), unadorned by journalistic comment/opinion (DeBurgh, 2008a). The journalists also described how ‘Rough Justice’ adopted a technique of broadcasting three programmes, on three different cases, three weeks in a row. They argued that this created a cumulative effect and served to keep cases in the minds of the public and society’s elites in the hope that something would be done to rectify the injustice (DeBurgh, 2008a).
Journalists’ Aims in Telling Stories of Miscarriages

The ‘Rough Justice’ journalists’ revealed to DeBurgh (2008a) that they aimed to publicise cases and to convey the message that ‘if justice is this fallible, any man might become the victim of a miscarriage’ (Lloyd, 2002). Indeed, they stressed that although their stories aimed to make serious legal arguments, they were more concerned with moral issues of justice, truth, and the difference between right and wrong (DeBurgh, 2008a).

Interestingly, the journalists argued that although their stories were made for the public; they were actually aimed at persuading the Home Secretary and senior judiciary to re-examine the convictions (De Burgh, 2008a). Indeed, as mentioned above, even if such stories were aimed at the public, we must be cautious in suggesting that they have any impact upon public opinion. During the 1980s and 1990s for example, World in Action produced six programmes and a drama documentary reporting the results of its investigations into the convictions of the Birmingham Six. Despite unsuccessful appeals prior to these programmes, soon after their screening, the men’s convictions were quashed (Goddard, Corner, & Richardson, 2007). The programmes, in particular the drama-documentary, appeared to have had an impact upon the CJS. However, research demonstrated that their impact upon the public was limited. Indeed, when viewers were questioned about the programmes’ effect on their views in 1990, although 76% acknowledged that they provided them with new information on the bombings, only 59% accepted that this information was true and that the men were indeed innocent (Kilborn & Izod, 1997, p. 236)! Evidently, great care must be taken in claiming that investigative stories about miscarriages have any impact upon public opinion.

Before leaving this area, it is crucial to note for the purposes of this thesis that there are also examples of investigative storytelling, particularly in newspapers, which are not based on re-investigations of cases, such as Jo-Ann Goodwin’s analysis of the Michael Stone case (Goodwin, 1999). This is an illustration of investigative writing, (rarely mentioned in literature concerning investigative journalism), where each plank of the prosecution case was examined, including the fact that Stone did not match the forensic evidence found at the murder scene (Spark, 1999). Unlike the investigative storytelling mentioned above, this article was not a result of Goodwin ‘going out and digging’; rather
it involved desk-based research. Nevertheless, it brought in new information which
further cast doubt on the prosecution case (Innocent, n.d.)\textsuperscript{15}.

Conclusion

This chapter examined the selection and production of stories by journalists generally, and
by investigative journalists specifically. It particularly highlighted the importance of news
values to story selection and changes which have occurred in this respect, the most
significant of which, is the increased newsworthiness of crime victims over the last fifteen
years or so (Jewkes, 2010). The chapter also revealed that as investigative journalists’
stories derive from non-official sources (unlike those of daily news journalists who
primarily give preference to stories deriving from powerful official sources), they must
engage in a number of activities which seek to verify information received. It was stressed
that investigative journalists’ stories must be presented in certain ways so as to maintain
professional journalistic requirements to appear objective, but also so as to have impact
and bring about change. It was suggested that journalistic output might be viewed as
narrative and that investigative stories might be considered to be moralistic narratives,
with some researchers likening them to fictional detective stories, particularly in the way
in which journalists build/present their narratives. Lastly, investigative stories about
miscarriages were considered, particularly in terms of changes in their newsworthiness
over time. It was revealed that miscarriages stories were at their height in terms of
newsworthiness, during the late 1980/early 1990s when there was, according to Nobles
and Schiff (2000) a presence within the media of an over-riding ‘news hook’ (of ‘justice in
crisis’) upon which to ‘hang’ stories. Aside from Nobles and Schiff’s work, the dearth of
research within this area was highlighted as being problematic, particularly as (as
previously noted), journalistic storytelling about miscarriages has such an impressive
history of helping to right serious injustices (DeBurgh, 2008b: 9). This is something
which the research within this thesis aimed to redress.

\textsuperscript{15} (although Stone currently remains in prison) (Innocent, n.d).
CHAPTER 6: METHODOLOGY

Introduction

The research investigated for this thesis was primarily oriented towards the aims outlined in Table 6.1. These aims were examined using a number of different research methods. What follows is a discussion of the decision-making behind the choice to adopt each of these methods and an outline of how the research was conducted and the resultant data analysed.

Table 6.1: The aims of this research study

| Aim 1 | To examine the positive (whilst acknowledging the negative) role of the media (local, regional, and national, newspaper and TV) in miscarriages of justice cases (and any associated campaigns) involving murder in England and Wales. |
| Aim 2 | To examine the changing involvement of the media in miscarriages of justice cases from the 1960s through to the present day. |

The primary research for this thesis took place in four phases, (which will be outlined shortly) and utilised primarily qualitative methods because the researcher was primarily interested in analysing and describing the complexity of the issues under consideration. Nevertheless, quantitative methods were also used to investigate the fourth objective of the research study (as Table 6.2 indicates).

Adopting a Triangulated Research Strategy

As Table 6.2 demonstrates, different methods of investigation were used, (representing a triangulated approach) to examine the same over-arching question.

Table 6.2: The triangulated research methodology utilised for this study

<table>
<thead>
<tr>
<th>Research strategy</th>
<th>Research methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualitative research</td>
<td>Interviews with a sample of those (N= 23) involved in miscarriages of justice cases.</td>
</tr>
</tbody>
</table>
Interviews with a sample of journalists (N=27) who had conducted investigations into specific miscarriages of justice cases.
Narrative analysis of sample of (N=15) TV programmes and (N=15) newspaper articles which tell stories surrounding miscarriages of justice cases.

**Quantitative research**

- Questionnaires to 30 journalists regarding the attributes of a successful journalistic investigator.
- Questionnaires to 70 serving police officers regarding the attributes of a successful police investigator.

Triangulation was conceptualised by Webb, Campbell, Schwartz, and Sechrest (1966) as an approach to developing measures of concepts, whereby more than one method would be employed in the development of measures, resulting in greater confidence in the outcomes. Triangulation is also used to refer to a process of cross-checking findings deriving from both quantitative and qualitative research (Deacon, Bryman, & Felton, 1998). Approaching research questions from different angles and bringing together a range of views, can help to increase interpretability of, and confidence in, results and has the potential to generate new or alternative explanations (Arksey & Knight, 1999).

Specifically ‘between methods triangulation’ was used in this research study, i.e. two or more distinct methods were used to measure the same phenomenon, but from different angles (Wincup & King, 2007) in the hope that the weaknesses of one method could be ‘traded off’ against the strengths of another, thereby helping to improve the validity of the overall conclusions (Davies, Francis, & Jupp, 2010). It is recognised that triangulation can be time-consuming and that researchers may be tempted to make inconsistent data sets artificially compatible in order to produce a more coherent account (Arksey & Knight, 1999). In addition, whilst combining different methods may add range and depth, it does not add accuracy (Hagan, 2003). Triangulation also however, has potential merits, especially if it is conceived less as a strategy for confirmation, and more as one for in-depth understanding and completeness (Davies et al, 2010), as was the case with this study.

**The Research Process**

In relation to the research for this thesis, examination of media involvement in miscarriages of justice involving murder in England and Wales began with a review of
literature and other materials concerning this issue. This included the sources outlined in Table 6.3.

**Table 6.3: Sources utilised for the literature review for this study**

<table>
<thead>
<tr>
<th>Sources utilised for the literature review</th>
</tr>
</thead>
</table>

Academic sources (spanning the areas of criminal justice and the media, particularly investigative journalism).
Anecdotal sources (spanning the areas of criminal justice and the media, particularly investigative journalism) including the memoirs and personal stories of victims of miscarriages of justice (and their associates), and journalists who had investigated cases.
80 broadcasts (including documentaries and individual case analyses).
100 newspaper reports concerning post-war wrongful convictions for murder/s in England and Wales.
50 websites, including those of campaigning organisations such as ‘Innocent’ (Innocent, n.d) and ‘Forejustice’ (Forejustice, n.d).
Academic and anecdotal sources concerning police investigation and specifically of the attributes which appear to be important for Senior Investigative (police) Officers to possess in order to be a successful investigator.
Police policy and practice documents concerning police investigation.

Importantly, the researcher did not accept the information from TV programmes, newspaper articles, websites and anecdotal sources at face value, recognising that such material is often selective and incomplete (Robson, 1993)\(^\text{16}\). The primary research for this thesis took place in the four phases detailed below.

**Phases 1 & 2: Interviews with Those Involved in Miscarriages of Justice Cases**

The first part of this study involved the undertaking of two phases of semi-structured interviews. Firstly, with individuals and organisations involved in miscarriages of justice cases and secondly, solely with journalists involved in miscarriages cases.

The interview is “*a purposeful conversation*” in which the interviewer asks prepared questions on a particular topic and the respondent answers them (Frey & Oishi, 1995, p. 1). Interviews are a useful tool which can lead to further research using other methodologies (Jensen & Jankowski 1991, p. 101) as was the case in this research study.

\(^{16}\) The results of the literature review concerning attributes which seem to be important for SIO’s to possess in order to be successful investigators (see Table 4.4) were used to develop a questionnaire which would in turn, be used to investigate objective 4 (see page 4) of the study.
Interviews are time-consuming and costly in terms of travel to various settings to interview participants, meaning that only a relatively small sample size is usually possible (Maxwell, 2005). Still, the researcher felt that considering the aims of her research, the interview was the most appropriate research tool to use as it provided the opportunity to explore topics in detail by recording attitudes, feelings, and behaviours (Kvale, 1996).

Semi-structured interviews are considered to be more adaptable than their alternative, namely structured interviews (May, 1997). The term semi-structured interview typically refers to a context in which the interviewer poses a series of questions in the general form of an interview schedule, but is able to vary the sequence of the questions (Gubrium & Holstein, 2001). This method allows the researcher to have some latitude in asking further questions in response to what are seen as significant replies, something which is not possible with structured interviews. Thus, more complex issues can be probed and answers clarified thereby permitting the researcher to attain further in-depth information (Bachman & Schutt, 2010).

Permission was granted from all interviewees well in advance of interviews taking place. In terms of the development of interview schedules, reliability is often improved by pre-testing a pilot version (Baker, 1999). Therefore, the two interview schedules were piloted upon five academic staff at the University of Portsmouth17. Participants in the pilot deemed all questions to be concise and comprehensible. Therefore, none were changed in the finished interview schedules.

Interviewing is a complex technique making demands upon both the interviewer and interviewee (Frey & Oishi, 1995, p. 2). The researcher was aware that use of the interview as a research tool relies on respondents being willing and able to give accurate and complete answers (Maxwell, 2005) and acknowledged that validity and reliability of the interview data may be influenced by respondents distorting information through for example recall error, nervousness, or desire to please the interviewer (Wimmer & Joseph, 1997). In an attempt to avoid such issues, the researcher ensured that she adhered to Kvale’s (1996, p. 88) list of ten criteria of a successful interviewer (see Table 4.1, Appendix 4) and seven stages of an interview investigation (Table 4.2, Appendix 4). The interviewer spent time ensuring that rapport was established with the interviewees so as to encourage them to fully answer the questions. This also allowed probing of responses

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17 Whilst it was recognised that university academics do not represent the gamut of individuals questioned in this study, obtaining such a sample for a pilot study was impossible due to individuals’ availability.
(Davies et al, 2010). Upon probing, it was necessary to remain as objective as possible so as to reduce the possibility of bias (Bell, 1992). Responses were recorded using a mini-disk recorder and transcribed by the researcher.

**Interviews with Individuals and Organisations Involved in Miscarriages of Justice Cases**

Phase 1 of the research aimed to examine the importance of journalists’ involvement in miscarriages of justice cases (and any associated campaigns) and how individuals and organisations involved in cases used journalists in their attempts to achieve the overturning of a wrongful conviction. Importantly, the interviews conducted for phase 1 were also being utilised as part of a joint project with other staff at the University of Portsmouth which looked more generally at critical success factors in miscarriages campaigns (Savage et al, 2007). Therefore, the question schedule developed was broad and the questions most relevant to this particular thesis were located towards the end (see Schedule 1, Appendix 4).

Phase 1 interviews were conducted with a sample of people (N = 23) who had been involved in miscarriages of justice cases involving murder, in England and Wales, spanning the years 1960-2007. This time frame was chosen by the researcher due to wishing to study what was considered to be a sizeable, but also manageable section of history. In addition, as a result of the researcher’s review of newspaper articles and TV programmes on miscarriages of justice (mentioned earlier) it was found that the 1960s saw TV journalists’ first involvement in such cases. As the researcher wished to discover the involvement of both newspaper and TV journalists in miscarriages, choosing the 1960s as a starting point seemed sensible. The research participants chosen for phase 1, as a result of an extensive literature review surrounding miscarriages of justice, are indicated in Table 6.4.

**Table 6.4: Research participants selected for phase 1 semi-structured interviews**

<table>
<thead>
<tr>
<th>Type of participant</th>
<th>Number of participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victims of wrongful conviction (i.e. those who had had their murder conviction quashed)</td>
<td>3</td>
</tr>
</tbody>
</table>

111
Family members of victims of wrongful conviction 2

Lawyers (i.e. solicitors and barristers who had represented victims of wrongful conviction) 3 (2 solicitors; 1 barrister)

Representatives from campaigning organisations (which campaign against miscarriages of justice) 2

Writers (who had written on miscarriages and been involved in several cases) 2

Local and national newspaper and regional and national TV journalists 8 (4 newspaper journalists; 4 TV journalists)

Politicians 1 (involved in a very high-profile, long-running miscarriage of justice)

Expert witnesses working on behalf of individuals in their appeals against conviction 2

The interviewees in Table 6.4 were asked about the cases that they had, had personal involvement in, the actions and activities which those involved in the case/s undertook, whether there was journalistic involvement in these cases and if so, who the journalists were, what they did, and the importance (or not) of what they did. They were also asked about whether media involvement in this area had changed over time. Interviews varied in duration, with the shortest lasting 30 minutes and the longest lasting three hours. Three females and 20 males participated. Nine participants had been involved in cases in Wales and 14 in cases in England. However, between them, the interviewees had been involved in a total of 60 cases of wrongful conviction for murder.

*Interviews with Journalists Involved in Miscarriages of Justice Cases*

Phase 2 of the research aimed to examine the role of the journalist (a term used here to describe the following categories: producer, reporter, presenter, researcher, and editor), and of the investigative journalist in particular, in miscarriages of justice cases, (and any associated campaigns). It also aimed to examine the changing nature of this role and the actions, activities, and methods used by journalists in their investigations into, and in telling stories about, miscarriages.
Semi-structured interviews were conducted with a specific sample of journalists (N = 27) who had been associated in some way, (primarily through investigative work) with miscarriages of justice cases involving murder in England and Wales. The 70 wrongful conviction cases which the interviewees had been involved in spanned the years 1960 to 2007. The sample of interviewees, chosen from a list of names compiled on the basis of recommendations from interviewees in Phase 1 and from the researcher’s own research a variety of journalists as Table 6.5 indicates.

Table 6.5: Research participants selected for phase 2 semi-structured interviews

<table>
<thead>
<tr>
<th>Type of participant</th>
<th>Number of participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local newspaper reporters/editors (of which 2 were freelance)</td>
<td>5</td>
</tr>
<tr>
<td>National newspaper reporters/editors</td>
<td>4</td>
</tr>
<tr>
<td>Regional TV producers/presenters</td>
<td>2</td>
</tr>
<tr>
<td>National TV producer/presenters/researchers</td>
<td>16</td>
</tr>
</tbody>
</table>

The interviewees in phase 2 were asked about their interest and involvement in miscarriages cases, their investigative activities and methods, the attributes required for investigative success, and whether/how they had seen journalistic involvement in miscarriages change (see Schedule 2, Appendix 4.) Importantly, journalists interviewed in Phase 1 were not interviewed in Phase 2 as it was felt that a fresh group of participants asked specifically about their involvement in miscarriages cases would provide the researcher with a particular perspective on the issues under consideration. Interviews varied in duration, with the shortest amounting to two pages of comments and lasting 20 minutes and the longest amounting to 23 pages and lasting six hours (at the interviewee’s request). Six females and 21 males participated. Nine newspaper journalists and 18 TV journalists were interviewed. Far fewer local and regional journalists were interviewed.

18 Importantly here, a review of the literature revealed that journalistic involvement in miscarriages appeared to be dominated by male journalists.
(N=7) than national journalists (N=20)\textsuperscript{19}. However, in some ways the divide between local and national is fairly arbitrary as some local journalists had, for example, occasionally written on a particular case for national newspapers.

\textit{Methods Used to Analyse the Interview Data}

Interviews can be difficult and time-consuming to transcribe and analyse, partly due to the volume of information generated, and particularly where open-ended responses are encouraged throughout, as was the case in this study (Maxwell, 2005). Therefore, sufficient time was allocated for in-depth analysis of the interviews. Upon completion of data gathering and transcription, the data was analysed in the following way. First the researcher read through each transcript a number of times to acquaint herself with the nuances of each interview. Coding techniques were then employed to help organise and analyse the data collected (Birks & Mills, 2010). For further information on the coding process see note 4.1, Appendix 4.

The process of coding the interview data was both time consuming (due to 50 interviews needing to be analysed) and intricate (due to a number of themes being addressed). A difficulty in coding the interviews was that although a quotation might be coded under one specific theme, it might also show a degree of relevance to other themes. This impressed upon the researcher the difficulties of imposing structure on interview responses and trying to infer simple causal links between variables (Birks & Mills, 2010). However, despite the seemingly entwined nature of many responses, the data was eventually coded and ordered so that the information under each heading was placed in a systematic way. Editing was then undertaken as the file needed to be shortened for presentation purposes. The editing process was systematic in that quotes were only omitted from the text if the point being made was covered by another or if the majority of interviewees had similar views on an issue. Data was grouped through a series of themed headings and quotes were used to illustrate each of these themes. The theoretical concepts which emerged from the themes developed are presented in chapter 7 and 8.

\textsuperscript{19} A review of the literature revealed that local and regional journalists had indeed had less involvement compared to national journalists. This, it was felt, explained why as a result of participants’ recommendations in phase 1 (see above) and the researcher’s own efforts to find local and regional journalists to interview, far fewer names emerged as potential interviewees than did so in relation to national journalists.
Phase 3: Questionnaires Delivered to Journalists and Police Officers

Phase 3 of the research aimed to elaborate and extend upon one of the issues discussed during the interviews with journalists (phase 2), namely identification of what attributes (skills, abilities, and characteristics) were important for journalists to possess in order to be successful in investigating a miscarriage of justice. It aimed to extend this examination by comparing journalists’ opinions on this issue, with those of police officers’ (detectives) on what attributes are important for a detective to possess in order for them to be successful in investigating crime. The researcher asked three questions in this phase of the research, as Table 6.6 indicates:

Table 6.6: Research questions asked in phase 3 of the study

<table>
<thead>
<tr>
<th>Research questions for phase 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) Are there any attributes which police officers and journalists together as a group agree are clear attributes of a successful investigator?</td>
</tr>
<tr>
<td>ii) Do police officers and journalists within each group agree amongst themselves as to what was thought to be important attributes for a successful investigator to possess? (The researcher also applied a Kendall’s co-efficient of concordance to this data).</td>
</tr>
<tr>
<td>iii) Are there any differences across the two occupational groups concerning their views with regards to the importance of each attribute? (In order to examine this, independent T-tests were conducted on the data)²⁰</td>
</tr>
</tbody>
</table>

In order to examine these questions a questionnaire was designed. The questionnaire is a research tool for data collection, its function being one of measurement of attitudes/opinions (Oppenheim, 1992). Questionnaires are useful in research studies that pursue other data collection strategies, as they can help to corroborate findings from these strategies²¹. Through inclusion of standardised questions, respondents’ answers can be easily compared and analysed using statistical methods (Hartley, 2010).

Use of questionnaires in this research study was advantageous in terms of time and research costs as a relatively large sample of participants could be reached easily and

²⁰ Certain criteria have to be met before it is appropriate to use a t-test (Davies et al, 2010). The level of measurement should generally be at least interval, however it may be ordinal (as it was in this study) if there are 20 or more values (there were 27 in the questionnaire in this study). The scores contributing to a given mean should be independent (they were within this design). Researchers also suggest that the t-test is likely to be true if the sample has at least 40 participants (Clark-Carter, 1998). This study used 100 participants.

²¹ such as the findings of the phase 2 interviews, above.
simultaneously. Use of questionnaires can reduce the chances of biasing error, due to the researcher (a source of potential bias) often being removed from the immediate situation (Bryman, 2008). However, removal of the researcher also results in their control over the research environment (i.e. the context in which the questionnaire is completed) being limited (Maxfield & Babbie, 2009), with no opportunity to ensure that questionnaires are completed fully/at all, nor for respondents’ misunderstandings to be corrected (Krashka & Neuman, 2010). In an attempt to avoid such issues, the questionnaire in this research study was completed in the researcher’s presence. As respondents were made aware that their responses were anonymous, it was hoped that this would increase the likelihood of them responding honestly (Fowler, 2002).

Questionnaires take time to design, particularly in relation to the number and types of questions to be asked (Oppenheim, 2000). Lengthy questionnaires are time-consuming to complete and risk the respondent becoming bored and not finishing them or providing answers without due consideration so as to finish them quickly (Hagan, 2003). Thus, the questionnaire for this research study was kept short and instructions for completion were presented clearly and concisely. The questions themselves were succinctly phrased so as to avoid misunderstanding in respondents’ interpretation (Noaks & Wincup, 2004).

Closed and open question types may be used in questionnaire design (Bachman & Schutt, 2008). Closed questions were primarily used in the questionnaire developed for this research (which utilised a Likert scale – see p.114). Such questions are easy for respondents to answer swiftly and provide the researcher with quantitative data which, if pre-coded, is simple to process and analyse quickly (Maxfield & Babbie, 2009). However, an issue with the use of closed questions is that responses have to be taken at face value (Champion, 2005) and interesting lines of enquiry might emerge which the respondent is unable to communicate as they are ‘forced’ to choose between alternative answers (Kraska & Neuman, 2010). It is recommended therefore, that questionnaires consisting of closed questions conclude with an open-ended question (Robson, 1993). This allows respondents the freedom to expand their views upon an issue, thereby permitting the questionnaire responses to truly reflect their opinions (Robson, 1993). In designing the questionnaire for this research study, the researcher provided a space at the end preceded by an open-ended question. Here, respondents could state anything which they had not hitherto been able to express. Analysis of the open-ended responses was
time-consuming, as the researcher could not automatically tabulate or perform statistical calculations on them.

Using a Likert Scale

As mentioned, in adopting primarily closed questions for the questionnaire, the researcher utilised a Likert scale (an appropriate instrument for measuring respondents’ opinions). Oppenheim (2000) suggests that three stages must be followed in compiling a Likert scale, as Table 6.7 indicates.

Table 6.7: The three stages involved in compiling a Likert scale (adapted from Oppenheim, 2000)

<table>
<thead>
<tr>
<th>Three stages involved in compiling a Likert scale</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) Compile an item pool, (consisting of a number of statements that relate to the subject for which the opinion will be measured)</td>
</tr>
<tr>
<td>ii) Conduct a pilot study of the questionnaire</td>
</tr>
<tr>
<td>iii) Analyse the pilot responses so as to determine validity of the questions</td>
</tr>
</tbody>
</table>

These stages were carried out prior to administering the final questionnaire in this study.

Compiling an Item Pool, Conducting a Pilot Study, and Analysing Pilot Responses

The questionnaire developed for this research study contained a list of personal attributes which were deemed to be important in order to be a successful criminal investigator (see footnote 14). In order to compile this list, the researcher conducted a brief literature review on the attributes deemed to be important in order to be a successful criminal investigator. A review of this small body of literature is summarised in Tables 4.3 and 4.4, p.63-65. The results of this literature review were drawn upon and adapted in order to compile a list of items (attributes) for the pilot questionnaire. As Tables 4.3 and 4.4 indicate, the list of attributes compiled was extensive. Taking into consideration previously mentioned issues surrounding completion of lengthy questionnaires, it was felt that a questionnaire containing all of these attributes may achieve a low response rate.

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22 To reiterate that there is a dearth of research examining what attributes are important in order for a police investigator to be successful in their investigations. (Interestingly, as chapter 4 noted, this feature is also observable in the texts produced by investigative journalists, which detail their investigations, but rarely discuss the attributes required in order to conduct them successfully.)
Therefore, some attributes needed to be removed from the list. In order to decide which should be removed, a pilot questionnaire was developed (containing all of the attributes in Tables 4.3 and 4.4). In developing this, the researcher also aimed to discover whether the questionnaire would ‘work’ for both groups of respondents (journalists and police officers) and whether there were any confusing questions.

When using a Likert scale, a 5 or 7-point scale is thought to be most appropriate, (having fewer points on the scale is thought to miss the range of attitudes) (Champion, 2005). In this study, a 5-point Likert scale of importance was chosen (Bryman, 2008), anchored at 1 (‘not very important’) and 5 (‘very important’). This allowed respondents to rate how important each attribute was for investigate success.

The pilot questionnaire was administered to a small sample of student and serving police officers (N = 10) and a small sample (N=5) of journalists23. These participants were asked for their feedback on the questionnaire’s design. The pilot study participants highlighted the items mentioned in Table 6.8 as being problematic within the pilot questionnaire. Table 6.8 also indicates the action taken by the researcher in response to the respondents’ comments.

Table 6.8: Issues highlighted with the pilot questionnaire by pilot study respondents

<table>
<thead>
<tr>
<th>Issue highlighted by pilot study respondents</th>
<th>Adjustments made to the final questionnaire in response to this comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) Repetitive items (items which meant relatively the same thing, such as ‘dedication’ and ‘commitment to the case’) existed within the questionnaire.</td>
<td>Where this occurred, the former item was retained and the latter did not appear in the final questionnaire.</td>
</tr>
<tr>
<td>ii) The presence of vague items (i.e. their meaning was not obvious), such as ‘awareness of future developments’ and ‘underpinning knowledge’.</td>
<td>These items were removed from the final questionnaire.</td>
</tr>
<tr>
<td>iii) Attributes were listed which were only relevant to the policing profession (such as ‘field operation’ and ‘arrests’).</td>
<td>As the main aim was to see whether journalists were utilising similar attributes to police officers in their investigations, the attributes had to be those which they could relate</td>
</tr>
</tbody>
</table>

23 The researcher found it easier to gain a larger sample of police officers than journalists through virtue of working on a daily basis with such professionals.
to provide their informed opinion upon. Thus, these items were removed from the final questionnaire.

**Administering the Finished Questionnaire**

The finished questionnaire was produced taking into consideration the results of the pilot study and Clark-Carter’s (1998) recommendation that a questionnaire should contain at least 20 statements which the researcher believes will evaluate a person’s opinion on a topic. Therefore, it asked respondents to consider a final list of 27 attributes identified by the aforementioned literature as being important attributes of a successful investigator (see Table 4.3, Appendix 4 and Questionnaires 1 and 2, Appendix 4). There was, as previously mentioned, space towards the end of the questionnaire where respondents could detail any attributes they felt were missing from this list.

Sampling at least 68 respondents gives the questions in a questionnaire a reasonable chance of showing themselves as useful in the analysis (Bryman, 2008). This study sampled 100 respondents. The questionnaire was administered to a sample of journalists (N=30), consisting of 27 journalists interviewed for phase 2, and 3 interviewed for phase 1 of the research. They were asked to indicate next to each attribute how important they believed them to be, with regards to journalistic investigations into miscarriages. The same questionnaire was administered to (N = 70) serving police officers of differing ranks (all of whom were detectives) from seven police forces across England and Wales²⁴. They were asked to rate the same set of attributes in terms of how important they viewed them to be in order to be a successful criminal investigator.

**Methods Used to Analyse the Questionnaire Data**

The responses to the open-ended question were analysed by grouping them together under themed headings and reporting them in a descriptive manner, (no statistical analysis was possible here). The responses to the closed questions were entered into an SPSS

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²⁴ It was possible to obtain such a large sample of police officers for this study due to the fact that the researcher was, at the same time as conducting this study, conducting research with another colleague at her workplace, which permitted access to a large number of detectives from forces across the country. This was viewed as an opportunity to gain a wider variety of police participants for this study (something which could not be matched by the number of journalists available for the study). In respect to the resulting imbalance in the number of police officers to journalists questioned, it should be noted that statistical analysis of the raw questionnaire data took into account the weighting of participants in each group.
spreadsheet version 15.0 and analysed statistically. The researcher used standard approaches to statistical analysis of questionnaire data including means and standard deviations in order to determine the answers to the research questions outlined in Table 6.6. These included the application of a Kendall’s co-efficient of concordance to the data obtained in relation to question ii) and conducting independent t-tests on the data obtained in relation to question iii). Once the results of the questionnaires had been statistically analysed, tables were produced in order to clearly illustrate them. Inferences were made from the results of the statistical and open-ended analyses (and presented in chapter 8).

Phase 4: Narrative Analysis of Journalists’ Stories about Miscarriages of Justice

Phase 4 of the research aimed to examine the products of journalistic involvement in miscarriages of justice cases, namely the stories that they tell surrounding miscarriages (or more precisely possible miscarriages, as they question convictions in some way). In order to do so, the specific research questions posed were those contained in Table 6.9.

Table 6.9: Research questions asked in phase 4 of the study

<table>
<thead>
<tr>
<th>Research questions</th>
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</thead>
<tbody>
<tr>
<td>i) How do journalists tell the story of possible miscarriages of justice?’ (i.e. How do they structure their stories?).</td>
</tr>
<tr>
<td>ii) What is the role of the journalist in telling these stories?’ (A review of literature – see chapter 5 indicated that sometimes the journalist has a role to play within the story itself – this was also addressed in answering this question).</td>
</tr>
</tbody>
</table>

It is important to stress at this stage, the originality of this phase of the research in terms of it being the first study to systematically analyse exactly how TV and newspaper journalists tell stories surrounding miscarriages. Originality is also displayed in the research method adopted to examine the above research questions, namely narrative analysis (discussed shortly).

Choosing the Sample for Analysis

The journalistic products chosen for analysis were TV programmes and newspaper articles produced by journalists concerning miscarriage of justice involving murder in England.
and Wales\textsuperscript{25}. In searching for, and selecting the sample for analysis in this study, a variety of sources were referred to as Table 6.10 indicates.

Table 6.10: Sources utilised for selection of the sample of programmes and articles

<table>
<thead>
<tr>
<th>Sources utilised for the selection of the sample of programmes and articles</th>
</tr>
</thead>
<tbody>
<tr>
<td>During phase 2 of the research, five of the journalists interviewed, kindly offered to make copies of programmes and articles in order to aid the researcher in compiling the sample.</td>
</tr>
<tr>
<td>During phase 2 of the research two journalists provided the researcher with various lists of names within the media industry, who were then contacted for help in seeking particular items for the sample.</td>
</tr>
<tr>
<td>An extensive search of the British Film Institute’s online archives and BBC archives was conducted by the researcher.</td>
</tr>
<tr>
<td>An extensive search of the websites of campaigning organisations, such as ‘Innocent’, was conducted by the researcher. These proved to be good sources of information on TV programmes and newspaper articles.</td>
</tr>
<tr>
<td>Specific searches in relation to the newspaper articles included the ‘Times Index’ (which permitted the researcher to search by subject, e.g. miscarriages of justice) at the British Newspaper Library at Colindale, London. The researcher spent some time at this library searching the major UK national newspapers on microfiche.</td>
</tr>
<tr>
<td>The researcher also used the British Library’s resources in order to search local newspaper websites and their databases.</td>
</tr>
<tr>
<td>The researcher conducted an extensive search of newspaper articles on ‘Newsbank’. Free online newspaper archives, such as that of ‘The Guardian’ were also accessed. The researcher accessed online newspaper archives, such as ‘The Daily Express’.</td>
</tr>
</tbody>
</table>

The selection of items for the sample was based upon the criterion that they must have as their subject matter the case of a prisoner/s claiming they had been wrongly convicted of murder in England and Wales. They also needed to demonstrate, as far as possible, variety of type (i.e. different regional and national programmes and local and national articles), and to, where possible, come from different decades (from the 1960s onwards), and cover different cases. Further detailed information upon the selection of the TV programmes and newspaper articles can be found at note 4.2, Appendix 4. The final sample for analysis consisted of (N=15) TV programmes (broadcast between 1966 and 2007); and of (N=15) newspaper articles (written between 1966 and 2006), which told a story surrounding a possible miscarriage of justice involving murder (see Tables 4.4 and 4.5, Appendix 4 for full list of items).

\textsuperscript{25} Whilst these are not the only mediums through which journalists communicate their stories about miscarriages (others include: radio, books, and the internet), they were chosen because they are the two main mediums through which they do so.
Methods Used to Analyse the TV Programmes and Newspaper Articles

Phase 4 of the research set out to address the specific research questions i and ii (above) through use of the technique of narrative analysis. Many argue that all narratives share common structural features which can be explored and revealed through narrative analysis (May, 2008), the origins and background to which are outlined in note 4.3, Appendix 4. Here it is suffice to say that narrative analysis is a research method used in many disciplines (see for example van Dijk, 1983). It is however, a method often neglected by the social science field and is new to criminal justice research (Riessman, 2008, p. 4).

Narrative Analysis as a Research Methodology

When referring to narrative analysis what is really being alluded to is a family of qualitative approaches, wherein the researcher takes the story (fictional or factual) as the investigative focus and considers it in detail, reading/listening to and then analysing/interpreting it, together with the devices and conventions governing its organisation (Riessman, 2008). Such explorations can reveal essential features/meaning of ‘texts’ and the storyteller’s use of narrative in order to accomplish particular social ends, such as to persuade the audience of something (May, 2008). Narrative analysis can also reveal what each work being analysed has in common with others within its genre or with other artistic works more generally (Riessmann, 2008).

Narrative analyses have focussed upon many different types of stories and can be used on primary and secondary data (Silverman, 2001). Indeed, it is said to be a particularly powerful way of exploring media texts (Cortazzi, 1993), with broadcasts and newspaper articles making particularly good objects for analysis (Stokes, 2002). In this research study, the aim was to analyse the way in which TV and newspaper stories surrounding miscarriages of justice were told and to look for patterns in the way they were told. Thus, narrative analysis was felt to be an appropriate research method to adopt for analysis of this secondary data. Narrative analysis of secondary data offers a number of advantages over other research methods. However, it also has limitations (Lacey, 2000) as outlined in Table 6.11.
Table 6.11: The advantages & limitations of narrative analysis of secondary data

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>All data has been already been collected, saving the researcher time at this stage of the research process (Andrews, Squire, &amp; Tamboukou, 2008).</td>
<td>Not appropriate for studies of large numbers of texts as analysis is usually slow and painstaking, requiring attention to subtlety (Riessman, 2008). Time-consuming and labour-intensive exercise (Silverman, 2001).</td>
</tr>
<tr>
<td>An unobtrusive research method and as it does not deal with human subjects, the researcher does not impact on the account given, thus avoiding the ‘researcher effect’ (Cortazzi, 1993).</td>
<td>The researcher has to be able to repeatedly access the objects of the research as each text analysed requires several viewings/readings before analysis can begin (Andrews et al, 2008).</td>
</tr>
</tbody>
</table>

In relation to these limitations, it was felt that as a very small number of texts were to be analysed in this study, issues of time and labour could be successfully managed. Due to obtaining copies of all programmes and articles, the researcher was also able to consistently access the objects of the research. Although the methods of narrative analysis used may differ in each discipline, the basic premises are the same and as with all other research methods, the validity of conclusions obtained depend upon the quality and rigor of the study. A good textual analysis depends upon the persuasiveness of the argument and this in turn often depends on good analytical and writing skills (Olesk, 2009).

**Different Ways of Analysing Narrative**

As narrative analysis is inherently interdisciplinary, there is no one single method of analysis that narrative researchers use. Narratives can be analysed in numerous ways and various methods are suited to different kinds of texts. Despite this, there are four main ways in which narrative can be systematically studied (Riessman, 2008, p. 4), as Table 6.12 indicates.
Table 6.12: Ways in which narrative can be analysed (adapted from Lacey, 2000; Riessman, 2008)

<table>
<thead>
<tr>
<th>Type of narrative analysis</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Thematic analysis</em></td>
<td>Examines the content of a text, i.e. what is said.</td>
</tr>
<tr>
<td><em>Interactional analysis</em></td>
<td>Is interested in storytelling as a process of co-construction of meaning between teller and listener.</td>
</tr>
<tr>
<td><em>Performative analysis</em></td>
<td>Views storytelling as performance by a ‘self with a past’ who persuades/moves an audience through language/gesture.</td>
</tr>
<tr>
<td><em>Structural analysis</em></td>
<td>Examines how a story is told. Seeks to analyse, explore, and explain the structures (systems, relations, and forms that make meaning possible) underlying texts and the process of telling stories. Aims to ‘reconstruct’ an ‘object’ thereby manifesting its functions and making something ‘appear’, which hitherto remained invisible (Barthes, 1972, p. 4).</td>
</tr>
</tbody>
</table>

As the researcher wished to examine how journalists tell stories about miscarriages, structural analysis was chosen. As Table 6.12 indicates, structural analysis essentially pulls apart the ways in which stories are told (Silverman, 2001) thereby shifting attention away from their content, and focussing it upon to their structure and the process of their telling (Lusted, 1991). Indeed, when one story is analysed alongside other stories, comparisons can be made and any patterns which exist should be identifiable (Riessman, 1993). Interestingly, narrative analysis more generally has been labelled a subjective research method, as there is much room for subjectivity in terms of interpretation and argument in making a case (Stokes, 2002). However, structural analysis is an approach which claims to preserve a certain level of objectivity in its analysis (Levi-Strauss, 1967). It is also claimed that structural analysis can be used to study *any* kind of text, or material within *any* discipline (Levi-Strauss, 1967). There is no set method for doing the latter. Therefore, the researcher has great flexibility in terms of developing such a method.

The structural approach to narrative analysis was developed by William Labov (Labov & Waletzky, 1967) whose work is further discussed at note 4.4, Appendix 4. Structuralism
is an enterprise closely related to formalism which argues that a story’s structure can be broken down into analysable chunks or *morphemes*. Here the reader’s attention is drawn to the works of Vladimir Propp (1968) and Tsvetan Todorov (1969) (see Tables 4.7 and 4.8; Figure 4.1; and notes 4.5 and 4.6, Appendix 4). Propp suggested that folktales were linked by a common structure and themes (Propp, 1968: 31)\(^{26}\) and that *any* story can be deconstructed to an underlying structure where key types of characters play particular roles within the story’s overall structure, in other words the folktale narrative form is central to *all* story-telling and can thus be useful in understanding any story. Similarly, Todorov (1969) argues that the basis of conventional narrative structure is that stories have within them some form of logical transformation and that they work by generating a dynamic of equilibrium and disequilibrium (Lacey, 2000, p. 27). Just as with Propp’s model, many suggest that Todorov’s narrative model is applicable to non-fiction texts and can be seen in narratives within factual texts, such as newspaper articles (Lacey, 2000).

Importantly, Masterman (1985) suggests that news is not structured narratively as not only are news stories fragmented, but the news as a whole is a fragmented collection of stories with no links. Wider criticism of such structural models raises questions as to whether texts studied really can be reduced to structural frameworks (Masterman, 1985), as was the aim in this research study (Riessman, 2008). Certainly, such issues mean that generalisation from any analysis undertaken may be open to question (Silverman, 2001). However, in this research study the researcher did not aim to generalise from the findings, but rather to achieve results that were high in validity. In addition, it was anticipated that such disadvantages would be off-set by the use of the other research methods used in this study.

*Employing the Technique of Structural Analysis and Choosing a Theoretical Model/Framework for Analysis of the Journalists’ Narratives*

Andrews, Squire, and Tamboukou (2008) recommend that narrative analysis should begin by each text being viewed/read several times and the ‘plot’ then being recorded. Therefore, the researcher in this study began by watching/reading each of the (N=15) TV programmes and (N=15) newspaper articles twice, without making any notes. Then each

\(^{26}\) Propp (1968, p. 31) deconstructed the stories into *morphemes*, and identified 31 *narratemes* (narrative units constituting character functions) that he claimed, comprised the structure of the stories (Lacey 2000, p. 46). These included elements such as ‘a difficult task is proposed to the hero’ and ‘the villain is punished’ and were distributed amongst seven spheres of action such as villain, donor, and helper (see Appendix 4). Not all tales include all 31 functions, but the ones that do appear always appear in the given order.
item was watched/read again, whilst a detailed ‘plot’ outline was written, (thereby treating the each of these factual pieces as though they were pieces of fiction). For the TV programmes, this was a lengthy process. On average three hours were taken in order to accurately record the ‘plot’ of a 30 minute programme. It was however, a swifter process with the newspaper articles as they were much shorter in length.

This phase of the research then called for reference to a specific theoretical model or framework against which the researcher might analyse the plots. As previously mentioned, narrative analysis is an umbrella term for an eclectic mix of methodological approaches. However, as the application of narrative theory is new to this area of criminal justice research, the researcher felt a freedom to develop her own method for analysis of the texts at hand. With this in mind, the researcher initially experimented with the application of different theoretical and methodological frameworks for the structural analysis of the narratives concerned.

As previously mentioned, both Propp and Todorov hypothesise that there is basically one narrative structure for all narrative texts, whether they are fiction or non-fiction. Therefore, it was felt that Propp and Todorov’s models might be a good starting point for narrative analysis of the factual TV and newspaper stories in this research study and might aid the researcher in exploring and understanding their underlying structure. The researcher began by applying both Propp’s and Todorov’s structural models of narrative to five of the TV programmes and five of the newspaper articles (this acted as a kind of narrative pilot study). The results (which are not reported within this thesis) indicated that this had been a partially successful exercise, providing a general overview of their structure and demonstrating that the stories fitted a format of sorts, (even if it was not entirely in the ways that Propp and Todorov proposed). However, it was felt that in order to take the analysis further and deeper, a different approach was required. Thus, the researcher went in search of a model which might be drawn upon in order to provide a deeper level of analysis of the journalists’ stories.

In searching for such a model, the researcher referred to comments made by journalists interviewed in phase 2, that their stories surrounding miscarriages were like detective stories, specifically ‘Whodunits’. Such comments led the researcher to seek a narrative model/framework of analysis specifically tailored towards the fictional detective story (which might therefore be readily applied to the factual stories in this study). Ultimately,
the researcher wished to lift her own narrative template from those available/add to an existing template.

The researcher first turned to sketchy structures mentioned in Todorov’s (1977) study of the detective novel (here, the reader is referred to Table 5.7, p. 95). Here, Todorov (1977) states that the main form of readerly interest in the ‘Whodunit?’ is the desire to see the mystery solved. The murder is announced at the very beginning of the story and the rest of the narrative is devoted to the investigator solving that crime and resolving the conflict caused by it. The solution, which reveals the ‘truth’, provides resolution (Lacey 2000). The ‘Whodunit?’ then, seems to conform to a ‘rule-based’ format (Knox, 1929, p. 15) or to be the product of formulas (Batschelet, 2007). This led the researcher to consider that if a formula for the ‘Whodunit?’ detective story could be found, this might be applied in order to examine whether the structures of the journalists’ stories in this study were indeed like detective stories.

Models of Detective Fiction Considered as Possible Frameworks to use for Analysis of the Journalists’ Stories

A number of scholars have suggested rules/formulae for the writing of the ‘Whodunit?’ or classical detective story, as Table 6.13 indicates:

Table 6.13: The rules or formulae for detective fiction (adapted from Van Dine, 1928; Cawelti, 1976; Klockars, 1985; Todorov, 1988; Bordwell & Thompson, 1991)

<table>
<thead>
<tr>
<th>Rules/formulae for detective fiction</th>
</tr>
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<tbody>
<tr>
<td><strong>S.S Van Dine (1928)</strong></td>
</tr>
<tr>
<td>The story must have at most one detective and one culprit, and at least one victim (a corpse); everything must be explained rationally; with regard to information about the story, the following homology must be observed: ‘author: reader = criminal: detective’</td>
</tr>
<tr>
<td><strong>Cawelti (1976)</strong></td>
</tr>
<tr>
<td>The fundamental principle of the classic detective story is the isolation of clues, the making of deductions from these clues, &amp; the attempt to place them in their rational place in a complete scheme of cause &amp; effect.</td>
</tr>
<tr>
<td><strong>Klockars (1985)</strong></td>
</tr>
</tbody>
</table>
| Although most detective stories contain the powerful convention of murder, an even more powerful convention is ‘the wrong person story’. This involves the detective in freeing an innocent person who is wrongly accused of a crime, which the detective usually does by finding the truly
guilty party. This requires creation of a detective who will battle with agents of the State who have arrested the wrong person. This is a private citizen hired by the victim/accused/their associates to do what the police cannot or will not do. “Detectives are not merely...toying...with an intriguing puzzle. They are on a moral mission. If they solve the case it is a moral victory for what is right and for everyone who believes that right should prevail” (p. 82).

| **Tsvetan Todorov (1988)** | The ‘Whodunnit’ begins with the discovery of a crime in the prologue & the pages which separate the discovery of the crime from the revelation of the culprit (in the epilogue) are devoted to an examination of clue after clue, lead after lead. |
| **Bordwell & Thompson (1991)** | The crime which is the focus of the detective’s investigation is almost always a murder. We know (an effect) but we know not the causes (the killer, the motive, and perhaps the method). |

Such rules/formulae are useful in terms of telling us about the content of detective stories (i.e. what should/not, appear within them). In addition, the researcher felt that Klockars’s (1985) outline of the ‘wrong person convention’ was particularly interesting and relevant to the journalists’ stories about miscarriages under scrutiny in this research study. However, what these writers had to say about the structure of such stories was not considered to be substantial enough from which to draw a framework for the analysis of the stories in this research study. Rahn (1988, p. 49-50), who incorporates the ‘wrong person convention’ into his ‘classic detective novel formula’ however, does provide one such framework. From this, a structure for detective fiction can be discerned:
Figure 6.1: The classic detective novel formula (adapted from Rahn, 1988)

Rahn’s (1988) formula might have been chosen as a framework on which to base the analysis of the miscarriages of justice narratives. However, in some ways it was felt to be a little too detailed and specific. The researcher sought a structure which still retained the ‘wrong person convention’ but was a little more simplistic, (so that it might be more easily applied to the factual stories under consideration). Such a concise and easily transferable framework was eventually discovered in the work of the American writer of detective fiction, George Dove.
In 1997, George Dove wrote the seminal text ‘The reader and the detective story’. This text stimulated a re-examination of the nature and purpose of detective fiction. It is unique in the criticism of this genre, in the sense that it treats the detective story as a special case of reading, governed by special rules and shaped by a highly specialised formula. He purported that readers read detective fiction in a very particular way and are well-versed in how to interpret certain signals that come from the text (for example, a confession in a detective story is almost certainly a sign of innocence). Dove’s primary concern was to examine reception and interpretation of the detective story, however, the researcher was chiefly drawn to his work because he clearly demonstrates how all detective stories follow the same structure. This structure, he argues, is inherited directly from the first (and purest) detective story, Edgar Alan Poe’s ‘The Murders in the Rue Morgue’ (1840), a text which, crucially for the purposes of this research study, used the wrong person convention, (a brief plot summary is provided at note 4.7, Appendix 4). With reference to this story, Dove developed his ‘7-step formula’ for detective fiction (see Figure 6.2).
Applying Dove’s ‘7-Step Formula’ to Journalistic Narratives about Miscarriages of Justice

With a view to answering research questions i) and ii), a narrative analysis (of the 15 programmes and newspaper articles), drawing upon Dove’s 7-step framework, was conducted in an attempt to discover whether some/all of these steps fitted the journalists’ tales (the findings of which are reported in chapter 9). Importantly, the analysis of newspaper articles in relation to research question ii) had to adopt a slightly different focus to that of the analysis of TV programmes due to observations made by the researcher at an early stage in the research process. The nature of this focus will become clear in chapter 9.

Consideration of Ethical Issues

The British Society of Criminology (BSC) Code of Ethics provides the highest ethical standards in criminological research (Dunninghan, Gelsthorpe, Rowe, Wahidin, Williams, & Williams, 2006). The researcher referred to these in considering any possible ethical
implications in conducting the research. The most important point to note from the outset is that this study adopted the principle of universalism, which takes the view that ethical precepts should never be broken (van den Hoonnaard, 2002). The researcher also referred to other reputable sources of advice concerning research ethics and particularly to Bryman (2008) who highlights four ethical principles which researchers should adhere to.

The first principle concerns the importance of doing no harm to participants. This study utilised human participants in the interview and questionnaire phases and involved them discussing the issue of miscarriages of justice, often in terms of their own experience as a victim or associate of a victim. Here, the research presented a potential ‘minefield’ of ethical issues surrounding possible psychological harm, loss of self-esteem, and stress to participants (Kvale, 1996). The BSC (2006) code of ethics also emphasises that researchers should consider carefully the possibility that the research experience may be a disturbing one, particularly for those who are vulnerable because of age, social status, or powerlessness and should seek to minimise such discomfort (Dunninghan et al, 2006). Asking victims of miscarriages to recount their experiences of being wrongly imprisoned might have affected them psychologically. Therefore, interviewees were made fully aware at the beginning of, and reminded throughout, the interview process, that they may choose not to discuss any particularly painful matters, refuse to answer any questions, and may at any time, choose to end the interview. In addition, particular care was taken in conducting interviews with victims and with their immediate families. Despite making such assurances to participants and putting in place such measures, some ethical dilemmas will inevitably remain in conducting research of this nature (Rowling, 1999). However, it is important to note that the victims chosen for this research were active campaigners against miscarriages and had discussed their cases publically previously. They had also expressed to the researcher that they were most happy to take part in the study in the hope that their accounts would add to an important knowledge-base regarding miscarriages of justice.

The researcher also had to consider issues of potential harm with respect to herself (Gregory, Russell, & Phillips, 1997). The focus of this study meant that the researcher discussed the cases of individuals who had been convicted of murder. The researcher had to consider that, in being exposed to the details of such cases, she may be psychologically harmed (Lee, 1993). Therefore, the researcher attempted to keep discussion of the actual murders at a superficial level and to maintain professional detachment where possible (van den Hoonnaard, 2002). The researcher also ensured that the scheduling of interviews with
victims of miscarriages was interspersed with other interviews which were deemed less problematic in this respect and worded interview questions in such a way as to discourage victims from discussing particularly harrowing experiences (Gregory et al, 1997). The researcher also had to be mindful of what might happen after publication of the research. Publication of material around cases and campaigns might mean that the researcher would be viewed as a campaigner herself or at least as a potential resource of information upon how prisoners can get journalists involved in their cases. This might result in her receiving frequent approaches for advice/involvement in cases. This is arguably an ethical dilemma where there is no right answer, “only a decision that is thoughtfully made and perhaps ‘more right’ than alternatives” (DeLaine, 2000, p. 3). The researcher would need to be prepared for such approaches and ensure that she made it clear that she was unable to act in such a capacity.

The researcher also considered broader issues related to harm (Sieber & Stanley, 1988). The interviewees within this study referred to specific cases of wrongful conviction. It was considered that upon publication of this thesis, the families of those who were the murder victims in these cases might have emotional wounds re-opened and be reminded of contentious issues surrounding the death of their loved one/s. Convictions for murder are rarely quashed without doubts remaining in some circles surrounding innocence/guilt of the prisoner in question (Naughton, 2007) and some of the cases discussed were still active in terms of the ‘real murderer’ not being convicted. For this reason reference to specific case names was removed from this thesis.

The second principle is that of informed consent (Dunninghan et al, 2006). Voluntary consent to take part in this study was obtained in writing from all potential participants, either via e-mail or paper correspondence. It is crucial that potential participants are informed that they are free to withdraw consent to participation at any time (Kvale, 1996) and that no inducements are offered to participants for taking part (Hartley, 2010). Both of these requirements were met within this study. The participants were fully informed, in meaningful terms, about the nature of the research, how and why it was being undertaken, and how the findings would be disseminated (Maxfield & Babbie, 2009). Whilst taking part in the research, participants were also informed that they may refuse to answer any questions they so wished.

The third principle is invasion of privacy, which is very much linked to the notion of informed consent (Dunninghan et al, 2006). Covert methods are usually deemed to be
violations of the privacy principle on the grounds that participants are not given the opportunity to refuse such an invasion of their privacy (Oliver, 2010). This study however, was based on overt research methods and therefore no particular problems with privacy were met. Another important issue to consider here was how far participants in this study would be afforded anonymity and confidentiality (Davies et al, 2010). It was felt possible that, due to the fact that some of the journalists interviewed were internationally renowned in terms of their connection to particular cases, they might be identifiable by their comments on those cases. In addition, it was recognised that other interviewees in phase 1 of the research were still active players in the CJS and that if they were identifiable from their sometimes controversial comments, this invasion of their privacy may possibly alienate them from professional and personal communities. For such reasons, utmost care was taken in the presentation of the interview comments, with any references to cases and individuals/organisations connected to cases made anonymous. Prior to conducting the interviews, participants were informed that the researcher would take all available measures to ensure that their identities remained private. However, all interviewees stated that they were happy to be identified if absolutely necessary.

The final ethical principle deals with deception. This occurs when researchers represent their research as something other than what it is (Dunninghan et al, 2006). From the stance of universalist ethics, the researcher explained the importance of the research study to the questionnaire respondents and interviewees as research ethics guidelines recommend (Bachmann & Schutt, 2010). There was no need to deceive any participant in this study and as only overt research methods were used, no concerns regarding deception were envisaged or experienced.

This study was deemed to be worthwhile (Bachmann & Schutt, 2010) as it was envisaged that it would contribute to the knowledge of ‘key players’ involved in miscarriages of justice in relation to the reasons as to why/how journalists get involved in such cases, and upon the importance of the attributes/strategies used in their work and the products of their work. It was hoped that the findings would benefit all those involved in the area of miscarriages and that academic knowledge on this area would be enriched. Lastly, it was felt that the research would add to a general developing literature concerned with core investigative techniques and abilities which is of interest to many professions, including journalism and policing.
CHAPTER 7: THE NATURE OF JOURNALISTIC INVOLVEMENT IN MISCARRIAGES OF JUSTICE

Introduction

This chapter explores the nature of journalistic involvement in miscarriages of justice cases from the perspective of journalists themselves (N= 27) and those involved in miscarriages of justice cases (N=23) interviewed in phases 1 and 2 of the research. The chapter concerns the role of journalists in cases, i.e. what forms their involvement takes, and the importance of what they do within this role (a discussion furthered in subsequent chapters). Firstly, the ways in which the media are connected to miscarriages of justice, including how they can in some circumstances contribute towards causing them, is examined. The chapter next outlines the factors which drive journalistic interest in miscarriages generally and their motivations for getting involved in specific cases, including factors relating to the journalists themselves, to others already involved in a case, and to the potential ‘story’ they may produce. Journalists’ routes into cases, i.e. how cases enter onto the journalist’s agenda, are also explored. It is however, noted that very few journalist get involved in miscarriages of justice. The reasons for this are assessed through an examination of obstacles and disincentives to journalistic involvement in cases.

The Media and Miscarriages of Justice: A Cause and a Remedy

The findings of the interviews from phases 1 and 2 of the research indicated that the involvement of the media in miscarriages of justice cases can be both negative, (i.e. they can act as a cause of, or prolong a miscarriage) and positive, (i.e. they can help to remedy miscarriages).

The Media as a Cause or Prolonger of Miscarriages of Justice

In terms of acting as a cause of miscarriages of justice, seven of those interviewed in phase 1 of the research (N=23) who had been involved in miscarriages of justice cases, felt that journalists were at least: “indirectly responsible for causing...these wrongful convictions” (Campaigning Organisation Representative (COR)). Interviewees stated that this occurred in the following ways:
i) Pressure Placed Upon Murder Investigations

It was felt that the media played a significant role in causing miscarriages of justice through placing pressure upon police investigations. In relation to a case which he was involved in, this politician for example, described the intense media pressure placed upon the police force in question to catch the culprit/s and its effect: “...the media...were unscrupulous...not bothered about who the police got... this...pressure on...officers to get a result...and [then] they take short –cuts” (Politician (POL)). The notion that the media can contribute to causing miscarriages in this way, was also recognised by journalists themselves: “That beautiful photo of G [murder victim]...splashed over the front pages...creates every parents’ nightmare, that...puts the police under unmanageable pressure and distorts the investigation” (National TV Producer (PRODN)).

ii) Media Coverage of Murder Trials

Another way in which it was felt that journalists may cause miscarriages of justice was through their coverage of particular cases. A regional TV producer stated that, in this respect, the media could set up a ‘bandwagon effect’ which involved: “...devoting a lot of time to hinting where the suspicion was. Once that case came to court people started looking to try and substantiate the allegations in the press” (Regional TV Producer (PRODR)). Examples of cases in which biased media reporting may have prejudiced a fair trial were highlighted and one journalist stated that the media should not be allowed to publish defendants’ photos before trial.

iii) Media Coverage Post-Conviction

It was also evident that journalists could play a negative role in terms of heightening the impact of a miscarriage upon a prisoner, and in sometimes prolonging their wrongful conviction, through negative coverage of them post-conviction. This victim for example, described how the act of ‘conviction’ in his case allowed the media ‘floodgates’ to open, in the sense that journalists were more freely able to report on aspects of his case and character. He highlighted the impact of this upon himself and his attempts to mount a campaign against his conviction: “Immediately after conviction most papers printed ‘X case Monsters’...we were...victimised by other prisoners...this was generated by [how] the media...portrayed the crime... [This also] undermined the campaigning” (Victim).
Having acknowledged the negative role that journalists may play in relation to miscarriages; interviewees also acknowledged their positive role, in acting as a critical success factor in many cases where wrongful convictions are quashed. This claim was not however, made without qualification in some cases. A campaigner for example, stated that in his view, media involvement in a case could be: “a double-edged sword” (COR) and had to be managed carefully, as journalists often tried to take over. This was reiterated by a solicitor who argued that: “One of the disadvantages of media involvement is that…if your case is actually winnable they can sometimes want to control the timetable for TV reasons” (Solicitor (SOL)). In addition, three interviewees (N=23) argued that in the cases they were involved in, the wrongful conviction was actually remedied by multiple factors, not just the involvement of the media: “The amount of work that some journalists put in is fantastic. [But they]...couldn’t have achieved it without the work of others” (Expert). Other interviewees however, did not share this view, including this victim: “The media were far more important [in my case] than anybody else and it was the same with many other victims I met” (Victim). Similarly, a campaigner who had undertaken a study of 12 Welsh miscarriages of justice, concluded that: “Of the 12 cases I looked at…10 of them had had media involvement and those were the 10 that had been released” (COR). Although then, it is recognised that they cannot remedy miscarriages alone, journalists do seem to play what might be viewed as a pivotal, and sometimes the most important role in cases. Before examining the full extent of this role from the viewpoints of journalists and others involved in miscarriages of justice cases, the researcher was keen to discover why journalists interviewed in phase 2 of the research (N=27), who had all been involved in such cases, became interested in the issue more generally.

The Roots of Journalistic Interest in Miscarriages of Justice

The journalists interviewed in phase 2 of the research identified many reasons for their interest in miscarriages. Five journalists felt that it derived from their own experiences of injustice. This BBC journalist for example, had been wrongly imprisoned whilst filming in Turkey: “There was a huge mistake and I was picked up...we were only in prison for four days but [I felt] that utter feeling of helplessness...the system has taken over... a burning feeling of injustice” (National TV Presenter (PRESN)). Another relayed his own experience of being wrongly convicted of a motoring offence. This, he argued, fuelled his
subsequent interest in miscarriages and allowed him to identify, and empathise with the wrongly convicted prisoner.

Interestingly, even if they had not been a victim of injustice themselves, 60% of journalists interviewed, stated that their interest in miscarriages was fuelled by empathy for victims of injustice and outrage at their suffering at the hands of the powerful. This feeling was coupled with a keen awareness on the part of one journalist, that the adversarial CJS was much like a game, with the defendant, a powerless player within it: “...the degree to which people’s liberty [is] resolved as much according to the skills of the presentation in court as to do with the facts” (PRESN). For another, it was coupled with recognition of the utter hopelessness of the wrongly convicted prisoner’s situation: “[These are] people who have fallen through the bottom of the system...there isn’t anyone to help them out” (PRODR).

Lastly, three journalists felt that their interest in miscarriages stemmed from their wider interest in politics: “I have...a deep down political mistrust of the system and...of [its] inbred complacency” (PRESN). These individuals had been journalists for over 20 years, and felt that they were typical of their generation in being politically left-leaning: “you [developed] a particular view of the CJS...a questioning view of [its] ‘justice’ element!” (PRODN).

Routes into Miscarriages of Justice Cases or How Cases Enter onto Journalists’ Agendas

It was found that journalists’ routes into cases were either source-generated (the prisoner/their supporters approaching the journalist), or journalist-generated (the journalist approaching someone already involved in a case).

Source-Generated Routes

Journalists told the researcher that they were approached by a variety of sources who acted as routes into miscarriages of justice cases, thereby serving to place a case on their journalistic agenda. These sources included the prisoner themselves or a member of their family/friends: “I was editing the local paper and...X’s parents came to me with this claim that X, was innocent. That was the start” (Local Newspaper Journalist (NEWSL)). Other
individuals who approached journalists in this manner included prisoners’ solicitors, who knew how useful the media could be in this area and barristers: “...you would get letters [saying] ‘In 30 years of practice at the Bar there is only one case that has really worried me’” (PRESN). Campaigning organisations, some of whom had developed long-term relationships with journalists, also made approaches as did individuals who had come to believe in a prisoner’s innocence after working with them in a professional capacity, as this TV presenter described: “This vicar...pushed me up against a wall...and said you’re the journalist, X is innocent...everybody in prison knows it [including] the governor...so you go and look at it” (PRESN). Lastly, and surprisingly perhaps, this journalist stated that his route into cases sometimes came from police officers involved in the original criminal investigation: “Really unhappy but [with] no way of actually rectifying it” (PRODN).

Journalist-Generated Routes

Journalists made it clear that their primary route into cases was via sources approaching them. Occasionally however, routes into cases were generated by the journalists themselves. This involved them approaching a prisoner’s family/associates, to discover more about a case, which in turn led to deeper involvement: “I went up and met [those] involved in the campaign...that was my first involvement...I was completely absorbed in the story they told” (NEWSN).

Journalists’ Motivations for Getting Involved in Miscarriages of Justice Cases

The journalists’ motivations for getting involved in miscarriages of justice cases fell into three categories, namely motivators emerging from: i) attributes/features of the journalists themselves, ii) the perceived credibility/trustworthiness of others already involved in a case, and iii) the promise of a good story. These are now explored.

i) Attributes/Features of the Journalists Themselves

The journalists highlighted their possession of particular attributes/features which they believed motivated them to get involved in specific cases. These included:
a) Possession of a ‘Sixth-Sense’

The journalists revealed that a key motivating factor in their decision to get involved in a case, was their intangible feeling that “something was just not right” (PRESN) with a conviction. Here, journalists reported that: “the antennae twitched” (PRODR), “I had a gut instinct that something was wrong” (NEWSL), and “...a feeling of unanswered questions” (PRODR). In this respect, the journalists seemed to suggest that they possessed a ‘sixth sense’ that an injustice had occurred in a case. However, it was clear that in some circumstances this was partly based upon their previous experience/knowledge: “At the time of the X case I was...writing about the military strategy of the IRA...so I understood about...the sort of people they recruited and these people just didn’t seem to fit the bill, so it was instinctive based on experience” (NEWSN).

b) Possession of Common-Sense

The journalists also stated that their own common-sense sometimes motivated them to get involved in a case: “The evidence was [that] he...jumped from a 3-storey window and hadn’t had any injuries...We thought...that just doesn’t make sense on a common-sense level” (PRESN). At this early stage in their involvement then, the journalists were viewing cases at face value/with little knowledge and it was their common-sense questioning of available evidence which motivated them to want to learn more.

c) An Exciting and Rewarding Adventure or Challenge!

Another motivating factor was the perceived potential for a case to be exciting: “It was exciting...you know I am going to be the journalist who gets these people off...” (PRESN) and rewarding: “You get a great kick out of finding that...key bit of information which proves that someone has been wrongly convicted” (TV Researcher (RES)). Potential cases were also viewed as adventures or challenging puzzles which needed to be solved: “My motivation was the...intellectual pleasure of demolishing the reasons as to why he had been [convicted]” (NEWSN).
d) Notions of Public Duty and Social Conscience

Possession of a feeling of public duty motivated by a strong social conscience was another motivating factor cited by the journalists. Here, there was a desire to explore and expose the actions/activities of the powerful: “When I found there had been a lot of corrupt police work...That’s when I thought this case has to see the light of day...I was serving the community” (NEWSN). Related to the notion of serving the public, was recognition of the powerlessness of the prisoner compared to the might of the CJS: “…they [the CJS] were the masters, the ordinary [man], nothing...” (PRESN). The journalists expressed moral indignation in relation to what they perceived as great unfairness and recognised that they possessed the power to possibly do something about it: “The immense power that journalists have…your job is not just to report on something...it is also to...go out digging...you have a social conscience, it’s the idea that if it happens to the guy down the street it could happen to you” (NEWSL). They clearly believed then, that they had a professional duty to be motivated to try to right wrongs within society. However interestingly, for six of the journalists, this duty applied to any injustice, meaning that they were also motivated to get involved in a different type of miscarriage, one which they argued was just as important as wrongful convictions: “I wrote about an injustice where they never found the [perpetrator]. Some said...you shouldn’t be doing that...I [said I am] always interested in finding...the guilty” (NEWSN).

ii) The Perceived Credibility/Trustworthiness of Others Already Involved in a Case

Another motivating factor in the journalists’ decisions to get involved in a case was the perceived credibility and trustworthiness of those already involved. It was clear that if a reputable individual/organisation was already championing a case, this added some credibility to the prisoner’s claim of innocence in the mind of the journalist, and in turn acted as a motivator for their involvement. Such entities included other journalists, campaigning organisations, and lawyers with whom journalists may have already established a trusting relationship: “If it’s a particular lawyer that one has known...over years, that is a major factor...I knew I could trust X (solicitor)” (NEWSN). Other individuals whom journalists perceived as trustworthy sources of information, and who therefore acted as a key driver in their motivation to get involved in cases, included religious representatives: “I have never known a prison chaplain to be wrong about...a
case...if they are[involved]...you know [its] worth looking at...they give [it] credibility”(PRODN).

iii) The Promise of a Good Story

The journalists stressed that a journalist’s main role is to produce a good story which will attract readers/viewers. Therefore, the promise of a particular case being a ‘good story’ was a major motivating factor for their involvement: “It was a good story...worth telling” (NEWSN). This journalist stated that he assessed whether a case would make a ‘good story’ by placing himself in the reader’s position: “The assessment I make is that if you were going to tell a man...in a pub...about this case...if they say...that sounds dodgy, then... its worth investigating...[as] it will probably get in the paper” (NEWSN).

Obstacles to Journalists Getting Involved in Miscarriages of Justice Cases

The journalists revealed that they were in the minority of journalists in terms of getting involved in miscarriages, and that most were not motivated to get involved: “It’s a narrow field, you could almost name on one hand the people who have been seriously involved” (PRESN). The journalists identified a number of reasons as to why most journalists do not get involved in cases, or ‘obstacles to involvement’.

i) The Absence of Social Conscience and Duty

The journalists stated that a major obstacle to journalistic involvement in this area derived from the fact that most journalists simply did not care enough about people or feel that they had a duty to try to help to rectify social problems: “When someone [is] in jail for something [they] didn’t do, it’s a social problem and...you are in a position to try and help them because it is something that is just not right...[But] many journalists don’t really care” (NEWSL).

ii) The Absence of a ‘Sixth-Sense’

The journalists felt that most of their colleagues do not get involved in miscarriages of justice cases because they lack the confidence to know when a case ‘smells wrong’, i.e. they do not have the ‘gut instinct’ or feel their ‘antennae twitching’: “The best journalists
have a nose for something that smells wrong...Some journalists...haven’t got that nose” (PRODN).

iii) A Belief that Few Miscarriages Occur and Perception of the Effectiveness of Formal Remedies

One journalist stated that there is a widespread belief amongst most journalists that changes within the CJS, particularly those post-PACE (1984) resulted in fewer miscarriages occurring. This had, he argued, led journalists to feel that they were not required as much as they once were in this area. He also felt that the coming of the ‘formal investigator of miscarriages’, namely the CCRC, may have: “...created a perception amongst journalists that their investigations are no longer required” (NEWSL).

iv) Fears Concerning Risks, Reprisals, and Reputations

There was also a feeling that most journalists would be deterred by the risks associated with this work, which included the need to sometimes deal with: “...some downright scary people” (PRODN), the possibility of reprisals: “We had...fire bomb attacks, bricks through windows, death threats...this would put many journalists off” (NEWSL), and hostility, particularly from the victim’s family who: “...don’t want it all opened up again” (NEWSL). The biggest risk however, appeared to be to journalistic reputations in the possibility that one might champion a case that would later be shown not to be a miscarriage: “I have a friend (a journalist) who got this man freed who had been convicted of rape...Nine months later the guy rapes again...you get it wrong...that will be rubbed in your face” (NEWSN). It was felt that this risk acted as a major disincentive to many journalists.

v) A Perception that Miscarriages of Justice are Difficult Work and a Drain Upon Resources

The journalists felt that because miscarriages of justice are demanding and difficult work, requiring long-term commitment, particularly when conducting investigations into cases, this would deter colleagues from getting involved in this area. It was also stressed that investigations into miscarriages were particularly time-consuming and draining in terms of
resources and manpower, making bosses less likely to support them. This was particularly the case in newspapers, which, unlike TV: “...rarely have the resources to stick with these things” (PRODN). It is interesting to note here, that two journalists stated that they had to remortgage their homes and place themselves in severe debt for a case, and that both were newspaper journalists.

vi) The Possibility of an Absence of Results

The journalists also stressed that a particular issue with miscarriages investigations is that despite the long-term commitment and motivation required, there is no guarantee that the journalist will discover anything helpful, or if they do, that this information will be significant enough to warrant a formal questioning of the conviction: “There...may be no result...a lot of work for nothing” (PRODN). This situation was described as: “depressing and emotionally draining” (PRODN). Interestingly, one journalist argued that even journalists motivated to get involved in other investigative work, are often deterred from investigating miscarriages because even if one gets a conviction quashed, unlike with most investigations, the results are often “not clear cut”, (i.e. it may be possible to raise reasonable doubt, but is usually difficult to prove innocence), which could be “very dissatisfying” (NEWSN). In summing up his feelings on this area, a TV producer added that there were other jobs in journalism which required less commitment and paid greater dividends in terms of professional standing: “There are easier ways to progress in TV. With [miscarriages] mostly the bosses don’t like you, the establishment and the powers that be outside don’t like you” (PRESN).

vii) Commercial Pressures...or Lack of Interest?

A local newspaper journalist outlined a situation which he recently experienced: “I was the only journalist in court...listening to a case where a retired policeman had stolen all the documents...He admitted that in court...Two corridors away 14 journalists were huddled in a court watching the MP sex case. That happens regularly” (NEWSL). He argued that this occurred because journalists know that stories around sensational sex cases attract the most readers/viewers and therefore make newspapers/TV companies more money. Such commercial pressures, he argued, act as obstacles to journalistic involvement in miscarriages of justice. However, a national newspaper journalist argued that journalists have always been under such commercial pressures, and it was more a lack
of journalistic interest which deterred most from getting involved in miscarriages: “For your bog standard journalist making his...way in the profession...there has never been much...interest” (NEWSN). Whichever is true, such a focus appears to have long-term implications in terms of impeding the involvement of journalists who do wish to get involved in miscarriages: “I am doing a...murder case...at the moment. There’s little that’s attractive to report [thus] one of the big problems is that...Journalists didn’t...bother to turn up in court [So] when you go back there is no coverage to work from” (NEWSL).

viii) Fear of Ruining Relationships with Sources of Stories

It was felt that another reason as to why many newspaper journalists in particular avoided taking on miscarriages of justice cases was because they needed to retain a good relationship with police officers, a major source of stories. This was felt to be a particular issue for local journalists who are very dependant upon such relationships: “If they start saying, I believe you are wrong...their source of stories will dry up” (FREE).

Journalistic Decisions Regarding which Cases to get Involved in

Whilst it was clear that the journalists interviewed were in the minority in terms of their involvement in miscarriages of justice cases; it was evident that even they became involved in very few of the cases which came to their attention. In other words, not only do few journalists get involved in miscarriages of justice, but of those who do, they engage with very few cases. The reasons for this were explored and a number of constraints discovered.

i) Evidential Issues

One reason for the journalists choosing not to get involved in a specific case was their feeling that at face value, it would be difficult to find new, or to question existing evidence. This TV presenter had a ‘rule of thumb’ in this respect: “If you turn over one stone and there is nothing underneath and then you come to the next stone and there is nothing...after five stones you stop, because...you are not going to get anywhere” (PRESN). It seemed that investigating certain types of case, such as contested rape convictions, was particularly problematic in this respect, as they often consisted of
arguments over consent, with no new evidence to find: “It’s one person’s word against another and that’s all...You just can’t...come up with the meat required in order to persuade your viewers “(PRODN). In terms of evidential issues, there were also cases which offered no simple narrative or story associated with innocence, i.e. they were simply too complicated to tell, particularly for TV, where stories must be straightforward and unambiguous: “…you can’t go into much depth...so it’s very hard to tell a complicated [tale] ” (RES).

ii) Features of the Conviction/Prisoner/their Family

Certain features of a prisoner’s conviction made a case more/less likely to be adopted. For example, one journalist stated that he did not get involved in cases where a conviction was rightly attained but for the wrong crime, (i.e. a conviction for murder instead of manslaughter) because: “We don’t feel that there would be public sympathy” (RES). For similar reasons, journalists were rarely interested in cases where a released individual was still fighting to have their name cleared. Unlike the CCRC, the journalists said that convictions arising in magistrates courts were of little interest, nor were cases where there have been ‘errors of process’: “The CCRC would regard that as an unsafe conviction but we wouldn’t do those cases...” (PRESN). It was also argued that convictions for child abuse were simply: “too hot to handle” (FREE). Convictions related to ‘stranger’ murders were a popular choice with the journalists, particularly due to their newsworthiness.

In terms of features of the prisoner/their family, it was argued that although there are instances of the media taking up the cases of “obscure nobodies from marginalised backgrounds” (PRESN), generally they prefer to deal with those from middle-class backgrounds. This was felt to be not only because audiences/readers: “...relate very well to these prisoners” (PRODN) and that they were more attractive from a story-telling viewpoint, but because actually they made the journalist’s job of investigating their case easier: “Usually these prisoners have...family support...They are communicating with you properly...they are better able to get lawyers...The whole thing is achievable” (NEWSN). Interestingly, this journalist felt that there are probably a whole range of cases which the media ignore because the prisoner/their families are simply not very articulate. Another reiterated that his TV series ‘cherry-picked’ prisoners and turned down 96% of those asking for help.
The journalists also revealed that considerations of how the public would relate to a particular prisoner/case had become more important over the last 20 years or so, in-line with greater commercial pressures for higher ratings/increased readership (an issue discussed further in chapter 10). There was a strong feeling amongst the journalists that such pressures affected who could be helped and meant that rather than being chosen on moral grounds or case strength (as they felt was more likely many years ago), cases were now selected almost solely in terms of their commercial viability.

### iii) Features of the Journalist Themselves

Whilst there are many criteria which a case must meet before even those journalists motivated to do so, get involved; features of the journalists themselves must also be considered. This research revealed that five of the journalists interviewed (N=27) in phase 2 of the research had only ever been involved in one case (the rest had almost made a ‘career’ out of such work). The five journalists gave two reasons for this. Firstly, they felt that they were a ‘different breed’ from those journalists who made a career out of miscarriages work:

> “I am not known particularly for my involvement in this area, unlike X...and Y (journalists). They were...supremely confident...had the...social wherewithal to go against the grain...I have never done a full-blown piece like [I did on this case] since...Those who do that throughout their careers are...different I am not made of that stuff” (NEWSN).

Secondly, they felt that having done one miscarriage of justice, this was quite enough!:

> “Journalists come across a...case...take it up, see it through...but by then have realised what hard work it is...so they...then walk away from this type of work” (PRODN).

Evidently, not only do very few journalists get involved in miscarriages in the first place, but when they do, many choose not to then get involved again! Media involvement in miscarriages appears to be a niche area in which few remain, perhaps because they lack particular attributes (an issue examined further in chapter 8).

### Forms of Journalistic Involvement in Miscarriages of Justice

Having established the importance of journalistic involvement in miscarriages of justice cases, it was felt to be important to discover what they actually do when involved, i.e.
what form their involvement takes. This, it was hoped, would provide a picture of the role of journalists in such cases – a role which is explored in greater depth in chapters 8 and 9.

Interviewees from phase 1 (N=23) and phase 2 (N=27) categorised the role of journalists in miscarriages of justice cases in three main ways: publicity, research, and investigations. (Two other categories which four interviewees mentioned, namely: providing networks of important contacts and providing support, will also be noted.) However, as the interviewees began to outline exactly what each of these roles consisted of, it became clear (and therefore it is argued here) that whilst they differentiated between ‘research’ and ‘investigation’, arguing that ‘research’ was desk-based and ‘investigation’ was leaving the desk and going out and digging or ‘legwork’, the two may actually be classed as the same thing. For example, the Oxford English Dictionary (n.d, n.p) defines ‘investigation’ as “The action of investigating something or someone; formal or systematic examination or research”, and defines ‘research’ as “The systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions”. Similarly, referring to practice documents concerning criminal investigation such as the CID (Centrex, 2005a), they too suggest that research is indeed an inherent aspect of investigation and visa versa. Most relevant here is the MIM (ACPO, 2006: 46) which specifically concerns murder investigations (the crime which the journalists in this study had investigated). In discussing the investigation phase of a murder inquiry, the MIM (ACPO, 2006) clearly highlights that research (and analysis) are part of, not separate to, investigation. It is more accurate to conclude then, that despite the interviewees’ differentiation between research and investigation, these are actually part of the same activity. It might therefore be more appropriate to describe the role of journalists in miscarriages of justice cases in two main ways, namely: publicity, and investigation (consisting of two main stages, namely ‘desk-based research’ and ‘going out and digging’ or ‘investigative legwork’).

Importantly, it was found that journalists may occupy these roles to varying degrees. For example, journalists might conduct desk-based research around and publish a story about a case, but not leave their desk and go out to ‘dig’ into it further. Therefore, initially at least, these roles may be better conceptualised as levels of journalistic involvement in cases. This is represented as an ‘iceberg of involvement’ in Figure 7.1, which also indicates the main decision-making phases of journalists’ involvement.
Figure 7.1: Forms of journalistic involvement in miscarriages of justice cases

i) Publicity

Following the analogy of the iceberg, its tip sits above the water line and is there for all to see. As will be discussed later, publicity is just one aspect of the journalist’s work of ‘telling stories’ about a case. Providing a case with publicity often (but not always) represents a small proportion of the total work conducted by journalists on cases and thus may be the ‘tip of the iceberg’. However, the interviews with victims of miscarriages (N=3) highlighted the fact that to the prisoner, providing publicity is one of the most important roles which the journalist can play in a case. It is also crucial for the journalist, as their ‘job’, first and foremost, is to tell stories.

Publicising a case may involve simply informing the public of developments relating to a prisoner’s appeal, giving the prisoner/their associates a voice with which to question a conviction, or raising the profile of a campaign: “Loads of publicity...Our case was starting to become a bit more known...people in Wales started realising that there could be a serious miscarriage...here...” (Victim). The latter may lead to a case gaining much public support, which in turn may ensure accountability on the part of the powerful, as this solicitor argued: “When we got to the Court of Appeal...the media...were sitting there and the judges...didn’t want to put a foot wrong, they had ‘the people’ breathing down their
Indeed, one journalist stressed that although the investigative work that he did on a case was important, it was the story told that made the difference: “We...uncovered new evidence but...The biggest thing that makes the difference is...the fact that we...put it on the air because that makes it something the authorities can’t ignore” (PRODN).

As mentioned, for many journalists, telling stories about, and particularly publicising a case, comprises the full extent of their involvement (see Figure 7.1 at 1): “I didn’t go and re-interview anyone...It was enough for me to say, this is what they said...this is what they subsequently said, and this is how it changed” (NEWSN). Importantly however, some journalists delved deeper into cases, thereby beginning an investigation.

**ii) Investigation – Stage One - Desk-Based Research**

Returning to the iceberg analogy, the next level down from the ‘tip of the iceberg’ represents the first stage of a journalistic investigation, namely *desk-based research* into cases. This is the work that the journalist does ‘behind the scenes’. This level of involvement lies below the ‘water level’, thus a good deal of the journalist’s research is unseen in the story eventually produced. However, it is seen by the journalists’ superiors, such as editors overseeing the case, and ultimately may be seen by official institutions such as the Court of Appeal in the form of evidence presented.

The journalists reported that desk-based research constituted a large part of their involvement in cases, (hence it being a larger section of the iceberg) the results of which partly determined whether they decided to leave their desks and go out and ‘dig’ deeper into a case. Therefore, for those who may be motivated to get involved more deeply, after some desk-based research has been conducted, an important decision-making phase occurs, whereby journalists (in conjunction with their bosses) decide whether there are enough strands of the case worthy of further investigation.

As a result of conducting desk-based research into a case, a situation may arise where although the journalist strongly suspects that a miscarriage has occurred, some of the constraints mentioned earlier come into play. For example, the case may be viewed as too expensive to investigate more deeply or there may be no way of properly questioning existing (or finding new) evidence. Therefore, their involvement would end (see Figure 7.1 at 2). Not all journalists however, are inclined to proceed any deeper into a case than
the desk-based research level: “I looked at it on an intellectual level…[I didn’t] go into a difficult and messy world where people don’t want to talk to you. This was straightforward” (NEWSN). Another journalist indicated how his work began and ended at his desk with him producing a story which utilised the information which his research had uncovered to present questions around the safety of a conviction. This, he said, can produce results:

“If journalists look at [available evidence] with an open-mind they can…present a case to the public very differently [and] change public opinion. You are writing it from an objective viewpoint not finding new evidence. Research alone can make a difference” (FREE).

iii) Investigation – Stage Two - Going Out and Digging/Investigative Legwork

The largest part of the iceberg, sitting deepest in the water, represents the deepest level of journalistic involvement in miscarriages of justice cases, namely ‘going out and digging’ or ‘investigative legwork’. One journalist clearly highlighted the difference between this, and the research stage of investigations in a case which he took on: “Research is…sit at your desk and trace people…make calls…do…freedom of information requests…With [digging/legwork]…you have to talk to people face-to-face, visit the scene of the crime” (NEWSL). This stage then, necessitated journalists having to leave the comfort of their office and go out and to talk to people in person. Decision-making phases occur throughout this stage of the journalists’ investigations, particularly concerning the direction the investigations should take, the adequacy of evidence, and whether evidence can be corroborated.

This deeper level of involvement, is often where the journalist can have the greatest impact in terms of finding fresh evidence to really turn a case around, as this solicitor outlined: “K (journalist) had…showed that he couldn’t have made the journey and therefore he couldn’t have committed the murder” (SOL) and as this victim made clear: “V (journalist)…produced a programme recording my co-accused retracting his confession…that got us back to the Court of Appeal” (Victim).

Campaigning organisations had much to say on media investigations into cases, arguing that they fulfilled a role which they were unable to:
“The people who come to us...have tried everything...we can’t afford to help, solicitors are usually working on [cases] for no money, so they are limited...often their only hope is the media...who have...the resources, and some of the most skilled people to investigate” (COR).

Considering the existence of the CCRC, (the CJS’s formal investigator of miscarriages) this was an interesting statement. When probed on why journalists remained important despite the CCRC’s existence, this campaigner stated:

“The CCRC don’t investigate properly...don’t use the powers they have got sufficiently...they take a...paperwork approach, referring very few cases and not referring cases when they obviously should even under their limited terms of reference...Where do you get the new evidence? The media is really the only way you can get investigations done” (COR).

However, the role of ‘journalistic investigator’ was viewed quite differently by various entities involved in a case, particularly concerning the issue of whether this role can stand alongside that of ‘case advocate’.

**Investigator and Campaigner?**

Interviewees from phase 1 indicated that whilst it is usually difficult to establish a large campaign to fight for a particular prisoner, and that mostly prisoners/their families fight alone, sometimes such campaigns do develop. Such campaigns often seek to engage what they view as a campaigning journalist in their battle for justice. Interestingly however, 22 of the journalists (N=27) interviewed in phase 2 of the research noted that whilst they were often viewed as campaigners, they never saw this as their role: “…we weren’t campaigners...but that’s how you are seen” (PRESN). Indeed, most journalists who conducted investigations into cases, went to great lengths to distance themselves because: “...your job as a journalist...is to highlight [and] bring [deficiencies] to light...You are not into declaring people’s innocence” (NEWSL). The journalists argued that they differed from campaigning journalists who take a position and: “...say....we know what the truth is and we are determined to bring it out”. Rather, they argued that the investigative journalist takes: “...a more detached approach...you say there is something hidden out there and I am determined to uncover it” (NEWSN).

Although these journalists highlighted the importance of possessing the drive to conduct an investigation; it was clear that, that drive should not be motivated by a particular
viewpoint. Indeed, the need to maintain an open-minded approach in investigations was frequently cited as being a primary reason as to why journalists did not get involved in campaigns: 

“...a campaign has already taken a view that the prisoner is innocent, [so] inevitably their mindset…freezes on that…our job as journalists is…to make the assessment [ourselves]” (PRODN). One journalist reiterated that campaigning groups were generally viewed poorly by journalists because they were biased, having already established their own ‘case theories’ surrounding a conviction. This, he added was problematic for the journalist, who had to conduct an objective investigation, focussed upon reaching a ‘truth’ based solely upon the evidence discovered.

Despite the above comments, five of the journalists interviewed had been very deeply involved in campaigns against miscarriages. Interestingly however, their allegiance to these campaigns occurred part way through their investigations, when they had gained fresh evidence raising doubts about the safety of the conviction. These journalists talked very positively about their association with established campaigns: “I did a march and demo...a petition...it got national headlines...I went...to Tony Blair to get him to see that the public and papers wanted this” (NEWSL) and the fact that they occupied a key role in them: “...to get a conviction overturned requires everybody to be...working...together...a properly co-ordinated...campaign...if you are engaged in these things you want to win” (NEWSN). Clearly, there was disagreement in terms of journalists’ views on whether a journalist who conducts investigations into cases can also occupy a campaigning role.

Discussion of the main roles of the journalist in miscarriages of justice cases is furthered in chapters 8 and 9 of this thesis. Importantly however, the journalists also mentioned other roles which they played in a minority of cases. These included:

iv) Providing Networks of Important Contacts

Here, the journalist had a role in acting as a resource of information for the prisoner/ their supporters. Journalists through virtue of their profession, possess a certain amount of power, power which prisoners/their supporters rarely possess: “...the power of the...journalist [compared to]...The average family...many...come from a poor background...yet [they] are meant to be able to take on the agencies of the State” (COR). The journalists suggested that alongside this power, came the ability to make new contacts easily/quickly, and to draw upon established contacts, which they had developed from
previous involvement in miscarriages: “Because you have done a case...you are dealing with...particular groups of people...forensic scientists, lawyers...that...sort of network” (PRODN). These were contacts which prisoners/their supporters may find difficult to make, but which the journalist could provide a link to, and included lawyers with a genuine interest in miscarriages.

v) Providing Support

Aside from acting as a resource of information for the prisoner and their supporters, journalists also played a supportive role in some cases, as outlined by this victim: “X (journalist) followed my case all the way through...took it with him wherever he went...would always refer to it...we could rely on that support” (Victim). This support sometimes included visiting the prisoner, thereby strengthening their morale. Indeed, one journalist continued to fulfil this role even when the prisoner’s family had given up on him: “His mum and dad...had stopped visiting him...[they]...said to me once, why do you continue to [visit him]?” (PRODN). Sometimes, journalists’ support continued after a successful appeal in fighting for compensation for individuals: “I am still trying to get them compensation...Commitment doesn’t stop with the programme” (PRODN).

Conclusion

This chapter examined the nature of journalistic involvement in miscarriages of justice cases. It began by exploring the ways in which the media, and specifically journalists, are connected to the issue of miscarriages, revealing how, they can in some circumstances, contribute towards causing them. The roots of journalistic interest in the topic of miscarriages of justice were then assessed, together with their motivations for getting involved in specific cases, which it was found, include moralistic and money-making reasons. It was also revealed however, that there are numerous obstacles and disincentives to journalists getting involved in miscarriages, which may explain why so few choose/are able to get involved. In examining the differing forms of journalistic involvement (or their roles) in such cases (a discussion furthered in subsequent chapters), it was revealed that the media can have a major impact upon miscarriages, through publicising and investigating them. In doing so, they offer prisoners things that no other entity involved in cases seems to be able to offer. In particular, journalists hold the power of ‘publicity’, allowing them to, for example, inform the public of the injustice and to place those
responsible for rectifying it under the ‘public spotlight’. They also have the time and curiosity to investigate cases from the beginning, i.e. starting with a ‘blank slate’ and sometimes filling an ‘investigative gap’ which other entities, including the CCRC, are unable or unwilling to fill. The next chapter examines journalistic investigations in greater detail.
CHAPTER 8: DIGGING DEEPER – THE INVESTIGATIVE CRAFT

“We go where people don’t want us to go...We dig into very dark corners” (FREE).

Introduction

As the previous chapter noted, one of the main forms of media involvement in miscarriages of justice cases is investigations. This chapter explores in greater detail journalistic investigations into miscarriages from the perspective of the journalists (N= 27) interviewed in phase 2 of the research and of those involved in miscarriages of justice cases (N=23). The discussion firstly compares journalistic investigations into miscarriages with investigations conducted by the CJS in relation to the notion of a ‘search for the truth’. It highlights that whilst the notion of ‘truth’ is an elusive concept, the journalist may, according to those interviewed, succeed in getting closer to it, in terms of discovering what actually happened in a case, than criminal justice (including appellate) systems. Comments from chapter 7, indicated that journalistic investigations in this area can be lengthy and complex, (much like some criminal investigations). Therefore, this chapter next examines the specific strategies or methods adopted by journalists in their investigations. Lastly, considering comments from journalists in chapter 7 concerning the notion of needing a ‘gut instinct’ and ‘investigative nose’ for such work, the chapter assesses, what attributes make a successful journalistic investigator in this field; and what such journalists might have in common (or not) with criminal investigators, (as indicated by the results of questionnaires delivered to these two groups within this study).

Investigations and the Search for the Truth: The Journalist versus the CJS

The journalists interviewed in phase 2 of the research stated that the primary goal of their investigations into cases was to ‘find the truth’. They knew that ‘finding the truth’ could not amount to being: “gods looking through clouds” (PRESN) at events in a case as they had happened in real time. Rather, to the journalists, ‘finding the truth’ meant that their investigations aimed to get as close to what happened in a case as possible, through examining all available information and where this was insufficient, searching for new information. Indeed, as one journalist argued, his job was not to get a person out of jail, as this would involve embarking upon an investigation with the closed mind-set that the person was innocent. Such an investigation would consider only information which supported this assertion. Rather, his job was: “to try and establish...what had really
happened” (PRODN), which, of course, might, or might not, ultimately lead to a person being released.

Interestingly, 15 interviewees from phases 1 and 2 of the research argued that contrary to popular belief, a ‘search for the truth’ of what had really happened in a case, was not the primary goal of the CJS. One solicitor for example, outlined that when his clients enter the CJS they: “...believe in the power of the system to find the truth and they say... The more they look into it, the more they will discover that I didn’t do it’, meaning that if the CJS gathers all of the information available on my case they will find out that I did not commit the crime. However, he added that: “...unfortunately it isn’t a system to do with getting to the truth. Everybody thinks that truth is a right, like oxygen...it’s not” (SOL). This solicitor elucidated that the system may not get to the truth of what really happened in a case because all of the available information surrounding what happened is not gathered, or for some reason, is not or cannot be considered. This may be for a number of reasons. In relation to police investigations of cases for example, it was felt that rather than setting out to find out what happened by gathering and considering all available evidence, many are conducted with a closed-mind, with the police deciding who the culprit is, and then investigating to find supporting evidence for this theory. The primary reason for this was, one expert argued, because the police are pressured by the need for a result (conviction). This, he added, resulted in them seeking to produce a coherent narrative for presentation in court:

“[Detectives] ...want a relatively seamless account where everyone agrees with each other...If more people say it is true, then it must be, [but that’s impossible]...looking at many...miscarriages, it was the search for a seamless narrative, that was significant” (Expert).

As a result of this desire for a seamless narrative, a solicitor argued that bits of evidence are ignored because they are inconvenient or do not fit the theory.

The interviewees also stated that although the trial process should be a way of ascertaining the truth in terms of what happened in a case; it was essentially: “...a war between two opposing camps” (POL) as to who could present the strongest or most plausible narrative: “...backed up by some evidence” (PRODN), rather than an examination of all of the available evidence.
In terms of appellate mechanisms, the interviewees felt that the CCRC’s search for the truth of what happened in a case was severely restricted by rules and regulations concerning the conditions under which it can refer cases to appeal, particularly the principle of ‘second-guessing’. However, one solicitor also felt that it had lately become overly cautious in referring cases with merit. In addition, a campaigner observed: “the CCRC does not utilise all of their investigative powers” (COR), often adopting a paperwork approach to cases, which does not best serve a search for the truth (i.e. it does not consider all available information, and where this is insufficient ‘go out and dig for more’ through investigative legwork). Similarly, in relation to the Court of Appeal it was highlighted that: “It’s here to say we are looking over the case and making sure that nothing has gone technically wrong…they aren’t interested in the truth or an appeal would be a full reopening of the case” (Victim). The implication here of course, was that a full re-opening of a case would involve consideration, once again, of all available information in that case (and possibly a search for more).

The journalists in this study, argued that their investigations were very different to those mentioned above: “Basically in the CJS…No one is really trying to get to the bottom of what happened…the journalistic imperative is precisely that…you come at it in a different way” (PRODN). Interviewees felt that journalists conducted more open investigations of cases than any part of the CJS, and that this included not searching for information or evidence with which to make an argument, but rather asking questions about what happened: “It’s what kept me in prison for 12 years…because people wouldn’t go and ask questions and find out the truth, they just accepted what the...system...had to say” (Victim). This victim argued that if asking those questions had not been part of a journalist’s investigative strategy into his case, he would still be in prison. We now turn to discussion of this investigative strategy.

**The Investigative Method Involved in Miscarriages of Justice Investigations**

Interestingly, all of the journalists interviewed in phase 2 of the research (N=27) stated that they adopted a particular strategy in their investigation into miscarriages and it was clear from pooling the journalists’ comments, that an overall method for such investigations was discernable. This method is represented in Figure 8.1 and discussed below.
Figure 8.1: Journalists’ investigations into miscarriages of justice: Investigative method

### i) Desk-Based Research Stage

| AIM: To locate existing facts/opinions about a case |
| DESCRIPTION: Mainly desk-based (passive) |
| INVOLVES: Researching existing paperwork from: |
| Media sources |
| Case-related sources |
| Public sources |
| Seeking opinion (an appeal to common-sense) from: |
| The prisoner/their family |
| The murder victim’s family |

### ii) Decision Making

- Complexity of potential investigation?
- Enough gaps or questions?
- Enough lines of enquiry to pursue?
- Hypothesis testing – null hypothesis
- Cost/resource requirements?

### iii) Going Out and Digging/Legwork

| AIM: To locate new facts/fresh evidence in a case |
| DESCRIPTION: Going out & ‘digging’ (active) |
| INVOLVES: Getting new information from: |
| PEOPLE: |
| Existing witnesses |
| Prosecution/defence figures |
| New witnesses (door-knocking) |
| PLACES: |
| Visiting ‘the place’ |
| Walking ‘the course’ |
| Re-examining timings |
| SCIENCE: |
| Commissioning new scientific tests |

### i) The Desk-Based Research Stage

As chapter 7 mentioned, if a journalist has decided that they are interested in a case at face value, perceives there to be potential for ‘a story’, and wishes to become more deeply involved, the first stage of the investigative process is research. The desk-based research stage involved attempting to discover what information was already available on the prisoner and the case made against him/her at trial and was comprised of two parts: a) researching existing paperwork for existing facts about the case and b) talking to individuals involved in the case for their informed opinions upon it.

#### a) Researching Existing Paperwork on a Case for Existing Facts

The journalists outlined how researching existing paperwork on a case involved accessing and analysing information from what they viewed as reliable, credible documentary sources. Here, journalists were primarily engaged in relatively passive desk-based activities. The sources consulted included:
Media sources of information

The journalists stated that the early stages of their research into a case involved examination of past newspaper articles written upon it: “In researching a case…the first thing I do is…see what the press were saying about it at the time…that gives you a steer and…throws names up” (NEWSN). The journalists then, used colleagues’ past articles as a source of existing information on the case.

Case-related sources of information

Another important source was existing legal case paperwork. Solicitors were consulted with the aim of gaining documents such as witness statements, any unused material, and trial transcripts and judgements: “I used to sit and read the entire defence brief…and make notes” (PRESN). Although most time-consuming, the purpose of conducting this research was to allow the journalist to fully familiarise themselves with a case, and to cross-reference between documents. This was a strongly analytical exercise: “I would find out which witnesses were most important…read their…statements…make up…tables accompanied by timelines of who came along where and when…plot all that…on my tables” (PRESN). It was also an exercise which sometimes permitted journalists to spot gaps in information or key areas which might be fruitfully investigated: “…working out where the holes were. We would prioritise the key areas which raised question marks…the bits that don’t seem to add up” (PRODN). This solicitor stated that this was a very different approach from that of the CCRC: “Journalists...were very open to at least listen to arguments that had been ignored [by the CCRC]...willing to look at it all afresh, neutral” (SOL).

Public sources of information

Sometimes research also included examining public records: “I [went] through...93 record books looking at births and deaths...a very large piece of research” (RES).

b) Seeking Opinion on a Case

As mentioned, this work was primarily desk-based, however another aspect of the research stage involved the journalists talking to certain individuals already involved in the case.
These individuals were primarily used as sources of personal opinion and as a ‘sounding board’ regarding existing arguments raised from the journalist’s trawl of paperwork on the case, surrounding whether or not the prisoner committed the murder. This is interesting when compared to journalists’ comments later in this chapter wherein they highlight the importance of gaining hard facts/evidence in investigations.

The prisoner/their family as a source of opinion

This journalist stated that the initial stages of his investigations were always with the prisoner and/or their family: “I went to his mum and asked ‘Do you think he did it?’…you would think a mother [will] always say...her son didn’t…but often they don’t” (NEWSL). Another journalist argued that visiting the prisoner’s family was crucial, as from a common-sense point of view, they knew the prisoner better than anyone else in the case: “...the families are [often given] little weight [but] that strikes me as offending common-sense...[these are] people who know them the best” (PRESN).

The murder victim’s family as a source of opinion

Two journalists also stated that they tried to discuss the case with the murder victim’s relations at this stage, if possible. This was not only to inform them about their involvement in the case, but also in order to ask their opinion on the conviction itself. Interestingly, one journalist who had investigated over 30 miscarriages, said that when he approached the victim’s family: “at least 50%...said ‘he didn’t do it’...Once the victim’s mother dragged me inside and said ‘he didn’t do it’” (PRODN).

ii) Decision-Making

At the end of this data-gathering exercise, available facts have been drawn together and a chain of events in a case has been considered. As a result, the journalist may have spotted something in unused legal material and questions may have been raised regarding the initial police investigation. The journalists now engaged in what one called the ‘null hypothesis’ exercise. Quite simply, primarily from an examination of the existing paperwork, they tried to prove that the prisoner had committed the murder: “...you start trying to prove the case against them and say well...how is it you said this in your first statement and yet later you said this...the null hypothesis, trying to imagine...you
were…prosecuting them” (NEWSN). If, as a result of this exercise, the journalist felt that the conviction had been built on ‘shaky foundations’, (with flimsy/questionable evidence) and that there were enough lines of enquiry to pursue, (from an evidential viewpoint) they approached their superiors for resources (if not already allocated) in order to continue with the case. The strategy from this point onwards was to attempt to gain information about the case which was not immediately available or fresh evidence. This involved ‘going out and digging’ or ‘investigative legwork’.

iii) The ‘Going Out and Digging’ or ‘Investigative Legwork’ Stage

This stage involved the journalists leaving their desks and visiting people and places in order to actively ‘dig’ for new information. The journalists were well aware of how the appellate system worked and that their best chance of getting a conviction quashed was to find fresh evidence which could eventually be presented to the Court of Appeal. As one journalist argued, at this stage they were searching for new: “hard facts, not opinions…as they don’t prove anything” (PRODN). These, they hoped to find, by carrying-out the activities discussed below.

Getting new facts from people

This activity involved journalists re-interviewing existing witnesses to see if they were telling the same story as they did at trial: “…to see if what they tell us matched their testimony” (PRODN) or had anything new to say. These witnesses were often very difficult to locate many years after a conviction: “I [rang] everyone in the phone book with a particular surname and said ‘I’m looking for this person’…until someone said, ‘yes’” (FREE). It also involved talking to other key prosecution and defence figures in the case to see if they possessed information which might fill those gaps in evidence which journalists had discovered at the desk-based research stage.

The journalists also tried to find and interview new witnesses who might provide the investigation with fresh evidence: “…people who might say ‘I saw this but didn’t bother telling anyone’” (FREE). Journalists termed this the ‘door-knocking exercise’. This exercise could provide crucial information, including witnesses that the police had not found/looked for in the original investigation:
“I went…door knocking on the houses that the police should have visited…one lady…went to her dresser and pulled out this cigarette packet…[on which she had written]…the registration numbers of the cars and descriptions of people there…just before and after the murder” (NEWSL).

The journalists stressed that there was absolutely no substitute in investigations for knocking on doors. However, once new witnesses had been located, difficulties were sometimes experienced in attaining facts from them: “The biggest obstacle…is persuading them to talk…they don’t want to…or…are too frightened…” (Regional TV Presenter (PRESR)). The journalists highlighted here that unlike during a police investigation, the public are not obliged to talk to journalists. Therefore, their powers of persuasion were often required to get them to do so. However, in making this argument the journalists were incorrect, as the public are not obliged to talk to the police unless they are a suspect or compelled to do so under a court order, and even then, they have the right to remain silent, although s.34 of the Criminal Justice and Public Order Act 1994 does allow adverse inference to be drawn from this silence (Hoskins, 2009).

Other people whom journalists approached included experts, (such as neurologists, pathologists, psychiatrists, and psychologists) to see whether they might have a different opinion of the facts presented at trial.

Getting new facts from places

In addition to visiting and trying to gain new facts from re/interviewing witnesses in a case, journalists stressed the importance to their investigations, of visiting the murder scene (if possible) or at least locations related to significant eyewitness testimony, as: “In order to know what you are talking about, you [must]…have a sense of place” (PRODN). Interestingly, upon visiting ‘the place’ journalists sometimes discovered crucial new information or found that key witness statements no longer made sense: “You stand there…and you see…far off in the distance, the [place] where the woman had stood who said ‘I saw them’…it was plain bloody obvious that she never saw what she said she had seen…you couldn’t possibly have seen it” (PRODN).

However, the most striking example of vital new information being discovered by journalists visiting ‘the place’, was found in the following journalistic account of a couple who should have been key witnesses in a case:
“...they woke up as they heard some screaming...looked at the clock and saw that the time was 2.14am...they said in their statement that it came from the ‘banking’...the child was discovered drowned...their evidence was read but the judge said this is...irrelevant as their house is a mile away from the riverbank. We interviewed...the couple. I said ‘they don’t think much of your evidence because you are so far away from the riverbank’...they said ‘no the bank, the banking, look out of the window’ and I looked and there was a disused railway embankment, along which by all accounts the child had been taken. They had called it the ‘banking’, trial counsel didn’t go there to see if there could be any...explanation...because they had said ‘banking’ they assumed it was the riverbank which they were too far away from and their evidence was dismissed” (PRESN).

Five journalists stressed that a difference between themselves and lawyers was that the former rarely visited ‘the place’ in a case due to time/resource constraints. However, the fact that quite simply: “No one went and looked” (NEWSL) in cases was highlighted as being problematic. Interestingly, two journalists argued that they had to visit ‘the place’ because often they had very little else to ‘go on’ in investigations. It might be suggested here that ‘deprivation’, breeds ‘innovation’, which in turn, often pays dividends. However, it was evident that ‘the place’ was also visited in order to ‘walk the course’ of events leading up to the murder or re-examine timings in a case. Journalists stressed that they were incredibly thorough in conducting such exercises which often permitted them to discover the time-frame available for the ‘murderer’ to have committed the crime. These discoveries sometimes conflicted with the prosecution’s versions of events at trial: “I followed the victim’s…the witnesses’...and then X’s movements by stopwatch...it was impossible for X to have done it within that timeframe” (NEWSL).

‘Walking the course’ also sometimes involved the testing of alibis: “A...witness talked to me about things which were too messy for the police and this affected their chronology of events. But when we did the timings as a result of what [he]...saw...This new chronology proved that the...alibis were lies” (PRESN). Testing timings helped journalists in their attempts to piece a possible narrative of the murder together and work out what might have happened.

**Getting new facts from science**

As previously mentioned, the journalists sometimes approached experts as part of their investigations, for their opinion. However, occasionally they were also approached with requests to re/examine forensic evidence or to discover whether there were any
developments within the forensic world since the original trial (such as new techniques for analysis of a particular piece of evidence). The journalists stated that unlike with some other aspects of their investigation, the beauty of forensic science was that there was often the potential for a definitive result: “...leading to a real answer surrounding the evidence in a case” (RES). Thus, where possible (and affordable) journalists commissioned new forensic tests on evidence: “We spent...£10,000 having high-speed filming of a tiny amount of blood being expelled through a very narrow aperture” (PRODN), something which a prisoner’s solicitor “...would never have the resources to do” (SOL).

Local/regional journalists had far fewer resources available than national, and particularly TV journalists, for such work. However, sometimes journalists are able to gain these services for free because experts: “...like the idea that...the media is asking them for help...It adds weight for [them]...[that] a journalist thinks [a case] is strong enough to warrant further investigation” (NEWSL).

Attributes of a Successful Journalistic Investigator

The fact that an overall investigative strategy could be determined from the journalists’ comments indicates that these investigators broadly agreed in terms of the activities they undertook. It was evident that this method often brought them success. However, it was not just the investigative strategy that brought success; the journalists also indicated that their work demanded particular attributes in order for them to be successful. With this in mind, the journalists were asked to detail the personal attributes required in order to be a successful journalistic investigator in this area. Before examining this issue further however, it is first important to define what success meant to the journalists who investigated miscarriages.

Defining ‘Success’

Most journalists felt that one measure of success in such cases was whether or not the prisoner had their conviction quashed and was freed from prison, however this journalist added: “...that can’t be the only measure because you may have established an overwhelming case...but for some reason it doesn’t have that outcome...A notch down from that is anything that encourages fresh investigation [by other parties]” (PRODN). Interestingly, some journalists argued that success also meant finding an alternative
suspect in their investigations: “...you overlap into ‘O.K. if he didn’t do it, who did?’” (NEWSL).

Attributes Necessary for Success in Investigating Miscarriages of Justice

With regard to the attributes needed for success, the results of the interviews with journalists (N=27) revealed that: “…each case is different and to an extent requires a different mix of skills” (PRESR). However, the journalists were able to identify key personal attributes which they felt were important in enabling them to be successful in investigating miscarriages. These attributes could be divided into: a) personal characteristics, b) mental abilities, and c) practical abilities/skills (see Tables 8.1; 8.2; and 8.3).

Table 8.1: Personal characteristics which journalists (N=27) identified as being important in order to be successful in investigating miscarriages of justice

<table>
<thead>
<tr>
<th>Personal characteristic</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A stable disposition</td>
<td>So as to be able to cope with the dramas and disappointments associated with conducting investigations in this area: “If I had worked on a case for a very long time...got it to appeal and it failed, I would be devastated but it wouldn’t crush me and stop me from ever getting involved again (PRESN).</td>
</tr>
<tr>
<td>Integrity</td>
<td>Required both in terms of how journalists tell the story of miscarriage and in how they deal with individuals involved in cases: “Integrity is important because...sometimes...you are trying to persuade a witness to say something...which may not actually be in their best interests” (PRESN).</td>
</tr>
<tr>
<td>Determination and motivation</td>
<td>As highlighted by this journalist in describing a colleague with whom she had investigated a case: “X has...A great deal of doggedness. He is like a Rottweiler. He...will not drop something if it does not sit square with him” (PRODN).</td>
</tr>
<tr>
<td>Energy</td>
<td>In order to be able and “…willing to stay up late...sit on trains at all hours...[to] go and see people who [then] might not be able to help you” (NEWSN).</td>
</tr>
<tr>
<td>Commitment and</td>
<td>This is because investigative breakthroughs often come about</td>
</tr>
</tbody>
</table>
tenacity when the journalist is putting in extra work: “All of my major breaks in investigations came when I was...doing that extra bit of work...putting that extra time and effort in” (PRESN).

Persistence In investigations, although “…you also have to know when to stop” (PRESN),

Obsession “…as this is often lonely, isolated work..and it is impossible to do anything else” (NEWSN). One journalist highlighted that he was also obsessive in writing the story about a miscarriage, in ensuring that everything was factually correct.

Highly organised “I am incredibly organised...that is really important when dealing with these cases” (PRODN).

Meticulous/precise Because these investigations require the journalist to dismantle the detail, and understand every aspect of a case: “I [have] a reputation for wanting to get everything right...very meticulous, a perfectionist. You are sifting through [lots] of evidence so exactness has to be there” (RES).

Self-confidence As in investigations, “…you [need] the confidence to showcase and shoot down...all the weaknesses...because [otherwise] somewhere down the line they will come and get you” (PRESN).

A risk-taking personality “As you are going to invest a lot of time and effort [for which there may be] little reward” (PRODN) in terms of finding new evidence or in presenting evidence to an ultimately unsuccessful appeal.

Persuasive “In order to get reluctant witnesses to talk” (PRODN) and professionals, such as experts “to help out of the goodness of their heart” (PRODN).

Being contrary In terms of wanting to prove people wrong, and of being someone “…whose ambition is not to toe the line” (PRODN).

A curious nature “…a man...wrote to me...saying that he had been framed and...[this] aroused my curiosity” (NEWSN)

Empathy Crucial in terms of recognising: “the pain that [one’s] investigation might bring the murder victim’s family [who had, perhaps] achieved closure” (PRODR).

A ‘nose for the job’ “I [came]...across the person who I believed was G’s killer...I thought this was the guy within the first five minutes of sitting down with him...I [had] a ‘nose’ that something was wrong there” (PRESN).

‘Gut-instinct’ “…a combination of looking at the available facts and gut-instinct” (NEWSN).
The ability to ‘see the wood for the trees’

This journalist linked his ‘antennae twitching’ with previous experience: “My background is scientific…this is why, in those cases that involve this…scientific element, I[can] see the wood for the trees…It was about knowing where to look…in terms of evidence…and having the antennae to highlight…that something is missing” (PRODN).

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Table 8.2: Mental abilities which journalists (N=27) identified as being important in order to be successful in investigating miscarriages of justice

<table>
<thead>
<tr>
<th>Mental ability/skill</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiative</td>
<td>Particularly in terms of thinking of ways to tackle investigative problems and of new ways to do things: “…deciding to... conduct two simultaneous tests without either knowing...[we] had the initiative to do it...with two separate experts” (PRODN)</td>
</tr>
<tr>
<td>Intellectual drive</td>
<td>Helping the journalist to solve problems encountered and to be unwilling to accept inadequate explanations: “…an .intellectual desire to punish intellectual laziness...I looked at the case and...thought this is utter crap...The police...should be ashamed of themselves” (NEWSN).</td>
</tr>
<tr>
<td>Good communication skills</td>
<td>The reasons for which this TV presenter described lucidly: “You...are going to piss [a lot of] people off [who you want to speak to]. So communication is vital” (PRESN),</td>
</tr>
<tr>
<td>Good people skills</td>
<td>In terms of the ability to relate to people from all different backgrounds: “…many...victims of miscarriages and their family come from a poor background...as a...journalist you must be able to sit and break bread with [them]...and then go and sit with police officers, lawyers...” (NEWSL). Important to be able to talk to people from different classes “... on their own terms or they wouldn’t talk to you (PRESN).</td>
</tr>
<tr>
<td>Creative-thinking</td>
<td>Important, particularly in terms of being able to think “outside the box” (NEWSL). This journalist stated that in order to encourage creative thinking, he approached problems at 4am.</td>
</tr>
<tr>
<td>Logical thinking</td>
<td>Is crucial as: “Logic tells you...that these two or three things don’t add up...something that doesn’t make sense just on a pure logic basis” (PRESN).</td>
</tr>
</tbody>
</table>
| Lateral thinking                   | Stressed as being crucial: “…If you are trying to find…a
certain piece of information, then there’s an obvious way of going for it, but that...will reveal your true intention, which may hinder you in getting [it]...So you [need lateral thinking to] create ways [to] produce the same...information (PROD).

Strategic awareness
Particularly in terms of journalists being politically aware and aware of connections between powerful people who might try to hinder a journalistic investigation: “We were in a political game...[so we had to be] strategically aware” (PRESN).

The ability to mentally multi-task
“You have got to have a brain that can plate spin” (NEWSL).

Flair
To help the journalist to realise“...that all these statements can be made to lock together...you need...flair for that because you are reading huge volumes of paperwork and...have got to remember that this one might connect to that one” (PRODN).

Good listening skills
Particularly in terms of interviewing witnesses in a case: “Many people wouldn’t want a tape recorder on them...[and] you ain’t going to be able to get everything down so...you have got to be able to...listen” (PRODN).

An open and objective mind
“You have to go into a case with your eyes...and mind...wide open” (PRESN) and “...you must be able to sit back and be objective” (PRODN).

A degree of scepticism
In terms of dealing with people. This journalist compared himself to a colleague who did not ‘do’ miscarriages investigations: “G would say these people don’t lie, I would say I am inclined to believe that these people quite often lie or if...they don’t lie...they don’t tell the truth!” (PRODN).

Table 8.3: Practical abilities/skills which journalists (N=27) identified as being important in order to be successful in investigating miscarriages of justice

<table>
<thead>
<tr>
<th>Practical abilities/skills necessary in order to be successful in investigating miscarriages of justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Practical ability/skill</td>
</tr>
<tr>
<td>------------------------</td>
</tr>
<tr>
<td>The ability to work well alone</td>
</tr>
<tr>
<td>Good research skills</td>
</tr>
</tbody>
</table>

169
An understanding of the law and the CJS including: “...the way a criminal trial operates and the way the prosecution construct a case” (NEWSL).

The ability to manage resources “...the ability to spend money intelligently...the judicious application of money” (PRODN).

As Table 8.1 indicates, the journalists highlighted a number of personal characteristics as being important in order to be successful in investigating miscarriages, including: a stable disposition, integrity, determination and motivation, energy, commitment and tenacity, persistence, obsession, highly organised, meticulous/precise, self-confidence, a risk-taking personality, persuasive, being contrary, and empathy. Importantly however, there was disagreement on the importance of empathy, with one journalist highlighting the dangers inherent in feeling empathy for prisoners: “If you start to empathise...you could jump to the wrong conclusions...[You must] maintain...distance emotionally” (PRODN). Another felt that empathy could actually compromise the journalist’s ability to conduct an objective investigation. A particularly interesting set of characteristics mentioned in Table 8.1, included the need to possess ‘a nose for the job’ and ‘gut-instinct’. Here, the journalists seemed to suggest that they possessed a ‘sixth-sense’ (as discussed in chapter 7), with one journalist linking such characteristics to his ‘ability to see the wood for the trees’ as a result of previous experience.

Table 8.2 indicates that the journalists highlighted a number of mental abilities/skills as being important in order to be successful. These included: initiative, intellectual drive, strategic awareness, the ability to multi-task, flair, good listening skills, an open/objective mind, a degree of scepticism, good communication skills, and good people skills. The latter, one journalist highlighted as being crucial, because those involved in cases are not obliged to talk to journalists. It was noted that although it might be assumed that journalists, through virtue of their profession, communicate with people from all ‘walks of life’, most do not tend to meet many ‘normal’ people; rather they deal more regularly with those in authority such as politicians and police officers. This does not, it was argued, give them the skills required for work in this field, as this journalist, who compared his people skills to those of his producer, indicated:

“My producer [from] a well-educated, middle-class background...wanted to go door-knocking... [But I]...knew he wouldn’t be able to get any information from
Particular ways of thinking, including logical, lateral, and creative-thinking were also highlighted. The latter, one journalist argued, was “absolutely key to doing miscarriages well” (NEWSL).

Table 8.3 indicates that the journalists highlighted a number of practical abilities/skills as being important in order to be successful in investigating miscarriages. These included: the ability to work well alone, research skills, an understanding of the law and of the CJS, and the ability to manage resources/spend money intelligently. It can be seen that the journalists identified far fewer practical abilities/skills than personal characteristics and mental abilities/skills as being important. This perhaps suggests that journalistic investigations into miscarriages are more demanding in terms of personal characteristics and ways of thinking, and less demanding in terms of practical abilities/skills.

Interestingly, in addition to the attributes outlined, one journalist stated that success in this area was aided by having built up a reputation as a successful investigator: “...people are more likely to agree to a meeting...if [they know] you...have a reputation for unearthing information” (NEWSL).

Investigative Journalists versus Criminal Investigators: Similarities and Differences

During the discussions regarding attributes, the journalists mentioned that there were similarities between their work in investigating miscarriages and that undertaken by criminal investigators, i.e. police detectives. This journalist for example, stated: “I often feel that we...have the same skills as...a good detective has” (NEWSN). Another reiterated how in investigating a case he enjoyed: “playing detective...this starting out with a kind of absolute blank slate...knowing absolutely...having to find it all out...” (NEWSN).

However, they also stated that there were important differences between the two. The journalists were therefore asked to identify the similarities/differences between their investigative work and criminal investigators. Their responses should be treated with caution as none of them had ever found themselves in the place of a detective. However, all of the journalists felt that they possessed some insight into what the police do in such circumstances through conducting their own investigations: “...because as an investigative journalist, you kind of recreate the initial [police] investigation” (PRESN).
Table 8.4 indicates the similarities and differences which the journalists highlighted between themselves and criminal investigators and between what they do.

Table 8.4: The similarities and differences which the journalists (N=27) highlighted between themselves and criminal investigators and between what the two groups do

Similarities and differences between journalistic and criminal investigators and between what the two groups do

<table>
<thead>
<tr>
<th>Similarities in terms of:</th>
<th>Differences in terms of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigative activities</td>
<td>Evidence gathering</td>
</tr>
<tr>
<td>Investigative skills</td>
<td>Investigative powers versus approachability</td>
</tr>
<tr>
<td>Investigative mistakes</td>
<td>The constraints of officialdom versus freedom</td>
</tr>
<tr>
<td></td>
<td>The managerial structure of the professions</td>
</tr>
<tr>
<td></td>
<td>Greater pressures upon police investigations</td>
</tr>
<tr>
<td></td>
<td>Investigative thinking</td>
</tr>
<tr>
<td></td>
<td>Case construction versus case deconstruction</td>
</tr>
<tr>
<td></td>
<td>Available resources</td>
</tr>
</tbody>
</table>

i) Similarities

As Table 8.4 indicates, the journalists highlighted a number of similarities between themselves and criminal investigators and between what the two groups do. These included ‘similar investigative activities’, such as following up leads, interviewing people, trying to gain information from documents and people, and establishing chronologies, so as to ultimately provide evidence for claims which they would eventually make in court (police) or via publication and later at the Court of Appeal (journalists). In this respect, this journalist argued that: “I think some journalists might make very good CID officers” (NEWSN). The journalists also argued that the two needed to possess ‘similar investigative skills’ including tenacity, determination, thoroughness in tracking people down, and good listening and communication skills in order to be able to access information from people: “...trying to persuade...people who gave evidence some time ago...to talk. Here listening and communication skills are...similar to those used by a police officer” (NEWSN). Indeed, they highlighted the need for both investigators to be
able to forge a connection with people at a profound level quickly, although they felt that they were better at doing this than criminal investigators!

The journalists acknowledged that their investigations into miscarriages often involved them revealing the errors and omissions made by detectives in those cases: “I was surprised about how little research the police had done... The information was there to be found... 3 days in a library, that’s all it took” (RES). However, they also noted that they too made similar investigative mistakes: “The amount of mistakes you make is phenomenal... I missed a huge piece of evidence in the X case that had sat under my nose the whole time” (NEWSL). One journalist added that there were similar pitfalls in both types of investigation relating to tunnel-vision and closed investigative mind-sets:

“...when miscarriages... classically happen there’s a high-profile case... the press are... on the police’s backs, they go back [and sieve through] their files... again... and they find someone who fits... and they reinvestigate that, but what has happened in that process of... refocusing on somebody... is that the whole investigation is... suddenly all about this person... everything else... which has informed your doubts... is now nothing... [For journalists] the danger is that when you are... convinced that your bloke didn’t do it... you are in danger of... disregarding all the stuff that goes to him doing it” (PRESN)

However, there was strong disagreement upon this point, with most journalists feeling that their investigations were: “... much wider from the start... the question was ‘What has happened here?’ not ‘Has this person done it?’” (RES); and that the police: “... have a hypothesis which they test things against”, whereas journalists “... don’t do this, they go in with an open-mind” (NEWSL).

ii) Differences

As Table 8.4 indicates, the journalists highlighted several differences between themselves and criminal investigators. These included differences in terms of ‘evidence gathering’. It was felt that, unlike police officers, journalists could: “speculate about material which might not even get into court [and could] rely on anonymous sources” (NEWSN). In other words, journalists could consider all available information in a case, including material that might have been excluded from consideration at the original trial (Coleman and Mackay, 1993). However, this journalist added that: “journalists don’t have to prove [someone is innocent]... the police... have to work to [higher standards] of proof” (NEWSN). By which he meant that police officers aim to gather enough evidence so that
in court the allegation that the defendant is guilty is proved ‘beyond reasonable doubt’, i.e. the jury must be persuaded so that it is sure (Herring, 2004). This is the degree of certitude that proof must reach. However, the journalist does not have to prove beyond reasonable doubt that someone is innocent; rather they need to raise doubt in the minds of the appellate judges that the original trial jury would have come to the same conclusion (i.e. a verdict of guilty) had it had, what is usually new evidence (provided by the journalist), before it.

This TV producer felt that unlike police officers, journalists could also: “...go on a hunch a little bit more” (PRODN) without having to explain the rationale behind doing so (as detectives are encouraged to do in their investigations (CID, 2005; ACPO, 2006)). Importantly, the journalists felt that this greater flexibility and freedom to explore hunches, sometimes led to the revelation of crucial information in a case.

Another difference highlighted was in terms of ‘investigative powers versus approachability’. The journalists felt that detectives possess far greater powers of investigation to, for example: “...serve search warrants, trawl the police national computer, or apply to court to obtain people’s personal documentation” (NEWSL). However, despite lacking such powers, the journalists felt that they were more approachable than the police, which paid dividends in terms of getting witnesses to talk, particularly those who did not trust the authorities:

“Journalists can...search between the cracks much easier...you just don’t carry the whole baggage that goes with being a cop...when a journalist arrives to interview witnesses...you can be...informal...people...know that you are not going to arrest them. I have turned up at witnesses houses...and they have told me straight that they will tell me something they won’t be telling the police” (NEWSL).

The journalists also highlighted differences in their view, between police and journalists in terms of ‘investigative thinking’, arguing that they were generally more creative in their thinking than detectives: “I think out of the box...think sideways, backwards, forwards...creatively...The...police...tend to go 1, 2, 3...very rigid...unimaginative in their thinking” (NEWSL). Another major difference observed by one journalist was that whilst ‘criminal investigations involve case construction’, (whereby police start off with a mass of information, then focus down on specific information until they have constructed a case around a suspect); ‘journalistic investigations involve case deconstruction’, or “playing detective in reverse” (NEWSL). This is an historic looking back at a case and
starts off with a mass of information which is gradually deconstructed. However, another journalist argued that a better parallel exists between journalistic and CCRC investigations as both are retrospective, having the benefit of hindsight, more time, and less pressure.

In relation to pressure, the journalists felt that there were ‘greater pressures upon police investigations’ than journalistic investigations. These included greater pressures of time. One journalist described how her investigation into a case had taken six years, something which would be impossible for a detective to do. It was also highlighted that when a serious crime occurs, police investigations are often under a great deal of public, media, and political pressure to get a result quickly; whereas journalistic investigations are not under such pressure. This TV producer stated that in relation to a particular miscarriage which he investigated, the detective in charge of the original investigation was under massive pressure to catch the culprit; whereas he was able to take his time working through the case: “We did produce some...things that wouldn’t have come to the surface without a lot of time...those statements...you don’t get that with a quick conversation with a witness. That took three years” (PRODN). Again then, the importance of the journalist having greater freedom and time in their investigations was stressed.

The journalists also highlighted their greater ‘freedom from the constraints of officialdom’ than the police. One journalist argued that he could for example, use charm and persuasion when dealing with people, a tact less easy to adopt as a police officer: “approaching witnesses in an official capacity” (NEWSL). The journalists argued that the police had many restrictions placed upon them in terms of what they do/how they do it, whilst: “In journalism there are few regulations” (PRODR). One journalist observed that the police are peer-reviewed and have to provide audit trails; whereas the journalist does not have any statutory frameworks: “They can essentially do what they like” (NEWSN). However, another argued that journalists do have to create audit trails as they must record how they have gained evidence in investigations.

Differences were observed in terms of ‘the managerial structure of the professions’. The journalists stated that the police operate in a hierarchical managerial structure; whereas journalism has a flatter structure where there is much more initiative at junior and middle level: “I don’t see that in the police...normal police methodology...is quite risk averse...everything is...referred up”. This journalist felt that because of this: “...there is always a higher loyalty with them rather than [as with journalists] humane loyalties”
He added that whereas the journalist’s first loyalty in his investigation is to the public; sometimes police officers’ work is affected by occupational loyalty or the police culture.

There was deemed to be a major difference between police and journalistic investigations in terms of ‘available resources’. The journalists stated that they did not have access to as many human and financial resources as police investigators, making their investigations more difficult. However, this TV researcher felt that this also meant that she had greater freedom in her investigations: “They [may have] the resources [but] I had the freedom to do what I wanted…I don’t have to fill out forms…like the police do. I can just turn up and have a drink with someone (RES).” It was also noted that whereas police officers work as part of a large investigative team; journalists more often work alone/in a small team. However, one journalist viewed this as beneficial: “In my investigation it was just me across the whole thing…Cops only have their own little section to deal with…I could see the whole picture. That’s important” (PRESN).

**Formalising Similarities and Differences**

The journalists’ comments regarding the attributes which they felt to be important in order to be successful in their investigations into miscarriages of justice, together with their comments on the similarities/differences between their investigations and police investigations, led the researcher to consider whether it would be possible to determine any general attributes which might be considered to be characteristic of a successful investigator (whether journalist or police officer). A questionnaire containing a list of 27 attributes (skills, abilities, and characteristics) deemed to be important in order to be a successful criminal investigator (see chapter 6) was delivered to 30 journalists and 70 police detectives. They were asked to rate each attribute on a Likert scale from 1 (indicating that the attribute was not very important) to 5 (indicating that it was very important). The results of this research made it possible to examine firstly:

* i) Whether there were any attributes which police officers and journalists together as a group agreed were clear attributes of a successful investigator.

In order to examine the above question, a Kendall’s co-efficient of concordance was conducted on the data in Table 8.5. This measured the level of agreement amongst this
one group of police officers and journalists (N=100)\(^{27}\). As can be seen from Table 8.5 (and from the statistical analysis), the Kendall’s co-efficient of concordance indicated that the police officers and journalists as one group agreed most strongly that ‘Integrity’, \(W(27, N = 100) = .307, p < .001\), was the most important attribute to possess in order to be a successful investigator\(^{28}\). Table 8.5 also indicates that the second most important attribute identified by the group was ‘Good listening skills’ and that the third most important attribute was ‘Commitment to the case’. In addition, Table 8.5 indicates that police officers and journalists as one group agreed that the least important attribute for an investigator to possess was ‘Formal education’, the second least important attribute identified was ‘Previous training’ and the third least important attribute was ‘Strategic awareness’.

**Table 8.5: Mean (and standard deviation) for ‘investigator’ attributes (abilities, skills, and characteristics) across police officers and journalists**

<table>
<thead>
<tr>
<th>Attributes in order of importance according to police officers &amp; journalists as one group (N=100)</th>
<th>Total Mean (SD) for police officers &amp; journalists as one group (N=100)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top 3 (most important attributes for success)</td>
<td></td>
</tr>
<tr>
<td>((1^{st})) Integrity</td>
<td>4.67 (0.78)</td>
</tr>
<tr>
<td>((2^{nd})) Good listening skills</td>
<td>4.50 (0.70)</td>
</tr>
<tr>
<td>((3^{rd})) Commitment to the case</td>
<td>4.40 (0.80)</td>
</tr>
<tr>
<td>Motivated</td>
<td>4.38 (0.78)</td>
</tr>
<tr>
<td>Good communication skills</td>
<td>4.37 (0.77)</td>
</tr>
<tr>
<td>Initiative</td>
<td>4.25 (0.73)</td>
</tr>
<tr>
<td>Persistence</td>
<td>4.12 (0.84)</td>
</tr>
<tr>
<td>Tenacity</td>
<td>4.07 (0.83)</td>
</tr>
<tr>
<td>Decision-making</td>
<td>4.04 (0.79)</td>
</tr>
<tr>
<td>Objectivity</td>
<td>4.04 (0.79)</td>
</tr>
<tr>
<td>Good reasoning ability</td>
<td>4.00 (0.82)</td>
</tr>
<tr>
<td>Good skills of judgement</td>
<td>3.96 (0.79)</td>
</tr>
<tr>
<td>Approachable personality</td>
<td>3.89 (0.87)</td>
</tr>
<tr>
<td>Independence of thought</td>
<td>3.83 (0.79)</td>
</tr>
</tbody>
</table>

\(^{27}\) A Kendall’s co-efficient of concordance is a statistical test which calculates the strength of agreement amongst participants. It takes all of the raw data (i.e. all of the rankings on all of the attributes) and provides the researcher with ONE result.

\(^{28}\) In this case therefore, the Kendall’s co-efficient of concordance indicated the most important attribute according to the police officers and journalists as ONE group and the level of agreement around that attribute. A result of .307 for ‘Integrity’ (see above) indicates that the level of agreement amongst the group was in the fair to moderate range (with 0 indicating no agreement and 1 indicating full agreement). ‘Integrity’ then, was the attribute around which there was most agreement in terms of its importance in order to be a successful investigator.
ii) The researcher then examined whether police officers and journalists within each group agreed amongst themselves as to what are thought to be important attributes for a successful investigator to possess.

In order to examine the above question two Kendall’s co-efficient of concordance were conducted in order to measure firstly, the level of agreement amongst police officers as one group and secondly, the level of agreement amongst journalists as one group.

When applied to all of the raw data in Table 8.6 (see p.179), the Kendall’s co-efficient of concordance indicated that the police officers agreed most strongly that ‘Integrity’, $W (27, N = 70) = .353, p < .001$, was the most important attribute to possess in order to be a successful investigator. Table 8.6 also indicates that the second most important attribute to possess according to police officers was ‘Good communication skills’, and the third most important attribute was ‘Good listening skills’. In addition, Table 8.6 indicates that police officers identified the least important attribute for an investigator to possess as ‘Formal education’, the second least important attribute as ‘Nose for the job’, and the third least important attribute as ‘Strategic awareness’.

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29 A result of .353 for ‘Integrity’ (see above) indicates that the level of agreement amongst the police officers was in the fair to moderate range. ‘Integrity’ then, was the attribute around which there was most agreement in terms of its importance.
Table 8.6: Mean (and standard deviation) for ‘investigator’ attributes (abilities, skills, and characteristics) across police officers

<table>
<thead>
<tr>
<th>Attributes in order of importance according to police officers (N=70)</th>
<th>Total Mean (SD) for police officers (N=70)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top 3 (most important attributes for success)</td>
<td></td>
</tr>
<tr>
<td>(1&lt;sup&gt;st&lt;/sup&gt;) Integrity</td>
<td>4.70 (0.79)</td>
</tr>
<tr>
<td>(2&lt;sup&gt;nd&lt;/sup&gt;) Good communication skills</td>
<td>4.49 (0.70)</td>
</tr>
<tr>
<td>(3&lt;sup&gt;rd&lt;/sup&gt;) Good listening skills</td>
<td>4.46 (0.76)</td>
</tr>
<tr>
<td>Motivated</td>
<td>4.26 (0.81)</td>
</tr>
<tr>
<td>Commitment to the case</td>
<td>4.24 (0.88)</td>
</tr>
<tr>
<td>Decision-making</td>
<td>4.11 (0.75)</td>
</tr>
<tr>
<td>Initiative</td>
<td>4.11 (0.71)</td>
</tr>
<tr>
<td>Ability to work as team</td>
<td>4.07 (0.77)</td>
</tr>
<tr>
<td>Ability to plan</td>
<td>3.89 (0.90)</td>
</tr>
<tr>
<td>Good reasoning ability</td>
<td>3.87 (0.82)</td>
</tr>
<tr>
<td>Objectivity</td>
<td>3.87 (0.72)</td>
</tr>
<tr>
<td>Persistence</td>
<td>3.86 (0.82)</td>
</tr>
<tr>
<td>Tenacity</td>
<td>3.81 (0.80)</td>
</tr>
<tr>
<td>Good skills of judgement</td>
<td>3.79 (0.76)</td>
</tr>
<tr>
<td>Approachable personality</td>
<td>3.77 (0.85)</td>
</tr>
<tr>
<td>Legal knowledge</td>
<td>3.64 (0.87)</td>
</tr>
<tr>
<td>Independence of thought</td>
<td>3.64 (0.76)</td>
</tr>
<tr>
<td>Intelligence</td>
<td>3.57 (0.81)</td>
</tr>
<tr>
<td>Stable disposition</td>
<td>3.54 (0.86)</td>
</tr>
<tr>
<td>Empathy</td>
<td>3.51 (0.88)</td>
</tr>
<tr>
<td>Creative</td>
<td>3.39 (0.91)</td>
</tr>
<tr>
<td>Previous experience</td>
<td>3.24 (0.97)</td>
</tr>
<tr>
<td>Street intelligence</td>
<td>3.21 (0.85)</td>
</tr>
<tr>
<td>Previous training</td>
<td>3.17 (1.02)</td>
</tr>
<tr>
<td>Bottom 3 (least important attributes for success)</td>
<td></td>
</tr>
<tr>
<td>(3&lt;sup&gt;rd&lt;/sup&gt;) Strategic awareness</td>
<td>3.10 (0.85)</td>
</tr>
<tr>
<td>(2&lt;sup&gt;nd&lt;/sup&gt;) Nose for the job</td>
<td>3.05 (0.98)</td>
</tr>
<tr>
<td>(1&lt;sup&gt;st&lt;/sup&gt;) Formal education</td>
<td>2.53 (0.81)</td>
</tr>
</tbody>
</table>

When applied to all of the raw data in Table 8.7 (see p.180), the Kendall’s co-efficient of concordance indicated that the journalists agreed most strongly that ‘Commitment to the case’, $W (27, N=30) = .418, p < .001$, was the most important attribute to possess in order to be a successful investigator<sup>30</sup>. Table 8.7 also indicates that the second most important

<sup>30</sup> A result of .418, $p < .001$ for ‘Commitment to the case’ (see above) indicates that the level of agreement amongst the journalists was high. ‘Commitment to the case’ then, was the attribute around which there was most agreement in terms of its importance.
attribute to possess according to journalists was ‘Persistence’, and the third most important attribute was ‘Motivated/Tenacity’. In addition, Table 8.7 indicates that journalists identified the least important attribute for an investigator to possess as ‘Previous training’, the second least important attribute as ‘Formal education’/‘Ability to work as part of a team’, and the third least important attribute as ‘Stable disposition’.

Table 8.7: Mean (and standard deviation) for ‘investigator’ attributes (abilities, skills, and characteristics) across journalists

<table>
<thead>
<tr>
<th>Attributes in order of importance according to journalists (N=30)</th>
<th>Total Mean (SD) for journalists (N=30)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Top 3 (most important attributes for success)</strong></td>
<td></td>
</tr>
<tr>
<td>(1°) Commitment to the case</td>
<td>4.77 (0.43)</td>
</tr>
<tr>
<td>(2°) Persistence</td>
<td>4.73 (0.52)</td>
</tr>
<tr>
<td>(3°) Motivated/Tenacity</td>
<td>4.67 (0.61)</td>
</tr>
<tr>
<td>Integrity</td>
<td>4.60 (0.77)</td>
</tr>
<tr>
<td>Good listening skills</td>
<td>4.60 (0.56)</td>
</tr>
<tr>
<td>Initiative</td>
<td>4.57 (0.68)</td>
</tr>
<tr>
<td>Objectivity</td>
<td>4.43 (0.82)</td>
</tr>
<tr>
<td>Good skills of judgement</td>
<td>4.37 (0.72)</td>
</tr>
<tr>
<td>Good reasoning ability</td>
<td>4.30 (0.75)</td>
</tr>
<tr>
<td>Independence of thought</td>
<td>4.27 (0.69)</td>
</tr>
<tr>
<td>Approachable personality</td>
<td>4.17 (0.87)</td>
</tr>
<tr>
<td>Good communication skills</td>
<td>4.10 (0.88)</td>
</tr>
<tr>
<td>Nose for the job</td>
<td>4.03 (1.16)</td>
</tr>
<tr>
<td>Intelligence</td>
<td>3.90 (0.96)</td>
</tr>
<tr>
<td>Decision-making</td>
<td>3.87 (0.86)</td>
</tr>
<tr>
<td>Street intelligence</td>
<td>3.87 (0.73)</td>
</tr>
<tr>
<td>Creative</td>
<td>3.57 (1.22)</td>
</tr>
<tr>
<td>Legal knowledge</td>
<td>3.57 (0.97)</td>
</tr>
<tr>
<td>Previous experience</td>
<td>3.53 (1.01)</td>
</tr>
<tr>
<td>Empathy</td>
<td>3.30 (1.20)</td>
</tr>
<tr>
<td>Ability to plan</td>
<td>3.23 (1.07)</td>
</tr>
<tr>
<td>Strategic awareness</td>
<td>3.17 (1.29)</td>
</tr>
<tr>
<td>(3°) Stable disposition</td>
<td>2.97 (1.07)</td>
</tr>
<tr>
<td>(2°) Formal education</td>
<td>2.90 (1.24)</td>
</tr>
<tr>
<td>(2°) Ability to work as team</td>
<td>2.90 (1.16)</td>
</tr>
<tr>
<td>(1°) Previous training</td>
<td>2.47 (1.04)</td>
</tr>
</tbody>
</table>

| Bottom 3 (least important attributes for success)              |                                       |
|                                                               |                                       |
When considered together, Tables 8.6 and 8.7 indicate that the top three most important attributes and the bottom three least important attributes identified by police officers and journalists were different, with the exception of ‘Formal education’, (which both groups identified as being one of the least important attributes to possess in order to be a successful investigator). Importantly, the Kendall’s coefficient of concordance for this data showed that police officers were less consistent in their views regarding the importance of the attributes considered than journalists31.

Interestingly however, although the top three most important attributes identified by police officers (‘Integrity’, ‘Good communication skills’, ‘Good listening skills’) differed from the top three identified by journalists, it can be seen (from Table 8.7) that journalists also ranked these attributes relatively highly in terms of importance. In addition, although the top three most important attributes identified by journalists (‘Commitment to the case’, ‘Persistence’, ‘Motivated/Tenacity’) differed from the top three identified by police officers, it can be seen (from Table 8.6) that police officers also ranked ‘Commitment to the case’ and ‘Motivated’ highly in terms of importance. Greater differences between police officers and journalists can be observed in relation to ‘Persistence’ and ‘Tenacity’, (the mean scores for police officers on these attributes were somewhat lower than they were for journalists). These differences are discussed further below.

The bottom three, least important, attributes identified by journalists (‘Previous training’, ‘Ability to work as part of a team’/‘Formal education’, ‘Stable disposition’) also differed from the bottom three identified by police officers, (with the exception of ‘Formal education’, which as previously mentioned, both groups identified as being one of the least important attributes to possess in order to be a successful investigator). However, it can be seen (from Table 8.6) that police officers also ranked ‘Previous training’ and ‘Stable disposition’ relatively low in terms of importance. In addition although the bottom three attributes identified by police officers (‘Formal education’, ‘Nose for the job’ and ‘Strategic awareness’), differed from the bottom three identified by journalists (with the exception of ‘Formal education’ as mentioned above), it can be seen (from Table 8.7) that journalists also ranked ‘Strategic awareness’ low in terms of importance. Greater differences between police officers and journalists can be found in relation to two

31 A figure of .418 for ‘Commitment to the case’ for journalists indicates that there was a stronger level of agreement amongst journalists in relation to the most important attribute identified, than there was amongst police officers (as .418 is nearer to 1 (full agreement) than the police officers’ result of .353 for ‘Integrity’) – see footnote 28.
attributes, namely ‘Ability to work as part of a team’ (overall means indicate that police officers ranked this somewhat higher than journalists in terms of importance) and ‘Nose for the job’ (journalists’ ranked this somewhat higher than police officers in terms of importance). These differences are discussed further shortly.

iii) The researcher then considered whether there were any differences across the two occupational groups (police officers and journalists) concerning their views with regards to the importance of each attribute

In order to examine the above question, Independent T-tests were conducted on the data in Tables 8.6 and 8.7. It was found that indeed there were differences across the two occupational groups in this regard, as Table 8.8 indicates.

Table 8.8 highlights that journalists placed greater weight than police officers upon 12 attributes and police officers placed greater weight upon five attributes. The Independent T-tests revealed these differences to be statistically significant.

Table 8.8: Statistically significant differences across the two occupational groups (police officers and journalists) concerning their views with regards to the importance of each attribute

Journalists (N=30) put greater weight than police officers on the following:

**Personal characteristics:** Approachable personality, t=2.106, df = 98, p<0.0038; Commitment to the case, t=4.004, df = 96, p<0.000; Persistence, t=6.410, df = 84, p<0.000; Motivated, t=2.482, df = 98, p<0.015; Nose for the job, t=4.327, df = 98, p<0.000; Tenacity, t=5.299, df=98, p<0.000.

**Mental skills:** Initiative, t=2.948, df = 98, p<0.004; Good skills of judgement, t=3.562, df = 98, p<0.001;

---

32 The Independent T-test was run for each attribute across the two groups. This test measured the differences between the two means for police officers and journalists per attribute. It informed the researcher of the attributes around which there was a statistically significant difference between the two groups in terms of their rating of importance per attribute.

33 The term ‘statistically significant’ means that there is a real difference between the two mean scores, which did not occur by chance. It does not necessarily mean that the difference is large or important (Statpac, n.d).

34 As the reader is aware, Tables 8.6 and 8.7 indicate differences between the mean scores for police officers and journalists per attribute, however Table 8.8 indicates (as a result of conducting an independent T-test on the raw data) which differences between the mean scores for police officers and journalists were statistically significant and the direction of the difference, i.e. which group put greater weight upon which attribute.
Good reasoning ability, $t=2.466$, df = 98, $p<0.0015$; Objectivity, $t=3.431$, df = 98, $p<0.001$; Independence of thought, $t= 3.853$, df = 98, $p<0.000$.

**Practical skills:** Street intelligence, $t= 3.664$, df = 98, $p<0.000$.

**Police officers (N=70) put greater weight than journalists on the following:**

**Personal characteristics:** Stable disposition, $t=2.846$, df = 98, $p<0.005$.

**Mental skills:** Good communication skills, $t=2.334$, df = 98, $p<0.022$.

**Practical skills:** Ability to work well as part of a team, $t=-5.093$, df = 40, $p<0.000$; Previous training, $t=3.144$, df = 98, $p<0.002$; Ability to plan, $t=3.147$, df = 98, $p<0.002$.

Table 8.8 indicates that there were a number of statistically significant differences between police officers and journalists in relation to their mean scores for particular attributes. However, it is important to note that whilst these differences may be statistically significant (i.e. they did not occur by chance), they are still relatively small (also see Tables 8.6 and 8.7). This is with the exception of ‘Persistence’, ‘Tenacity’, ‘Nose for the job’, in relation to which the mean scores were markedly different (journalists’ mean scores were 4.73; 4.67; and 4.03, and police officers mean scores were 3.86; 3.81; and 3.05 respectively), and ‘Ability to plan’, in relation to which the difference between the mean scores was the greatest (journalists’ mean score was 2.90 and police officers’ mean score was 4.07). These then, appear to be the main four differences, (differences which were statistically significant), between the police officers and journalists in relation to their views on the attributes required for success.

At the end of the questionnaire administered to all participants, an open-ended question asked them to add any other attributes which they felt had been missed from the list provided. Table 8.9 indicates respondents’ replies.
Table 8.9: Respondents’ (police officers and journalists) additional comments expressed to the question: Are there any attributes missing from this list?

### Additional comments from the open question at the end of each questionnaire

<table>
<thead>
<tr>
<th>Police officers</th>
<th>Journalists</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methodical</td>
<td>Intrigue</td>
</tr>
<tr>
<td>Flexible</td>
<td>Flair</td>
</tr>
<tr>
<td>Character and backbone in times of crisis</td>
<td>Investigating crime, not suspects</td>
</tr>
<tr>
<td>Ability to manage the process</td>
<td>A wish to find out the truth</td>
</tr>
<tr>
<td>Non-judgemental</td>
<td>Direct experience of injustice</td>
</tr>
<tr>
<td>Understanding</td>
<td>Bravery</td>
</tr>
<tr>
<td>Compassion</td>
<td>Scepticism</td>
</tr>
<tr>
<td>Dedicated</td>
<td>Gut instinct</td>
</tr>
<tr>
<td>Common-sense; sometimes well educated, well spoken detectives are ‘taken for a ride by cunning suspects</td>
<td>You have to know when to give up</td>
</tr>
<tr>
<td>Sense of fairness</td>
<td>A plausible manner</td>
</tr>
<tr>
<td>Intuity</td>
<td>Determination</td>
</tr>
<tr>
<td>Use/sense of humour at appropriate times</td>
<td>Methodical</td>
</tr>
<tr>
<td></td>
<td>Ability to win the trust of interviewees</td>
</tr>
<tr>
<td></td>
<td>Ability to be able to think outside of the box</td>
</tr>
<tr>
<td></td>
<td>Confidence to question scientific dogma and expertise</td>
</tr>
<tr>
<td></td>
<td>Ability to source people like forensic experts</td>
</tr>
<tr>
<td></td>
<td>Beware of absolutes such as criminalising diagnoses</td>
</tr>
<tr>
<td></td>
<td>Ability to persuade others of importance of the case</td>
</tr>
</tbody>
</table>

As Table 8.9 reveals, most of the attributes which police officers and journalists felt were missing from the list were personal characteristics and mental abilities, rather than work-based, practical skills.

**Summary of the Important Attributes (Skills, Abilities and Characteristics) for a Successful Investigator to Possess and of the Similarities and Differences between Police Officers and Journalists in this respect**

In order to be a successful investigator (whether police officer or journalist) the results of this research indicate that it is particularly important to possess ‘Integrity’, ‘Good listening skills’, and ‘Commitment to the case’ (see Table 8.5). Although as separate groups, police officers and journalists did not rank the same attributes in their *top three*, mean scores indicated that both groups highly rated the aforementioned attributes, together with
‘Good communication skills’ and ‘Motivated’ (see Tables 8.6 and 8.7) as being important to possess in order to be a successful investigator. Police officers’ and journalists’ views differed more markedly (and this difference was statistically significant) in relation to the importance of the attributes ‘Persistence’ and ‘Tenacity’; a finding which is inexplicable as it must surely be assumed that the need to be persistent and tenacious is equally important to both types of investigator.

In order to be a successful investigator (whether police officer or journalist) the results of this research indicate that it is least important to possess ‘Formal education’, ‘Previous training’, and ‘Strategic awareness’ (see Table 8.5). Although as separate groups, police officers and journalists did not rank the same attributes in their bottom three, (with the exception of ‘Formal education’ which both did rank in this category) mean scores indicated that both rated these attributes, together with ‘Stable disposition’ (see Tables 8.6 and 8.7), relatively low in terms of importance in order to be a successful investigator.

There are however, important differences between police officers and journalists in terms of the attributes least required for success. Police officers identified ‘Nose for the job’ as one of their least important attributes; whereas journalists ranked this rather more highly in terms of importance. Similarly, journalists identified ‘Ability to work as part of a team’ as one of their least important attributes for success; whereas police officers ranked this much higher in terms of importance (differences also found to be statistically significant).

Overall, the mean scores and further statistical calculations for all of the attributes indicate that police officers and journalists are not greatly different in terms of the attributes required for success in their investigations. They place similar levels of importance upon most attributes (with the exception of ‘Persistence’ and ‘Tenacity’ where there are more marked differences in this respect), even if they do not place them quite as high as their counterpart in terms of ranking them in their top three most important attributes. There are stronger differences between police officers and journalists in terms of the attributes which the separate groups rated as least important, particularly ‘Nose for the job’ and ‘Ability to work as part of a team’. Possible reasons for these differences are explored in chapter 11.

Despite such differences, police officers and journalists agreed that it is more important to possess particular personal characteristics and mental skills, than it is to possess practical/work-based skills and training, and particularly a formal education, in order to be
a successful investigator (see Tables 8.5, 8.6, 8.7, 8.8, and 8.9). Therefore, it can be suggested that qualities from ‘within the person’, rather than from ‘within the profession’ matter more in terms of being a successful investigator. The comments added by participants to the end of their questionnaires further support this suggestion, (they again identify mainly personal characteristics and mental abilities/skills). The results also suggest that, (as the journalists mentioned in their interviews), journalists primarily do seem to be similar to detectives (with a few exceptions) in terms of the attributes required to investigate criminal cases successfully and therefore do seem to be undertaking a similar role.

Conclusion

This chapter provided an in-depth exploration of journalistic investigations into miscarriages of justice. It particularly focussed upon the specific strategies or methods adopted by journalists in their investigations into miscarriages. The chapter noted that journalistic investigations into miscarriages can be lengthy and complex, much like some criminal investigations and that the two seemed, to share similarities, but also differences. Considering comments from the journalists concerning the attributes which they felt they shared with criminal investigators, the chapter then presented the results of quantitative research which examined this. The chapter ended by suggesting that although journalists and criminal investigators as separate groups do not agree upon the top three most important attributes required in order to be a successful investigator, they do agree that such attributes are nevertheless important. They also agree that ‘Formal education’ is one of the least important attributes for success. The main differences between police officers and journalists concerned their opinions upon the importance of the attributes ‘Persistence’, ‘Tenacity’, ‘Nose for the job’, and ‘Ability to work as part of a team’. Despite such differences, the chapter highlighted that generally, attributes ‘of the person’ rather than ‘of the profession’ seem to matter more in terms of being a successful investigator. Interestingly, such assertions are supported if one looks to detective fiction, particularly to the ‘Whodunit?’ (where an amateur detective conducts their investigation alongside the professional police and solves the crime first). This has interesting links to the next chapter, part of which considers whether the story of ‘miscarriage of justice’ is told like a fictional detective story.
CHAPTER 9: TELLING STORIES

Introduction

This chapter explores, in greater detail, journalistic storytelling around miscarriages of justice and analyses the products (broadcasts/newspaper articles) of journalists working within this area. Journalists’ aims in telling stories about miscarriages, (according to the journalists interviewed in phase 2 of the research) are firstly analysed. Journalists aim to appeal to a variety of entities in producing their stories about miscarriages, including the public, the powerful, and other members of the media. The reasons for this, and the various ways in which this is done, are examined within this chapter. The discussion then turns to the issue of how journalists tell stories about miscarriages of justice. As previously mentioned, the journalists interviewed likened their investigations into miscarriages of justice to detective work. With this in mind, chapter 8 explored the similarities/differences between these two types of ‘detective’ (i.e. the investigative journalist and the criminal investigator). In a similar vein, this chapter focuses upon the journalists’ suggestions that they tell the story of miscarriage of justice like a detective story, and presents the results of a narrative analysis of journalists’ stories in this area (utilising a structural model of detective fiction) to ascertain if this is indeed the case.

The Importance of, and Journalists’ aims in telling, Stories about Miscarriages of Justice

‘Telling stories’ is ultimately the main goal of journalists involved in miscarriages of justice cases. Indeed, as chapter 7 indicated, even the results of a successful journalistic investigation into a case would be redundant were they to remain ‘untold’. For the journalist, the need to produce a good story is paramount as it is his/her primary professional role: “...at the end of it all you had to be able to produce a story” (PRODN). If telling stories about miscarriages is so important, it is firstly crucial to examine the aims that journalists have in telling them.

In telling stories about miscarriages, the journalists interviewed in phase 2 of the research (N=27) stated that they had a number of aims. These included:
i) Publicity

One of the primary aims of telling stories about miscarriages, according to the journalists, was in order to provide a case with publicity. However, in publicising the case the journalists had a number of subsidiary aims. These included:

Providing a ‘voice’ for the prisoner/their supporters

The journalists felt that prisoners (and their families) are effectively silenced. In this respect, journalists may aim to give such individuals a ‘voice’ through their stories: “If people want to say something about their case from jail...they deserve to be heard” (NEWSL). This sometimes allowed prisoners claiming that they had been wrongly convicted, to detail their version of events: “X wrote to me from prison...setting out his [story] and I published it as a large article” (NEWSN).

Providing information about new developments in a case

Through telling their stories, the journalists sometimes simply aimed to inform the public about new developments in a case, (such as a forthcoming appeal), or the results of an investigation conducted by themselves or others into a case. There is sometimes collaboration between newspaper and TV journalists in this area: “…the aim was, they would write the piece, pointing to the programme that was going to be on that night so that people would watch it” (PRODN).

Appeals for information

Journalists also aimed to sometimes encourage existing/new witnesses to come forward due to evidential gaps arising in their investigation (or that of another journalist) into a case: “There were two witnesses that I still couldn’t find so I [wrote] a story [saying] we are looking for this person” (FREE). It was noted that publicity in local newspapers was a very effective way of getting local witnesses to come forward.
Raising doubts or questions

Another aim of journalists’ publicising a case was to raise questions or what they termed ‘cause for concerns’ about specific aspects of a case with readers/viewers: “The first article was...‘this is what is being said’, raising doubts with readers” (FREE).

ii) Placing a Case on the Public Agenda

The journalists stated that another core aim of telling stories was to place a case on the public agenda, by raising its profile and: “making the public more aware of the case” (NEWSL). In their attempts to gain a higher profile for a case, newspaper journalists would often approach TV journalists: “X (newspaper journalist) approached us [because] we had a very prominent slot which would get a significant audience” (PRODN). Once a case was in the public eye, the journalists aimed to keep it there (i.e. on the public agenda) for as long as possible by publishing regular stories on it. However, in placing a case on the public agenda the journalists also had a number of subsidiary aims:

Prompting public debate

One such aim was to prompt public debate around a case. Indeed, one journalist outlined how his storytelling prompted debate at the highest levels of society: “Buckingham Palace [asked] for a copy of our programme...saying ‘What the hell is going on here?’” (PRODN).

Gaining credibility and influence

Another subsidiary aim was to gain credibility not only among the general public, but among those with power and influence, whose support the journalists hoped might ultimately help to bring about change. Interestingly, one journalist argued that although his stories were made for the public, they actually aimed to influence the three Court of Appeal judges who would eventually hear the case.
Prompting official action

It was hoped that agenda-building would also prompt official action to be taken in relation to a case as outlined by this journalist: “Douglas Hurd saw the programme...took the...papers home...and read them...and...determined that it would go back to...appeal” (PRODN). Another journalist highlighted how his investigation into a case had prompted a police investigation which uncovered vital information that he could never have found: “…our programme sparked an investigation by Q police into V police, and what they found, which we couldn’t, was that the contemporaneous confession of X was written up in notebooks that hadn’t been issued until six months later” (PRESN).

iii) Placing a Case on the Media Agenda

The journalists also aimed to place the case on the agenda of other journalists. For example, local newspaper journalists often aimed to place a case on the agenda of regional TV journalists who might conduct an investigation into it, as this victim described: “…there was an article in a local newspaper about me...[and then] HTV...decided to do a programme” (Victim) or on the national news agenda, because local papers do not carry the readership or influence that the nationals carry: “The fact that the Home Secretary...might have been reading it...you don’t get that from local papers...the big papers carry greater power (Victim). Interestingly, a TV journalist said that he was unlikely to investigate a case unless the press had first covered it, thereby highlighting the importance of newspaper journalists telling stories in this area.

iv) Appealing to Public Morality

Journalists aimed to appeal to public morality, i.e. to the public conscience through their stories, thereby prompting people to feel moral outrage/unfairness in relation to the injustice presented. Here, there was an appeal to a sense of shared empathy for the powerlessness individual against the State. They also aimed to stress to the public that: “...if the CJS is this flawed anyone might be wrongly convicted” (NEWSL), thereby highlighting a shared vulnerability to injustice.
v) Accountability

The journalists also aimed to achieve some form of accountability on the part of the CJS in telling their stories which exposed the injustices of that system. This was not accountability in terms of pinning blame upon specific individuals, rather this watchdog role permitted everyone to monitor the actions of the CJS, thereby bringing ‘power to the people’: “It means that there is a monitoring of the process...3 million viewers monitoring [what happens next]...”(RES).

How Stories about Miscarriages of Justice are told

How journalists tell the story surrounding a miscarriage of justice, very much depends upon their involvement or role within the case itself. The journalists stated that if they were not investigating a case (this was more likely to be newspaper journalists due to lack of resources), they might write a feature-piece about it. However, generally there needed to be a new development in the case in order to be able to tell a story about it, as this journalist outlined: “I would look for...a killer fact to hang the story on...that opens up the door to discuss the case in more detail” (NEWSN). When journalists were involved in case investigations (this was more likely to be TV journalists due to having more resources), they told stories in a different way: “...we [gave the public]...an adventure...[or] people are saying...what am I watching this for” (PRESN). The journalists noted that there were advantages to both types of storytelling. Newspaper journalists, could keep writing about a case: “...write a little piece saying ‘I have discovered [this] little nugget, I will leave it with you’ and then a month later...come back to it...then come back to it again” (PRODN). However, the level of resources committed to telling stories in TV, meant that journalists here had to detail a ‘breakthrough’, not just a ‘question mark’ in a case: “In TV you need to try to answer questions with proper evidence, not simply to ask them...you can’t make a ‘cause for concern’...just listing suspicious things...you have got to...raise significant argument”(PRODN). Newspaper stories then, often allowed the journalist to do ‘follow-ups’ on a case; whereas TV stories made one big impact as they were told only once.

Whichever medium stories about miscarriages were told through, the journalists highlighted things they had to do in telling stories. These are outlined below:
Refine the Detail

The journalists reported that stories about miscarriages were often complex and complicated. Therefore, in order to maintain audience interest, their presentation had to be dramatically simplified: “The simplicity of message is critical” (NEWSN). However, they still had to maintain enough information to make a compelling case/convincing argument. In TV, due to time constraints, it was even more important to be able to sift the interesting detail from the mass of information, as whilst an investigation into a case may have produced: “…30 hours of stuff...29 ½ have to be left out!”(RESN) of the final programme. The key, the journalists stated, was to make the story watchable, whilst maintaining coherence in terms of presentation, so as to achieve maximum influence.

Ensure Accuracy

The journalists stressed the importance of ensuring that the material presented was totally accurate. Inaccuracies in storytelling could lead to legal ramifications. However, accuracy was also clearly related to journalistic integrity: “…we were filming an important scene...and I am thinking that’s not what it says in the statement...so I [tell] the producer...that’s not right...the person was facing [the other] way...and they re-shot the whole scene...you had to be absolutely true to the facts” (PRODN).

Ensure Objectivity

The journalists argued that it was also crucial to be objective in telling stories in this area. This involved presenting all of the weaknesses as well as the strengths of the case they were making, giving play to both defence and prosecution arguments. However, interestingly, despite the journalists stating that they attempted to present their stories in an unbiased fashion, those stories produced as a result of journalistic investigations simultaneously aimed to persuade the viewer/reader of a particular viewpoint:

“At the beginning you reveal...she’s in prison for this awful crime...Then during the course of the programme your story gets stronger and stronger...evidence then even more evidence...then at the end you get your ‘jaw-dropper’, something astonishing” (PRODN).
Evidently, whilst the evidence itself is presented objectively, a strong case for concluding that there is reasonable doubt about a conviction is built throughout the narrative and is certainly the message which the audience is left with.

**Miscarriages of Justice Stories as Detective Stories**

One of the most frequent comments from the journalists (N=27) in response to the question of how they told their stories of miscarriages was that they told them like detective stories, particularly the ‘Whodunit?’: “You are telling a detective story, it’s a ‘Whodunit’” (PRESN). Indeed, the journalists reiterated similarities between the stories, in terms of content: “…both see the reporter going on a journey to uncover evidence. Both…combine emotion, evidence, excitement” (PRODN) and structure: “…both start with a dead body and ask ‘Who done it?’…but with [our story]…it is ‘maybe he or she didn’t dunnit!’” (PRESN).

This journalist however, noted that the stories’ endings differ: “[In] a good Poirot…Poirot…works through all the events and…clues and…always finds out who did it in the end” (PRODN). Miscarriages stories however, rarely have this ‘Poirot ending’: “…most…end up in the air” (PRODN). The results of a comparison between factual miscarriages of justice stories and fictional detective stories in order to examine just these issues, are presented below.

**Formalising the Similarities and Differences between Miscarriages of Justice Stories and Fictional Detective Stories**

The researcher was keen to discover how TV and newspaper journalists told stories surrounding miscarriages of justice, (or more accurately possible miscarriages as these stories were told prior to convictions being officially questioned/quashed) and whether they were told like fictional detective stories. With this in mind, a sample (N=15) of TV programmes and (N=15) newspaper articles which told a story surrounding a possible miscarriage in a murder case was selected from a variety of sources (see Tables 9.1 and 9.2).
In order to conduct a narrative analysis of the TV programmes and newspaper articles in Tables 9.1 and 9.2, Dove’s (1997) ‘7-step basic plot of detective fiction’ was utilised. The reader is reminded that Dove explains these seven steps in relation to a work of detective fiction which contains the ‘wrong person’ convention (see Figure 6.2, p.131).

**Table 9.1: The sample of (N=15) TV programmes analysed and how they are referred to in the text**

<table>
<thead>
<tr>
<th>Programme</th>
<th>Case</th>
<th>Referred to in text as:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hanratty (Panorama, 1966)</td>
<td>James Hanratty</td>
<td>H</td>
</tr>
<tr>
<td>Cause for concern: the torso murders (Nationwide, 1978)</td>
<td>Reg Dudley and Bob Maynard</td>
<td>CC</td>
</tr>
<tr>
<td>The case of the handful of hair (Rough Justice, 1982)</td>
<td>Jock Russell</td>
<td>HH</td>
</tr>
<tr>
<td>Jonathan Jones (Wales this Week, 1995)</td>
<td>Jonathan Jones</td>
<td>JJ</td>
</tr>
<tr>
<td>Angela’s Hope (Real Story, 2003)</td>
<td>Angela Cannings</td>
<td>AC</td>
</tr>
<tr>
<td>‘Luton Post Office Murder’ (Panorama, 1975)</td>
<td>David Cooper, Michael McMahon and Patrick Murphy</td>
<td>LPM</td>
</tr>
<tr>
<td>‘Murder at the Farm’ (World in Action, 1987)</td>
<td>Bridgewater Four</td>
<td>BF</td>
</tr>
<tr>
<td>‘A case that won’t go away’ (First Tuesday, 1987)</td>
<td>Guildford Four</td>
<td>GF</td>
</tr>
<tr>
<td>‘A question of conviction’ (World in Action, 1989)</td>
<td>Birmingham Six</td>
<td>BS</td>
</tr>
<tr>
<td>Trial and Error Live (Trial and Error, 1994)</td>
<td>Various cases of conviction for murder</td>
<td>TEL</td>
</tr>
<tr>
<td>‘A night to remember’ (Week in Week out, 1996)</td>
<td>Cardiff Newsagent Three</td>
<td>CT</td>
</tr>
<tr>
<td>‘Murder in the graveyard’ (Home Ground, 1999)</td>
<td>Stephen Downing</td>
<td>SD</td>
</tr>
<tr>
<td>‘Attwool and Roden’ (Wales this Week, 2000)</td>
<td>Michael Attwooll and John Roden</td>
<td>AR</td>
</tr>
</tbody>
</table>
‘Murder without a trace’ (Rough Justice, 2005) Barry White and Keith Hyatt BWK
‘A question of murder’ (Tonight, 2007) Sam Hallam SH

As discussed earlier, newspaper journalists (particularly local journalists), often due to lack of resources, are less likely to investigate miscarriages, than TV journalists. They therefore often have a different role to play in producing their stories. In order to make a programme on a miscarriage, the TV journalists noted that one needs to have conducted an investigation into a case. The resultant story is a discussion of investigative findings alongside the message that there is reasonable doubt concerning this conviction. Conversely, a newspaper journalist may write a few lines in relation to a particular aspect of a case and get no more involved than this. The choice of articles used for this analysis (see Table 9.2) aimed to demonstrate the different types of story which journalists may write and the different roles played by the journalist in telling such stories.

Table 9.2: The sample of (N=15) newspaper articles analysed and how they are referred to in the text

<table>
<thead>
<tr>
<th>Newspaper article</th>
<th>Case</th>
<th>Referred to in text as:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Evans Inquiry: Guilty or Innocent? (The Daily Express, 1965)</td>
<td>Timothy Evans</td>
<td>TE</td>
</tr>
<tr>
<td>Medical clues from corpse studied in appeal court (The Times, 1975)</td>
<td>Colin Lattimore, Ronald Leighton and Ahmet Salih (Maxwell Confait murder)</td>
<td>MC</td>
</tr>
<tr>
<td>‘Torso in tank’ appeal date fixed (The Hull and Yorkshire Daily Mail,1985)</td>
<td>Ernest Clarke</td>
<td>EC</td>
</tr>
<tr>
<td>‘I’ll fight until she is cleared’ (The Sun, 1999)</td>
<td>Sally Clark</td>
<td>SC</td>
</tr>
<tr>
<td>‘Freedom bid by niece serving life’ (Manchester Evening News, 2001)</td>
<td>Susan May</td>
<td>SM</td>
</tr>
<tr>
<td>‘Murder appeal in doubt as limit is</td>
<td>Patrick Murphy</td>
<td>PM</td>
</tr>
</tbody>
</table>
The results of the narrative analysis, drawing upon Dove’s 7-step model of detective fiction, indicated that the narrative structure of the TV programmes and newspaper articles concerning miscarriages of justice matched steps 1-5 of Dove’s model, thereby supporting the journalists’ observations that their stories are like detective stories. Some examples of the similarities between steps 1-5 of Dove’s model and the structure of the programmes and articles concerning miscarriages are shown below. Due to space constraints the programme/article titles are coded for presentation in the text (see Tables 9.1 and 9.2).

1) Statement of the Problem

Dove states that the statement of the problem refers to a murder having occurred near the beginning of the narrative. It was found that all of the programmes and articles analysed began with a statement of the problem. The programme CC for example, begins with a

<table>
<thead>
<tr>
<th>Statement</th>
<th>Name</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘Father and son serving life said to be innocent’ (The Times, 1982)</td>
<td>Michael and Patrick McDonagh</td>
<td>PDM</td>
</tr>
<tr>
<td>‘The riddle of the cardboard frame-up’ (The Mirror, 1984)</td>
<td>Bridgewater Four</td>
<td>BF</td>
</tr>
<tr>
<td>‘Six not guilty, says arresting officer’ (The Sunday Correspondent, 1989)</td>
<td>Birmingham Six</td>
<td>BS</td>
</tr>
<tr>
<td>‘Victim’s dying words could end innocent man’s jail hell’ (News of the World, 1997)</td>
<td>Frank Johnson</td>
<td>FJ</td>
</tr>
<tr>
<td>‘Bentley was hanged after a grossly unfair trial’ (The Daily Telegraph, 1997)</td>
<td>Derek Bentley</td>
<td>DB</td>
</tr>
<tr>
<td>‘Murder case pair wait for day in court’ (The Citizen, 2002)</td>
<td>Gary Mills and Tony Poole</td>
<td>GTP</td>
</tr>
<tr>
<td>‘Killer’s plea from prison’ (Wales on Sunday, 2003)</td>
<td>Nick Tucker</td>
<td>NT</td>
</tr>
<tr>
<td>‘Disturbing new evidence may reveal a miscarriage of justice’ (The Independent on Sunday, 2006)</td>
<td>Barry George</td>
<td>BG</td>
</tr>
</tbody>
</table>
statement of the problem as we see a man walking along a beach and learn that he found part of a human body here. The statement of the problem is also evident in HH, wherein as the narrative begins we immediately discover that a young woman, Jane Bigwood has been found murdered in her flat, and in the programme SH, which begins with the viewer witnessing Essayas Kassahun being stabbed to death on CCTV. In terms of the newspaper narratives, the article BS, concerning the case of the Birmingham Six, begins with a statement of the problem as we find that many have been killed as a result of two pubs being bombed. Similarly at the beginning of DB, concerning the murder conviction and hanging of Derek Bentley, we learn that PC Sidney Miles was shot and killed. The statement of the problem also occurs at the beginning of GMP, as the journalist informs us that drug-dealer Henry Wiltshire has been murdered.

2) The First Solution

Dove states that following the statement of the problem, the first solution is arrived at, (the arrest of the most likely suspect according to the police). It was found that in all of the programmes and articles analysed, the first solution always followed the statement of the problem. In the programme BF for example, directly following the statement of the problem (the murder of newspaper-boy Carl Bridgewater), the viewer is informed of the first solution, which is that four known robbers, (Carl’s death was thought to be a robbery ‘gone wrong’) were arrested and convicted for the murder. Similarly, in the programme BS, after the statement of the problem (murders due to the Birmingham pub bombings), the first solution is arrived at. Six Irish men have been arrested and convicted, (the most likely suspects, partly because they were in Birmingham at the time attending the funeral of an IRA man). In TEL, we also see three murders (statements of the problem) followed by three first solutions, as the programme tells three ‘mini-stories’ of three possible miscarriages. In terms of the newspaper narratives, in the article MS, following the murders of Lin and Megan Russell in Kent (statement of the problem), the first solution is arrived at, namely the arrest and conviction of a local, known to be violent, man named Michael Stone. Lastly, in the narrative BG, the murder of TV presenter Jill Dando on her doorstep in London (statement of the problem) is directly followed by the arrest and conviction of a local ‘oddball’ known to follow women home, namely Barry George (the first solution).
3) The Complication

Dove states that the first (police) solution is followed by the complication. Here the detective points out the flaws in the first solution. It was found that in all of the programmes and articles analysed, the complication always followed the first solution (and that in the programmes, the ‘detective’ is normally the journalist). For example, in GF where five people have been murdered as a result of the bombing of two public houses in Guildford (statement of the problem), and the ‘Guildford Four’ have been arrested and convicted (the first solution), complication follows with the journalist informing the viewer that: “a new alibi witness has come forward whose information could re-open the case”. In SD, the murder of Wendy Sewell whose body was found in a cemetery (statement of the problem), and the arrest and conviction of grave-digger Stephen Downing (the first solution) is also followed by the journalist asking: ‘If Downing was the murderer why was Sewell seen alive after he was supposed to have killed her?’ (complication). In terms of the newspaper narratives, in the article TE, as we join this narrative a number of females have been murdered, including Timothy Evans’ wife and daughter (statement of the problem). This is followed by the first solution (Evans’ arrest, conviction, and hanging). However, the journalist then informs the reader that Evans might have been hanged for a crime that another committed (complication). Lastly, in the narrative PDM, the murder of Francis McDonagh (statement of the problem) is followed by the first solution (the arrest and conviction of his brothers). The journalist writing the article then states that a TV programme will be: “screened tonight suggesting that the men almost certainly did not commit the murder” (complication).

4) The Period of Gloom

Following complication, Dove states that a period of gloom descends upon the detective narrative, wherein the evidence appears to be hopelessly contradictory. It was found that in all of the programmes analysed, the period of gloom always followed the complication. In the narrative H for example, the murder of Michael Gregston (statement of the problem) and injury of his friend Valerie Storie, is followed by the arrest, conviction, and hanging of James Hanratty (the first solution) and the journalist asking the viewer: “Was he convicted beyond reasonable doubt?” (the complication). A period of gloom then descends upon the narrative as the journalist relays that Storie’s identification of Hanratty may have been unreliable, although she continues to maintain that he was the killer. In
BWK, following the murder of Rachel Manning (statement of the problem), the conviction of her boyfriend Barry White and his friend Keith Hyatt (the first solution), and the journalist’s suggestion that “these men may have been convicted on unsafe evidence” (the complication), a period of gloom again descends. Here, we learn that the crime scene indicates that the murderer’s shoes must have been covered in mud, however neither of the convicted men’s shoes were. Similarly, in the article SM, the murder of Hilda Marchbank (statement of the problem), the conviction of her niece, Susan May (the first solution), and the journalist informing us that the CCRC has referred May’s case back to appeal, thereby recognising a possible flaw in the first solution (complication), is followed by a period of gloom. Here, we are informed that an investigation has revealed that key evidence presented at May’s trial, concerning a bloodstained handprint may not be blood at all! Lastly, in the article BF, following the murder of newspaper boy Carl Bridgewater (statement of the problem), the arrest and conviction of four men (first solution), and the journalist informing us that one prisoner has spent 85 days on a prison roof protesting his innocence (complication), a period of gloom descends upon the narrative. Here, the journalist reveals that his investigation has exposed an alternative suspect for the murder.

5) The Dawning Light

Following the period of gloom, Dove states that the dawning light descends upon the narrative. Here, the detective discovers crucial evidence which suggests that the convicted person is innocent. An example of this occurring can be found in JJ. Here, following the murders of Harry and Megan Tooze in Wales (statement of the problem), Jonathan Jones’ (their daughter’s boyfriend’s) arrest and conviction (the first solution), the journalist’s suggestion that Jones was in Orpington, not Wales at the time of the murders (complication), and the period of gloom, whereby Jones’ conviction is juxtaposed against the fact that evidence in his case was completely circumstantial, a dawning light descends upon the narrative. Here, Jones’ solicitor reveals that he has acquired new eyewitness evidence which confirms that Jones was in Orpington when the murders occurred. In AC, following the death of Angela Canning’s babies (statement of the problem), her conviction (first solution), the journalist informing the audience that her family and friends state that she is innocent (complication), and the journalist questioning the reliability of ‘expert’ evidence in the case (period of gloom), a dawning light descends upon the narrative. Here, the journalist informs us that he has acquired fresh evidence that a genetic influence was probably responsible for the babies’ deaths. Similarly, in the article EC, following
the murder of a girl whose body was found in an industrial petrol tank (statement of the problem), the conviction of the man who worked on the tank, namely Ernest Clarke (the first solution), the journalist informing us that Clarke is pursuing an appeal against his conviction (complication), and his conviction being juxtaposed against his family’s description of him as a caring man (period of gloom), a dawning light descends upon the narrative. Here, we learn that a TV investigation has discovered that a ‘jumper’ found with the girl’s body which the prosecution at trial said was Clarke’s, was in fact an industrial rag! Lastly, in FJ, following the murder of newsagent Jack Sheridan (statement of the problem), the first solution (his friend Frank Johnson’s arrest and conviction), the journalist informing us of a police inquiry into the case (complication), and Johnson’s conviction being juxtaposed against the fact that the police have uncovered a statement by Sheridan which the police in the original investigation claimed he did not make (period of gloom), a dawning light descends upon the narrative. Here, we learn that Sheridan’s statement confirms that Johnson was not his attacker.

The Absence of a ‘Poirot Ending’ and an Alternative Step 6

The above analysis using Dove’s 7-step model of detective fiction, was most informative regarding the structure of the TV and newspaper narratives about miscarriages of justice, demonstrating that they have much in common with fictional detective stories. However, as previously mentioned, the model was only successful in its application from steps 1-5. As the journalists interviewed had suggested, there was indeed an absence of a ‘Poirot ending’ as steps 6 and 7 of Dove’s model were not applicable to the narratives. Step 6: The solution (which in the case of the miscarriages stories should be identification of the true culprit and/or the quashing of the conviction) does not occur and therefore, no explanation (step 7) can be provided.

The TV Narratives - Step 6: The Story of the Investigative Strategy

In the absence of Dove’s steps 6 and 7, the researcher found that an additional facet which ran throughout the TV stories was, step 6 ‘The story of the investigative strategy’. Whereas in the classic detective novel, the detective solves the case and then explains how he went about investigating it (steps 6 & 7); in the TV narratives, the explanation of how the journalist investigated the case and his/her role within it, is provided throughout the story. An examination of the TV narratives (N=15) concerning possible miscarriages of
justice clearly demonstrated the presence of step 6, as illustrated with reference to one programme in Figure 9.1 and summarised in Table 9.3 (p. 202).

Figure 9.1: The application of Dove’s 7-step model to the TV narrative JJ and alternative step 6 illustrated:

1) **Statement of the Problem** (a murder occurs); The murders of Harry and Megan Tooze at their farmhouse in Wales.

2) **The first solution** (the arrest of the Most Likely Suspect); Jonathan Jones’ (their daughter’s boyfriend’s) arrest and conviction.

3) **The complication** (the detective, points out flaws in the police solution); The journalist’s suggestion that Jonathan Jones was in Orpington, not Wales at the time of the murders.

4) **The period of gloom** (the evidence appears to be hopelessly contradictory); Jones’ conviction is juxtaposed against the fact that evidence in his case was completely circumstantial.

5) **The dawning light** (crucial and important evidence found); Jones’ solicitor reveals that he has acquired new eyewitness evidence which confirms that Jones was in Orpington when the murders occurred.

6) **The solution**;

7) **Explanation**

The explanation of how the journalist investigated the case and his/her role within it, is provided throughout the story.
Table 9.3: Examples demonstrating the elements of step 6 ‘The story of the investigative strategy’ in the TV narratives (N=15) analysed

Examples demonstrating elements of Step 6: ‘The story of the investigative strategy’

| Re/Interviewing: witnesses professionals supporters prisoners | HH - The journalist conducts interviews with many individuals, including one with an alternative suspect in the case (where he adopts the position of a hardened detective interrogating a suspect). |
| Checking the witness statements | HH - The journalist finds a new witness who said that she was watching a film at the time when she saw Jock Russell walking down the street. The journalist confirms that having checked the BBC programming schedule, they found that the film was broadcast at this time. |
| Consulting experts, checking expert evidence & commissioning scientific tests | CT- The journalist consults experts who explain why Darren Hall might confess to a crime which he did not commit. |
| Checking the prisoner’s alibi | HH - The journalist visiting locations mentioned in Hanratty’s alibi for the night of the murder, checking and confirming important details, and finding new witnesses who support the alibi. |
| Asking ‘If s/he didn’t do it, Who did?’ | H - The journalist not only investigates the issue of ‘who possibly didn’t do it’ (namely Hanratty) but also the issue of ‘who possibly did do it’ in confronting an alternative suspect with his alleged tape-recorded confession. |
| | HH - The journalist investigates an alternative suspect for Jane Bigwood’s murder, delving into his background and tracing his movements for the six months after the murder. |
| | BWK - The journalist consults a criminal psychologist to discover |
whether ‘his’ alternative suspect possesses the temperament to have committed the murder.
The journalist also types an e-mail to the man whom he suspects of being the real killer and covertly records his suspect.

Research

**BWK** - The journalist can be seen researching the case on the Internet. CCTV footage is also examined as part of the research.

**Visiting place and re-examining timings with a view to asking ‘Could it have happened that way?’**

**HH** - The journalist stands underneath the window from which the killer is said to have jumped, looks up and considers (with the viewer) whether someone could really have jumped from this height without injury.

**BWK** - The journalist walks the route of the murder victim (according to the prosecution case). Then suggests more likely routes she may have taken. The journalist checks timings in the case and escorts an expert to the crime scene so as to see what evidence might be gained from this place.

**CT** - The journalist checks the timings in relation to what the three convicted prisoners have done (according to the Prosecution) after committing the murder, and finds that the timings do not fit.

**TEL** - In order to discover whether the Prosecution’s timings were correct, the journalist states: “We drove the distance from A to B”.

**HH** - The journalist revisits the murder scene, examines the layout of the victim’s flat, and takes the viewer through the victim’s attack.

**SH** - The ‘celebrity journalist’ revisits the murder scene and interviews witnesses there, comparing their versions of events.

Getting to know or becoming the investigator

**BWK** - We get to know the investigator (journalist). Makes the narrative appear like a personal ‘journey’ to the viewer.

**BF** - The journalist is the primary investigator. However, another investigator is Anne Whelan (the prisoners’ mother) who we see knocking on the doors of, and interviewing witnesses.

**TEL** - The journalists presenting the programme play the role of facilitators to the viewer as investigator, as they stress: “For years TV has been using its resources to investigate...cases...now we are...asking you to turn detective and help find clues to free the innocent”.

Step 6 concerns primarily the journalists relaying the investigative activities which they engaged in when examining the case. These investigative activities include firstly ‘Re/Interviewing witnesses/professionals/supporters/prisoners’. In all of the narratives studied, the journalist spends much time in interviewing individuals, including, as Table 9.3 indicates, key characters such as witnesses, occasionally alternative suspects, and criminal justice professionals involved in the case, including defence and prosecution lawyers and experts. There are also interviews with influential characters, such as judges who express their doubts about the safety of the conviction, thereby adding credibility to the prisoners’ claims of innocence. In two programmes (CT and BWT) from the mid
1990s, the journalist interviews the prisoner/s themselves, allowing them to protest their innocence to the audience.

All of the narratives involved the journalist ‘checking the witness statements’ of the main prosecution witnesses in the case, either through reading them or re-interviewing them. Most of the witnesses interviewed express that they either meant something different by what they said in court or could not express themselves properly. The journalist also sometimes finds new witnesses who have information suggesting that the prisoner may be innocent, as Table 9.3 demonstrates. In addition, the journalists can often be found ‘checking the prisoner’s alibi’ by visiting locations in order to confirm important details. Interestingly, comments from journalists interviewed in phase 2 of the research suggested that their investigations often involved not only testing the strength of evidence against the prisoner, but also asking ‘If s/he didn’t do it, Who did?’ The analysis of TV narratives also revealed examples of this - see Table 9.3.

Programmes from the late 1980s onwards, often show the journalist ‘consulting experts and checking their evidence’ as part of questioning the prosecution’s evidence in a case. This is partly as a result of these methods being used more often in the initial police investigations into the murders concerned. There is also greater questioning of forensic material and of the reliability of scientific methods, with journalists ‘commissioning new forensic tests’ in cases.

Table 9.3 provides some examples of the journalists engaging in desk-based ‘research’ in the narratives studied. This includes looking through case files, public records, trial transcripts, and sometimes examining maps and scene of crime drawings. The journalists can also often be observed trying to discover whether events before and after the murder could have really happened as the prosecution claims. This particularly involves ‘visiting place and re-examining timings’. Interestingly, in 9 of the 15 programmes in this sample, the journalist visits the scene of crime, demonstrating the importance of this activity to journalistic investigations.

Lastly, in the narratives from 2000 onwards, the viewer has a feeling of not just getting to know the case in question but also of ‘getting to know the investigator’, i.e. the journalist investigating it. In BWK for example, the viewer literally follows the journalist on his trail of detection, feeling almost like a ‘Watson’ to his ‘Holmes’, discovering clues.
as he does and sharing in his feelings of anticipation, bewilderment, and disappointment. Interestingly, TEL asks the viewer to effectively ‘become the investigator themselves’, much in the style of ‘Crimewatch’ (see Table 9.3).

The Newspaper Narratives - Step 6: Playing the Informant

As previously mentioned, the application of Dove’s model to the newspaper narratives was, (as with the TV narratives), only successful in its application from steps 1-5. The reader will remember however, that an additional facet which ran throughout the TV stories was, step 6 ‘The story of the investigative strategy’. In this respect, there was found to be a major difference between the TV and newspaper narratives studied in terms of the role of the journalist telling the story. Unlike in the TV narratives, the journalists writing newspaper stories rarely occupy the role of ‘investigator’ within the narrative. Instead s/he often plays the main role of ‘informant’, relaying information about a case, and in doing so, also occupies a variety of subsidiary roles. Therefore, it is suggested that an additional facet which runs throughout the newspaper narratives studied is step 6: ‘Playing the informant’.

It was found that in the narratives studied, the main role of the journalist as informant was to inform the reader that: i) an appeal/inquiry into a case is taking place, ii) an investigation into a case is taking/has taken place, or iii) the voice of an individual involved in a case is ‘speaking’. However, the journalist also played a number of subsidiary roles in writing the narratives. The main role of ‘playing the informant’ and the subsidiary roles which the journalists occupied in writing the narratives are illustrated with reference to one newspaper article in Figure 9.2 and summarised in Table 9.4 (p. 207). It was felt that where these narratives discuss investigations into cases, it would be interesting to also identify who within the narrative takes on the role of ‘investigator’ (thus Table 9.4 also indicates this).
Figure 9.2: The application of Dove’s 7-step model to the newspaper narrative EC and alternative step 6 illustrated:

1) Statement of the Problem (a murder occurs);
The murder of a young girl whose body has been found in an industrial petrol tank

2) The first solution (the arrest of the Most Likely Suspect);
Ernest Clarke, who worked on South Shields docks, is arrested and convicted

3) The complication (the detective, points out flaws in the police solution);
The journalist informing us that Clarke is pursuing an appeal against his conviction

4) The period of gloom (the evidence appears to be hopelessly contradictory);
Clarke’s conviction is juxtaposed against his family’s description of him as a caring man.

5) The dawning light (crucial and important evidence found);
A TV investigation has discovered that a ‘jumper’ found with the girl’s body which the prosecution at trial said was Clarke’s, was in fact an industrial rag!

6) The solution;

7) Explanation

Step 6: Playing the Informant

The relaying of information about a case and other subsidiary roles.
Table 9.4: Examples demonstrating the elements of step 6 ‘Playing the informant’ in the newspaper narratives (N=15) analysed

Examples demonstrating elements of Step 6: ‘Playing the informant’

i) Informant regarding an appeal/inquiry into a case taking place

**Article: The Evans Inquiry: Guilty or Innocent? - REF TE**

The journalist’s main role as informant (I): Informant regarding an inquiry taking place into the murder conviction and hanging of Timothy Evans.

The journalist’s subsidiary role/s: Telling the story of possible injustice by relaying to the reader the questions which Justice Brabin, (presiding over the inquiry) will address.

Investigators within the narrative (Investigators): Brabin, aided by Mr Eveleigh QC (who is Watson to Brabin’s Holmes) and journalist Ludovic Kennedy.

**Article: Medical clues from corpse studied in appeal court - REF MC**

The journalist’s main role as I: Informant regarding an appeal taking place into the murder convictions of Lattimore, Leighton, and Salih.

The journalist’s subsidiary role/s: Primarily summarising the defence barrister’s arguments concerning new interpretation of medical evidence but also outlining the prosecution argument.

Investigators: The defence barrister.

**Article: ‘Bentley was hanged after a grossly unfair trial’ - REF DB**

The journalist’s main role as I: Informant regarding an appeal taking place into the murder conviction of Derek Bentley.

The journalist’s subsidiary role/s: Summarising the defence QC’s argument that Bentley’s conviction should be quashed and telling the story of injustice according to the QC.

Investigators: The defence QC.

**Article: ‘Freedom bid by niece serving life’ - REF SM**

The journalist’s main role as I: Informant of a forthcoming appeal into the murder conviction of Susan May.

The journalist’s subsidiary role/s: Summarising new evidence which will be presented at the appeal. However, attention also given to the possibility May is guilty.
Article: ‘Murder case pair wait for day in court’ - REF GTP

The journalist’s main role as I: Informant regarding the fact that Mills and Poole have had their conviction referred back to the Court of Appeal.

The journalist’s subsidiary role/s: Raising doubts about the safety of the convictions and exposing the possibility that the police had something to do with the murder themselves: “Wiltshire had been subjected to another attack and...during the trial police scared off a witness who would have corroborated their version of events”. Other roles include publicising the men’s campaign through the voice of their supporters and acting as a facilitator/conduit through which campaigners discuss aspects of the case.

Investigators: None.

ii) Informant regarding an investigation into a case taking place

Article: ‘Murder appeal in doubt as limit is set on new witnesses’ - REF PM

The journalist’s main role as I: Informant regarding the fact that a TV investigation into the case has taken place and the programme will be screened shortly.

The journalist’s subsidiary role/s: Summarising the findings of the TV investigation and encouraging readers to watch it.

Investigators: The TV investigative team.

Article: ‘Father and son serving life said to be innocent’ - REF PDM

The journalist’s main role as I: Informant regarding the fact that a TV investigation into the case has taken place which will be screened shortly, and encouraging the reader to watch it.

The journalist’s subsidiary role/s: Summarising the findings of the investigation which suggests the men are innocent.

Investigators: The TV investigative team.

Article: ‘The riddle of the cardboard frame-up’ - REF BF

The journalist’s main role as I: Informant regarding an investigation which has been conducted by himself into the convictions of the Bridgewater Four.
<table>
<thead>
<tr>
<th>Article: ‘Six not guilty, says arresting officer’ - REF BS</th>
</tr>
</thead>
<tbody>
<tr>
<td>The journalist’s main role as I: Relaying the results of his investigation and raising doubts about the safety of the convictions.</td>
</tr>
<tr>
<td>The journalist’s subsidiary role/s: The journalist writing the article also appears as an investigator within the narrative.</td>
</tr>
<tr>
<td>Investigators: Informant regarding the fact that an investigation conducted by the journalist’s own newspaper has taken place.</td>
</tr>
<tr>
<td>Investigators: Exposing the new evidence uncovered by this investigation.</td>
</tr>
</tbody>
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<tr>
<th>Article: ‘Torso in tank’ appeal date fixed - REF EC</th>
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</thead>
<tbody>
<tr>
<td>The journalist’s main role as I: Informant regarding the fact that a TV investigation into the case has taken place and the programme has been screened.</td>
</tr>
<tr>
<td>The journalist’s subsidiary role/s: Summarising the findings of the TV investigation and informing the reader of evidence which will be presented at Clarke’s forthcoming appeal.</td>
</tr>
<tr>
<td>Investigators: The TV investigative team.</td>
</tr>
</tbody>
</table>

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<tr>
<th>Article: ‘Victim’s dying words could end innocent man’s jail hell’ - REF FJ</th>
</tr>
</thead>
<tbody>
<tr>
<td>The journalist’s main role as I: Informant regarding the fact that a number of investigations into the case have taken place, including those conducted by: the police, the journalist’s own newspaper, MP Chris Mullin, and the CCRC.</td>
</tr>
<tr>
<td>The journalist’s subsidiary role/s: Summarising the results of the police investigation and raising doubts about the safety of the convictions, also exposing police malpractice in the case.</td>
</tr>
<tr>
<td>Investigators: The police, the newspaper’s own journalists, MP Chris Mullin, the CCRC.</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Article: ‘Is Michael Stone innocent of the two Russell murders?’ - REF MS</th>
</tr>
</thead>
<tbody>
<tr>
<td>The journalist’s main role as I: Informant regarding research and investigation which has been conducted by the journalist herself into the case.</td>
</tr>
<tr>
<td>The journalist’s subsidiary role/s: Directly questioning and raising strong doubts about the safety of the conviction on the basis of her findings.</td>
</tr>
<tr>
<td>Investigators: The journalist writing the article.</td>
</tr>
</tbody>
</table>
**Article: ‘Disturbing new evidence may reveal a miscarriage of justice’ - REF BG**

The journalist’s main role as I: Informant regarding the results of a number of investigations into the case.

The journalist’s subsidiary role/s: Raising doubt concerning the conviction through revealing new evidence in the case and through the voices of various characters. Adding credibility to claims of George’s innocence in highlighting that Dando’s friends have strong doubts. Informing readers of a TV investigation into the case and of other investigations conducted.

Investigators: The TV investigative team, newspaper journalist Donald Hale, the CCRC.

**iii) Informant that the voice of an individual involved in a case is speaking**

**Article: ‘Killer’s plea from prison’ - REF NT**

The journalist’s main role as I: Informant that the voice of Nick Tucker is speaking from prison.

The journalist’s subsidiary role/s: Allowing Tucker to deny murdering his wife. Informing the reader that a campaign has been established. Adding credibility to Tucker’s claims of innocence in highlighting the support of well-known people. Keeping the case in the public eye.

Investigators: Possibly the journalist’s own newspaper but it is not clear as to how much investigative work has been undertaken.

**Article: ‘I’ll fight until she is cleared’ - REF SC**

The journalist’s main role as I: Informant that the voice of Stephen Clark, Sally Clark’s husband is speaking.

The journalist’s subsidiary role/s: Allowing Stephen Clark to protest his wife’s innocence. However, attention also given to the possibility that she is guilty through journalist’s description of Sally’s character.

Investigators: None. A possibility raised that no one ‘did it’ and it was death by natural causes.

**i) Informant Regarding an Appeal/Inquiry into a Case taking Place**

As table 9.4 indicates, in five of the narratives analysed, the journalist’s main role is to inform the reader that a prisoner has had their conviction referred back to appeal or to inform them of an appeal or inquiry already in progress. This occurs in MC, DB, GTP,
SM, and TE. However, the journalist also has a variety of subsidiary roles. In GTP for example, the journalist’s main role is to inform the reader that Gary Mills and Tony Poole have recently had their convictions for murder referred back to appeal. He also has the subsidiary roles however, of publicising and facilitating the men’s campaign through permitting the reader to ‘hear’ the voice of their supporters which they use to discuss key aspects of the case and exposing the theory that the police may have had something to do with the murder. Similarly, in the narrative TE, the journalist’s main role is to inform the reader that an inquiry is taking place into the conviction and hanging of Timothy Evans. However, his subsidiary role is to relay a story of possible injustice by referring the reader to five questions which Justice Brabin (presiding over the inquiry) will investigate, such as: “Is it too great a coincidence that there should be two murderers – both stranglers – living in one house?” Brabin is aided in his investigation by Mr Eveleigh QC who, we are told, will help him to “…get to the truth of the matter” and by a book written by Ludovic Kennedy (who is sitting in the public gallery and has investigated the case himself).

**ii) Informant Regarding an Investigation into a Case**

Table 9.4 indicates that in eight of the narratives analysed, the journalist’s main role is to inform the reader that an investigation into a conviction has or is taking place, conducted by others, or less commonly, the journalist themselves. This occurs in PMD, EC, BS, BF, FJ, MS, BG, and PM. In the narrative PMD for example, the main journalist’s role is to inform the reader of a forthcoming TV investigation and to encourage the reader to watch it, as he states: “A new murder suspect is named tonight in a…programme which says that two other men convicted of the crime almost certainly did not commit it”. The journalist’s subsidiary role is to summarise the findings of the investigation into the murder convictions of Patrick and Michael McDonagh which suggest that they are innocent. This investigation involved interviewing new witnesses and consulting scientists who are sure that the alleged murder weapon did not kill the victim. Similarly, in the article BF, the journalist’s main role is to inform the reader that he has conducted an investigation into the “mystery over murdered newsboy Carl Bridgewater”. His subsidiary role is to relay the results of his investigation, pointing to key evidence which he has uncovered which suggests that a different person is the killer. Unusually in the sample studied, the journalist here not only occupies the role of informant, relaying that an investigation has taken place, he also occupies the role of investigator within the narrative. Another example in this category is the narrative MS. Here, the journalist’s main role is to inform
the reader that the journalist writing the article has researched the conviction of Michael Stone for the murders of Lin and Megan Russell. The journalist’s subsidiary role is to raise doubts regarding the safety of the conviction by dismantling each piece of evidence, thereby demonstrating how the prosecution case just does not ‘stand up’. She leaves the reader with her view that: “It is difficult to avoid the conclusion that the case against him is NOT proven beyond all reasonable doubt”.

### iii) Informant that the Voice of an Individual Involved in a Case is ‘Speaking’

Table 9.4 indicates that in two of the narratives analysed, the journalist’s main role is to inform the reader that the voice of an individual involved in a case is ‘speaking’. In NT for example, the journalist’s primary role is to inform the reader of the voice of Nick Tucker, who is speaking from prison, following his conviction for the murder of his wife. The journalist’s subsidiary roles include permitting Tucker to use this voice to vehemently deny murdering his wife and to highlight arguments supporting his denial, and informing the reader that a campaign established for Tucker is supported by individuals well-known in the miscarriages of justice field, thereby adding credibility to Tucker’s claims of innocence. It is evident that this article is also part of the journalist’s role in keeping the case in the public eye, as he reveals that his own newspaper ‘Wales on Sunday’ is involved in this case and that this is not the first time he has reported on it: “As we revealed last month...”. In SC, the journalist’s main role is to inform the reader, that of Stephen Clark, the husband of Sally Clark (convicted of murdering her babies) is speaking. The journalist’s subsidiary role is to inform the reader of the argument that Sally may be innocent through Stephen’s voice. Interestingly however, the journalist does not show any sympathy for Clark whose: “...gin and wine binges ruined her high-flying career”. This article and SM, are the only two narratives in the sample wherein the journalist shows no perceptible sympathy for the prisoner. Interestingly, they are also two of only three narratives written by females and concern female prisoners (see Table 9.4).

### Summary of the Findings of the Narrative Analysis of TV Programmes and Newspaper Articles

This analysis of TV programmes (N=15) and newspaper articles (N=15) on miscarriages of justice has made a number of interesting observations regarding the application of Dove’s 7-step model of detective fiction. The development of step 6 in each case revealed
that the role of the journalist in relation to the programmes and newspaper articles differs. In relation to the TV narratives, the analysis revealed that the role of the journalist within the narrative appears to be similar to the role of the detective in fictional detective stories. In relation to the newspaper narratives, the role of the journalist differed in that the journalist writing the article rarely appears themselves in the narrative as a ‘detective’. More often it is other characters who occupy that role, (in this respect, the structure of these narratives is similar to that of the programmes analysed) with the journalist playing the main role of ‘informant’.

The point of a narrative analysis of any piece of text, is to examine the structure and process of the telling of the story. In the case of these programmes and articles, the aim was to find out more about how journalists told stories surrounding possible miscarriages of justice and whether their structure is the same as that of a detective story. The analysis demonstrated that the ideas of Dove could be adapted for use in this way, but that his framework could only tell the researcher so much. A narrative structure of a sort did emerge, but this could not be applied in its entirety. It should be remembered that Dove’s model is specifically tailored towards explaining the format of detective fiction, not detective fact and that the mediums of fictional literature and TV/newspaper reality are very different. This was something which the researcher was aware of in drawing any conclusions from the analysis (see chapter 11).

Conclusion

This chapter explored journalistic storytelling around miscarriages of justice and analysed the products of journalists working within this area. Journalists’ aims in telling stories about miscarriages of justice were firstly analysed. The chapter then explored how journalists tell stories of miscarriages, highlighting the importance of refining the detail and ensuring accuracy and objectivity. On the basis of journalists’ observations that their stories were like detective stories, the chapter then presented the results of a narrative analysis of TV programmes and newspaper articles on miscarriages of justice. This narrative analysis, based upon the methodological influences of Dove, was deemed to be relatively successful, as it revealed valid information about the structure and process of journalists’ storytelling in this area and some latent patterns within the narratives concerned. In particular, it revealed that the structure of TV and newspaper narratives about miscarriages of justice were indeed similar to the structure of the fictional
‘Whodunit?’, except in terms of their endings. The analysis also revealed that the role of the journalist in relation to these narratives differed in the TV and newspaper narratives with the TV journalist appearing as a detective or ‘investigator’ within the story and the newspaper journalist primarily adopting the role of ‘informer’ outside of the narrative. This finding supports those of previous chapters in suggesting that TV journalists more often conduct full-scale investigations into miscarriages; whereas newspaper journalists more often occupy the role of informer in relation to miscarriages of justice.
CHAPTER 10: CHANGING TIMES

“Miscarriages of justice have gone out of fashion and I can’t see them coming back”

(NEWSN).

Introduction

Considering all that has been learnt from the preceding chapters regarding the involvement of journalists in miscarriages of justice cases, this chapter examines the ways in which this involvement has changed over time according to the journalists interviewed in phase 2 of the study and others involved in cases interviewed in phase 1. The 1960s through to the present day has seen changing journalistic interests, changing resources, changing priorities, and changes in the very nature of journalism and the public response to it. This chapter aims to examine how all of these changes have impacted upon journalistic interest and involvement in miscarriages of justice over time. Journalists’ views upon media involvement in this area in the future are also examined. It is at this point important to note that 50% of the journalists interviewed (N=27) had been working within the profession for over thirty years. This meant that both long and short term changes, in relation to journalistic involvement in miscarriages, could be insightfully explored.

How Journalistic Involvement in Miscarriages of Justice has Changed

Both those involved in cases and campaigns (from phase 1 interviews) and journalists (from phase 2) felt that journalistic involvement in miscarriages had diminished and that generally the media as a whole was less interested in the issue: “...they (the media) are doing a miniscule amount compared to [what they] used to do” (COR).

Why and When Journalistic Involvement in Miscarriages of Justice Diminished

The journalists provided a number of explanations for why and when diminished journalistic involvement in miscarriages occurred:

i) Commercial Pressures: From Public Servant to Profiteer

One of the main reasons for diminished journalistic involvement in miscarriages of justice was according to the journalists, increased competition in newspapers and TV. The journalists cited the 1990s as the decade when competition began to increase massively. It
was argued that in newspapers, this was due to increasingly concentrated newspaper ownership which had begun in the 1980s. In TV, the journalists argued that it was due to the Broadcasting Act 1990 which began to make an impact upon journalism from the mid-90s and which, they felt, continues to impact upon media involvement in miscarriages today. The journalists reported that this Act increased competition within the media, which in turn changed priorities within journalism, making it more business-like and causing it to focus more on profit-making so as to stay in business.

In order for broadcasters and newspapers to stay in business, ‘product’ had to be produced for less and this meant reducing staffing costs and reducing the cost of making the product itself, whilst still attracting large readership/viewing figures. This, the journalists felt, had a number of effects which were partly responsible for diminished media involvement in miscarriages of justice:

\[ a) \text{ Fewer journalists and therefore less time to ‘do’ miscarriages of justice} \]

The journalists stated that reducing staffing costs in newspapers and broadcasting resulted in fewer journalists from the 1990s onwards, doing more work. This in turn, meant that there was less time available to devote to time-consuming investigations into miscarriages: “...resources on newspapers have shrunk...journalistic capacity is probably 50% less today...people just don’t have the time to get involved in miscarriages” (NEWSN). This change was felt to be particularly problematic for local newspapers where staffing was even tighter than in the nationals, leading one journalist to argue that unless a specialist journalist was devoted to investigative work, it was highly unlikely the locals would be able to undertake it: “Local journalists...now have to re-hash stories, they have no time to go out and investigate” (PRESN). Even having the time to research and write a story on a local miscarriage was becoming increasingly difficult. A national newspaper journalist felt that this was particularly problematic as: “Miscarriages stories always start off, at a local level, a local crime has occurred and someone has gone to prison for it” (NEWSN).

It was evident that diminished media involvement at a local level had an impact higher up the ‘journalistic chain’, inhibiting to some extent, journalistic involvement in cases at a national level. A TV presenter noted similar changes in regional TV, where: “Nowadays, a journalist is unlikely to get the...time they...need to...look in-depth at a case” (PRESR).
b) Fewer journalists creating a skills shortage for miscarriages of justice work

The journalists stated that reducing staffing costs in newspapers and broadcasting also resulted in those remaining journalists having less time to train up young journalists coming into the profession, particularly in terms of investigative skills. This TV presenter felt that this partly explained why journalistic involvement in this area had diminished. Quite simply, younger journalists lacked the skills needed to be able to conduct investigations into miscarriages:

“... they did a thing the other day about a [man] beaten to death...in the police station. [It] had CCTV cameras...so you could see exactly what [went] on...I said [to the producer] would you have done this programme if you didn’t have those cameras...he said ‘God no!’ and I said ‘But [investigation]...is not to say...we have a video of this given to us by a friendly solicitor’...[it’s] about all those scores of...people to whom things happen for which there is no CCTV footage” (PRESN)

Newspaper journalists stated that newspapers had allowed investigative work in this area to decline or disappear due to losing journalists with investigative skills and “not training up younger journalists in investigative techniques” (NEWSN). Reduced staffing in newspapers also meant that the culture did not encourage and inspire young journalists to engage with this area: “There is...a lack of...journalists coming through [with] the inspiration to investigate” (NEWSN). The journalists juxtaposed this situation with that which existed in the 1960s and 70s, when investigative journalism in newspapers was strong. Due to high staffing, those with an interest in investigative work had the freedom, the journalists argued, to do it, and the newsroom culture encouraged such work. As a newspaper journalist stated, in order to get involved in miscarriages on newspapers:

“...you need to be employed by someone who is not wanting you to churn out stories day after day which is what happens today” (NEWSN).

c) Less money available to ‘do’ miscarriages of justice

Local and national newspaper journalists argued that budgets within newspapers had shrunk considerably since the 1990s, making it much less economically feasible to do miscarriages work, which in terms of investigations, can be very costly. Indeed, comparing the climate now to that of the 1960s, when editors: “...could say to a journalist take six months to go and investigate...a miscarriage” (NEWSN), a newspaper journalist argued that this would now be far too costly. Although she was still able to investigate
cases, a TV journalist also highlighted how reduced budgets had affected her work: “Now...we can’t re-test forensics [in a case, for example]...unless we get...someone to do it pro bono”. She added that if a programme on a miscarriage of justice were to be commissioned, then it would come with an allocated budget which might be able to be used in this way, however: “…often you don’t know you have got a programme until you have done some of these things...it’s a...chicken and egg situation” (RES). Another TV journalist noted that having fewer resources to devote to miscarriages investigations meant less original research and greater reliance on existing information such as solicitors’ files, thereby reducing investigative scope.

d) Less money available with which to produce the miscarriage ‘product’

In relation to TV in particular, the journalists also highlighted that the cost of researching, investigating, and making a programme on a miscarriage is today prohibitive, when compared with the cost of making other programmes. Programmes such as: “…the Big Brother type...where you just stick a camera in a place...and watch what human beings do” (PRODN) were not, it was noted, expensive to produce and attracted huge audiences, compared to the cost of making, and the audience attraction of, miscarriages of justice programmes. Indeed, five journalists felt that reality TV had created an environment where: “programmes on miscarriages are just not attractive anymore” (PRODN). In order to make more money then, from the 1990s, a product needed to be made as cheaply as possible, whilst also attracting large audiences.

e) Entertainment over information: Prioritising what interests the public over the public interest and its impact upon the production of miscarriages of justice stories

The journalists argued that the 1990s, again due to commercial pressures, saw a major change in media priorities occur, whereby the need for stories to be entertaining began to be prioritised over the need for them to be informative: “Print and TV [became] almost exclusively about entertainment (PRESN). This was due, the TV journalists felt, to the Broadcasting Acts 1990 and 1996 which they reiterated, completely changed the broadcasting environment, with new broadcasters in this now multi-channel ‘community’ having no onus upon them to produce expensive public service programmes. This meant that they focussed on entertaining programmes which drew the largest audiences. This in turn, led to increased pressures on all broadcasters to produce equally entertaining
programmes which brought in large audiences, rather than informative programmes, which often did not. The journalists argued that this change led to the demise of many miscarriages programmes, which were costly to make and not assured of high audiences:

“They wanted quick big audiences, easy profits...not miscarriages programmes [concerning] heavy issues” (PRODN) which were simply not entertaining enough:

“[It] has changed. I...spent a lot of time...[developing] a story on a miscarriage...for a broadcaster recently...and at the last moment...[it was] vetoed...[he said] this stuff was too dark, too sinister...he wanted something...more uplifting” (PRESN). Such programmes were, a TV producer argued, replaced with: “...bland populist celebrity-driven current affairs programmes, incapable of investigating anything” (PRODN).

The journalists observed that in newspapers, greater commercial pressures also meant that there was a need for more light-hearted, entertaining articles which sold newspapers easily, not serious stories about possible injustices.

f) Entertainment over moral good: Prioritising what interests the public over the public interest and its impact upon the type of miscarriage which can be helped

Interestingly, the journalists felt that for those journalists who could still ‘do’ miscarriages work in the aforementioned climate, the more competitive media environment affected the types of cases which could be helped. It was argued that whereas prior to the mid-90s, journalists could select cases according to moral criteria - i.e. cases of ‘obvious injustice’; from the mid-90s, increased competition for readers/viewers meant that moral purpose began to come secondary to choosing cases which promised the highest readership/ratings. These cases, according to one TV producer were those involving already high-profile prisoners. Indeed, as one newspaper journalist commented, if a case was unknown, then it did not: “tick the boxes so easily and you [would be] unlikely to get it in the paper” (NEWSN). They were also the cases of ‘attractive’ prisoners, rather than those who, one journalist claimed, are actually more susceptible to becoming a victim of a miscarriage, namely: “The poor...the disadvantaged” (PRODN). A TV producer stated that gradually TV did not want to “...deal with these grubby little characters”, rather they only wanted “nice middle-class prisoners” (PRODN) as the subject of their programmes. The journalists noted that such changes indicated that the notion of the media serving the public interest was diminishing in favour of investigating the cases of those who would be more interesting to the public and whose stories would therefore attract readers/viewers. This was reiterated by another journalist, who stated that from the mid-90s media
executives told him that he could only make programmes on prisoners who aroused public sympathy: “So they only wanted old ladies…but you know…innocent grannies rarely…get banged up!…if you…say they all have to be sympathetic…you get nowhere” (PRODN).

g) Entertainment over investigation: Resource allocation and its impact upon the way miscarriages of justice stories are told

Where programmes on miscarriages continued to be made during the 1990s and into the 2000s, the journalists observed that the way in which they were told also altered due to commercial pressures produced by increased competition. Prior to the 90s programmes were produced in straight-forward manner with the presenter relaying the results of investigations into cases in a formal way: “There were no fancy shots…It [was a] straight…old-fashioned format…nothing emotional” (PRODN). This was partly because most of the resources allocated for the making of the programme were devoted to the research and investigation into the case, rather than on actually telling the story. From the 1990s however, the journalists noted that there was a requirement for stories to be presented in a more dramatic, ‘glossy’ way with reconstructions of the murder and its aftermath. The aim here, a TV journalist stated, was to attract audiences and guarantee good ratings. However, this also resulted in more of a programme’s allocated budget being spent on telling the story of miscarriage, leaving less for research and investigation.

ii) A New ‘Type’ of Reader/Viewer, Creating a Difficult Audience for Miscarriages of Justice Stories

Interestingly, the journalists blamed the multi-channel environment which gradually grew during the 1990s, for breeding a new ‘type’ of viewer, one who could switch channels quickly and had a much shorter attention span. The journalists felt that in this environment, miscarriages of justice programmes do not quite work because: “...you have to be there at the beginning...pay attention for 50 minutes and if you miss a bit it won’t make any sense when you get to the end...that is not the way people watch TV nowadays” (PRODN). A similar change was noted amongst the newspaper journalists, i.e. that the public increasingly desired shorter, ‘bitesize bits’ of information as their news stories, rather than lengthy analytical articles, which those concerning miscarriages often are. Such issues, it was felt, partly explained why journalistic involvement in miscarriages had diminished.
iii) Changes to Perception of Journalistic Role: the Demise of the Public Servant Ideal

The journalists felt that involvement in miscarriages had also diminished due to changes in the way the role of the journalist is perceived nowadays by journalists themselves. They felt that most journalists have gradually come to no longer view the media as occupying the role of public servant: “the glamorous, knight in shining armour who is going to save the underdog...has become much less attractive to journalists” (PRODN). Indeed, it was argued that whilst helping to free the wrongly convicted was once a “badge of honour” (PRESN), journalists nowadays no longer attached much kudos to ‘serving the people’ in this way. It was particularly stressed that younger journalists coming into the profession today: “...don’t want to do public service journalism...the idea of journalism as a...democratic activity...That’s weaker” (NEWSN). Similarly a TV journalist observed that “People who [say to me today]...I want to be in TV...very few of them now say I want to [do it] in order to make a difference to people’s lives or to change society” (PRESN). One journalist felt that younger journalists instead went into journalism for the ‘glamorous’ lifestyle and to get recognised as ‘personalities’ themselves.

The journalists clearly felt strongly that a major decline amongst journalists in the perception of the use of journalism as a social instrument partly explained why their involvement in miscarriages had diminished: “When I started doing [miscarriages]...TV was still seen by those who worked in it as something of a powerful social tool...capable of affecting the way society worked...that was part of journalists’ job...demonstrating where things go wrong” (PRODN). This was reiterated by one local newspaper journalist who felt that his colleagues today possessed a much weaker social conscience as the notion of journalism as a fourth estate was “slowly dying” (NEWSL) and by a TV presenter who observed that such work was no longer perceived to be part of the TV journalist’s role: “[the boss]...was going through the schedules for the next year and...said ‘Why did we do that programme?’...someone said...‘It sheds light on the judicial process and frees innocent people’, and the response was ‘What has that got to do with TV?’” (PRESN).

One journalist felt that having a social conscience was related to being politically-minded: “quite liberal...and politicised”, which was something which in her view, journalists today “are just not” (RES). Another journalist felt that there was simply less sympathy amongst both journalists and the public for the wrongly convicted because “…these things
no longer have the value that they used to...[because] People are [no longer] interested in morals...” (FREE) and that both had become hardened to victims of miscarriages, who were more often than not: “oddballs...sitting on the fringes of criminality” (FREE). However, this newspaper journalist disagreed, arguing that: “...most right-minded people are...[not]...prepared to put up with [miscarriages]...plenty of people including journalists still really care” (PRESN).

Other journalists argued that such views were not due to a change in journalists’ perception of journalistic role or a lack of journalistic and public sympathy; rather they were due to the reduced newsworthiness of miscarriages of justice as stories.

iv) Changes in the Newsworthiness of Miscarriages of Justice: If it’s no Longer a ‘Story’...it’s not getting in!

It was evident from the journalists’ comments that the newsworthiness of miscarriages had changed significantly over time, from the 1960s through to the present day and that indeed this changing newsworthiness could be divided into five phases:

*Phase One) A Little Newsworthy: 1960s and 70s*

The journalists reported that there had been some media interest in miscarriages of justice during the 1960s and 70s, particularly from Ludovic Kennedy (who conducted a number of investigations during this time), and through some newspaper stories and one-off programmes on the subject. However, they added that the media primarily focussed on already high-profile cases, such as that of Timothy Evans, possibly because they were already being identified as ‘causes for concern’ by knowledgeable, prominent members of society in a climate where there was less questioning of the CJS.

*Phase Two) Growing in Newsworthiness: 1980s*

The journalists felt that greater journalistic interest in the area was sparked in the early 1980s, with the birth of the TV series ‘Rough Justice’. ‘Rough Justice’ was described by one journalist as feeling “totally groundbreaking” (NEWSN) to the media. The journalists stated that this programme concentrated solely upon investigating and exposing miscarriages, and for the first time, selected the cases of “obscure nobodies” (PRODN).
from the case-books of the campaigning organisation ‘Justice’. A journalist highlighted this programme as being quite a challenge to the CJS, from a TV channel (the BBC) which had previously been most deferential to that ‘system’ and argued that it was seen as healthy ‘risk-taking’ by much of the media. The journalists also felt that ‘Rough Justice’ perhaps ‘legitimised’ further media involvement in this area (as it was soon followed by a number of other programmes examining miscarriages of justice). One journalist argued that ‘Rough Justice’s’ exposures of miscarriages placed the topic firmly on the agenda of not only the media more generally, but also the public, perhaps opening the ‘public mind’ to the possibility that miscarriages were not as rare as imagined and preparing it for acceptance of revelations of mistakes/malpractice exposed in 1989 at the Guildford Four’s appeal.

*Phase Three) Very Newsworthy: Early to Mid-1990s*

The journalists felt that the Guildford Four’s appeal, (surrounded as it was by controversy and a massive campaign supported by well-respected pillars of society) further increased the newsworthiness of miscarriages of justice, throughout the media. The journalists reported that miscarriages suddenly became “very fashionable” (NEWSN) and “sexy” (NEWSN) and that this ‘opened the door’ to intense media interest and involvement in the topic at local, regional, and national levels: “there was this feeling that the pillars of the temple of the CJS...were being torn down...You could walk into the...editor’s office and say I [want to investigate a miscarriage]...and he would say... ‘Go for it!’” (NEWSN). The newsworthiness of miscarriages then, meant that newspaper editors and TV executives fully supported journalistic involvement in them. A TV producer noted that TV in particular, devoted many resources to numerous journalistic investigations into miscarriages, with new programmes being commissioned which developed some expertise in overturning convictions.

*Phase Four) Declining Newsworthiness: Mid to Late-1990s*

The journalists argued that the increased newsworthiness of miscarriages peaked during the early 90s, when media investigations led to further revelations of wrongful convictions in cases such as that of the Birmingham Six. However, they pinpointed the mid-90s as the start of a decline in the newsworthiness of, and thus media interest in, miscarriages. They highlighted that a change in the political climate was responsible for this. Politicians now
began to focus, the journalists claimed, upon rising crime rates and low conviction rates, allied to calls to improve victims’ confidence and satisfaction in the CJS. This newspaper journalist, who also highlighted the significance of a particular criminal case to the national debate on criminal justice at the time, summarised the situation well:

“From 1989 to 1992, miscarriages...were very close to the top of the agenda in public debate about criminal justice...But from [the moment of] the Bulger case...the...political parties began to engage in...ever tougher rhetoric around crime rates and...the need to lock people up...The context...changed...[gradually] a focus on the guilty who couldn’t be convicted...took over at a media level” (NEWSN).

It was felt then, that what had become ‘fashionable’ within the media, was a ‘new’ (journalistically at least) type of miscarriage, that of ‘individuals unpunished’, not ‘individuals wrongly imprisoned’. It was evident that this new interest in the victim’s story of injustice was a massive shift in journalistic focus. Indeed, it was described by one journalist as: “a sea change, a major...switch...from emphasis on wrongful convictions to the guilty getting away with it” (NEWSN). The ‘new’ miscarriage of justice was, the journalists reported “…likely to get much more media play” (NEWSN) whilst wrongful convictions: “…became unfashionable” with “editors [being] much less willing to back this kind of work” (NEWSN). This TV producer relayed how a senior executive at the BBC told her that the public were now only interested in convicting villains and were not really bothered about: “…one individual who might be slightly unsavoury…in the grand scale of injustices” (PRODN). She added that this was a clear indication of politics influencing what is newsworthy, i.e. of the media: “…taking on the criminal justice agenda...set by... government...he just felt that...audiences now wanted…to see police catching criminals” (PRODN).

The journalists noted that the reduced newsworthiness of miscarriages meant that by the late 1990s, despite some journalists continuing to investigate cases, generally print journalists began to find it very difficult to publish miscarriages stories and most TV programmes on wrongful convictions were culled from the schedules.

Phase Five) Little or no Newsworthiness: 2000 Onwards

A TV producer stated that in articles and programmes, the ‘story’ today remains: “...more about what scumbag have you put back on our streets...or not even sent to prison in the
first place?” (PRODN) as journalists still perceive wrongful convictions as secondary to the public’s desire for people to be prosecuted. This fact alone, a newspaper journalist argued, made miscarriages far less newsworthy, thereby making it difficult for journalists to get involved in cases. Another journalist added that wrongful convictions had lost their ‘newness’ journalistically in that: “…there is a sort of…feeling that we have been there. For journalism it has got to be new. Maybe it’s a victim of that” (NEWSN).

It was also highlighted that a decline in the newsworthiness of miscarriages was self-perpetuating, in that less focus on them in newspapers resulted in less focus on them on TV, as TV always follows the agenda set by newspapers.

v) Journalists’ Perception of Fewer Miscarriages

The journalists also observed that much of the media viewed miscarriages as not nearly as much of a problem today as they were prior to the 1990s. It was argued that as a result of the revelations in the Guildford Four case and other miscarriages exposed at this time, improvements in the standard of work carried out by criminal justice practitioners and changes in legislation making them more accountable, occurred. This, it was suggested, had led to a belief amongst many journalists that quite simply fewer miscarriages occurred and that therefore there were fewer to investigate/write about: “There’s a [belief that] there aren’t as many people being wrongly convicted” (NEWSN). This explained for some of the journalists why media involvement in this area had diminished. However, one journalist felt that although major reforms in police procedure meant that “…miscarriages due to police malpractice are not as common” (NEWSN), they still existed, just in a different guise: “The types of miscarriages likely to occur nowadays are the system miscarriages around issues of disclosure, expert evidence, and so on” (NEWSN). Indeed, all of the journalists disagreed that there were fewer miscarriages of justice today: “I think journalists [are] kidding themselves if they think…there’s hardly any miscarriages… nowadays” (NEWSN). Interestingly, one journalist noted a paradoxical issue, namely that unlike during the early 1980s when ‘Rough Justice’ first came about, the public today are much more willing to believe that a miscarriage of justice may have occurred within the CJS. However, simultaneously, there is less journalistic interest in exposing them: “…people are now prepared to consider that [an] innocent might be in jail…But unfortunately [media] investigations into [cases] are becoming a rarity” (PRESR).
vi) Journalists’ Perception of Sufficient Remedies

Remaining with ‘system-related’ issues, the journalists felt that the coming of the CCRC in the mid-90s also ultimately resulted in a decline in media involvement in miscarriages. According to the journalists this was firstly because, whereas before the CCRC came into existence, part of the journalist’s role was try to “…exert political pressure” (NEWSN) on the Home Secretary and C3 to re-examine a case through their storytelling; the CCRC, as an independent body, was impervious to political pressure. Secondly, as this solicitor, interviewed in phase 1 of the research, argued, a consequence of the CCRC’s birth was that: “…a whole tranche of investigative journalism in this area disappeared because it was assumed we don’t need you anymore” (SOL). He added that the journalists working on ‘Rough Justice’ had made a convincing case during the early-90s for the establishment of the CCRC, arguing that journalists were not the best investigators, particularly due to having inadequate investigative powers. They felt an independent body, possessing such powers, would be the solution to the problem of investigating miscarriages. When the CCRC was born, journalists felt that they were no longer required. This however, was not the case, he added, as the CCRC, unlike journalists, often do not conduct investigations into cases and are legally restricted in what lines of investigation they can pursue.

The journalists interviewed in this study agreed that the CCRC had not been the success which they envisaged it would be, and that therefore, their involvement was very much still required: “Unfortunately, we are still their…one remaining hope…that someone from the media will take up their story” (PRESN). Indeed, as one journalist observed: “…what people like me do is perceived to be…a waste of time because the perception of our legislators and to some extent the media itself is…there is a machinery nowadays to deal with these things…my view is there is a machinery but it doesn’t deal with it” (FREE). This was reiterated by a campaigner, who argued that despite the CCRC’s existence, prisoner demand for journalists’ assistance in this area remained as strong as ever. However, he added that, that assistance had diminished:

“…with the CCRC taking this sort of paperwork approach…where do you get the new evidence?…with X (case) we have tried almost everybody [in the media] now…their response was sorry this isn’t the sort of thing we do now…if they are saying ‘No’…who is going to do it?” (COR).
vii) New Legal Restrictions and Ramifications

A regional TV producer stated that the freedom to report court cases was now being restricted and that this contributed to diminished media involvement in miscarriages. He particularly highlighted the:

“...increasing use by judges of ‘non-publicity’...I know of...20 people jailed in the past 18 months who we cannot name...Nobody knows...they have been jailed...They are totally lost...someone shouldn’t be jailed for ...24 years without it being in the public domain” (PRODR).

The journalist was here, referring to reporting restrictions imposed by courts which curtail the media’s freedom to cover specific court cases (Porter, 2011).

A newspaper journalist also felt that convictions are becoming more and more difficult to overturn: “The court of appeal has lately become far more interested in ordering retrials...[and these] seem to lead...to re-convictions” (NEWSN) and that this had dissuaded journalists from getting involved in this area, as even if a conviction was quashed, their efforts might ultimately be wasted.

The Future

On considering what the future might look like in terms of journalistic involvement in miscarriages, 23 journalists (N=27) felt pessimistic, whilst the remaining four felt cautiously optimistic.

Pessimism

Those journalists who felt pessimistic about the future of journalistic involvement in miscarriages of justice, argued that there would be even less media involvement than there was already: “Without doubt less...involvement in...the future” (PRESN). One TV researcher felt that with all of the aforementioned issues impacting upon journalistic involvement in this area, it was: “...like not training enough doctors...it takes years to work it out of the system” (RES). Newspaper journalists also felt that the future in terms of media involvement in miscarriages was bleak as: “That in-depth, lengthy, investigative procedure is something of the past...[meaning]...that journalists will probably become even less involved” (NEWSN). TV journalist added that: “...miscarriage of justice
programmes now are occasional and sporadic...We have gone from loads...to none of them”. Worryingly, he added: “...and whilst I think there will be even less media involvement in the future...I don’t think they (miscarriages) have diminished...” (PRODN).

Another worrying observation from the journalists concerned the issue of their fourth estate role within society. This TV producer felt that if journalists do stop fulfilling their vital role of monitoring the actions of the powerful and exposing injustices in this area in the future, this will place everyone at greater risk of suffering injustice. He argued that the job of the journalist is:

“...to be right at the margins...[picking] up the cases where the system fails...Any system involving humans will malfunction...But if nobody is picking up the malfunctions...they will grow...It’s...a watchdog role...to keep the system...honest” (PRODN).

Optimism

Whilst recognising some of the professional changes and problems which might restrict media involvement in this area, four journalists nevertheless felt optimistic about the involvement of the media in miscarriages in the future. One journalist for example, argued that some journalists would always be prepared to have: “...a good crack at miscarriages”, although they probably: “...wouldn’t go out of their way to look for [them, not] unless someone wacks them over the head with a case” (RES). Another stated that the media always has room for true stories and that this would sustain some level of journalistic interest in miscarriages into the future. Another journalist felt that whilst at present miscarriages of justice had gone out of fashion, “fashions do come around again” (NEWSN), and therefore there was a good chance that there would be renewed journalistic interest in them in the future. Overall, the view from this minority of the journalists was that: “some journalists will always be willing to get involved” (NEWSL) in cases. Indeed, they highlighted examples of new small units dedicated to investigating miscarriages once again being set up on newspapers. Similarly, a TV producer informed the researcher that she was about to establish a not-for-profit investigative unit at the prisoners’ newspaper ‘Inside Time’, to investigate cases using charitable funding (PRODN).
The journalists also discussed the fact that there were now aids and allies to investigation which journalists with an interest in this area might draw upon in the future. In terms of ‘aids’, it was felt that the future of journalistic involvement in miscarriages of justice would see: “...more of this stuff kicking about on the Internet...than...in mainstream [media]” (NEWSN). Indeed, one journalist observed that the Internet is already aiding journalists in their investigations into miscarriages, by allowing them to: “...short circuit things...trace people...find...lawyers and experts online...get access to information...fast” (NEWSL). Another argued that: “You can get a much bigger audience by putting something on the Internet than you can by putting [it] in a newspaper or on TV, especially if you put it on U-tube...a very powerful medium” (PRESN). Indeed, this TV presenter highlighted that it might be possible in the future for journalists to completely: “...do a miscarriage of justice...on a webpage” (PRESN). Another stated that TV programmes on miscarriages could be tied in with the Internet:

“...where the narrative, a single linear story, goes out on TV and...is also available on the Internet...the spine is the linear programme...you have got ribs coming off it which you can go down on the Internet, so you can see...the interview with a...ballistics expert...click on this...see the paperwork...he was working with” (PRODN).

He argued that such an approach could be very powerful and might actually draw ideas, information, and evidence into a journalistic investigation. However, he believed that it would only work if the ‘spine’ went out on TV: “...where there is the money to fund the original research” (PRODN).

The journalists also felt that the Internet offered prisoners/their supporters the chance to, in some respects, take the place of the journalist in publicising their own case/campaign: “The Internet is probably your new journalist...the new platform...miscarriages [campaigners] need to try and get it out there” (PRESN).

In terms of ‘allies’, a TV producer argued that the innocence projects running at several universities throughout the country, also offered present and future opportunities for cooperation between academics and journalists in dealing with miscarriages. As one TV producer stated: “more media projects in the future will come out of the innocence
projects” (PRODN). Similarly, a newspaper journalist highlighted that some journalism degrees now involve students investigating cases.

Although those journalists who felt optimistic about the future of journalistic involvement in miscarriages were in the minority, all of those interviewed remained personally committed to exposing miscarriages of justice in the future, as their view was: “What kind of journalist lays down his pen in the face of injustice?” (NEWSN). Indeed, this local newspaper journalist stated that just as his social conscience did not allow him to ignore such injustices in the past: “If I hadn’t done this I would have always regretted it...It brings the house down on you at times...But...I would rather live with that than sit back and in...15 years say, I could have got that lad out” (NEWSL), it would not allow him to ignore them in the future. What was clear from such comments was that for some, no matter what the obstacles, internal and external to the journalistic profession, a belief in, and commitment to, the public servant, watchdog role of the journalist continued to drive their involvement in this area:

“I want [the CJIS] ...to know that our job as journalists is to keep you honest. I want them to go to bed thinking that people...with a certain degree of power, journalists are watching...That is one tiny cog in the wheel of our society and is important (NEWSL)

Conclusion

This chapter established that journalistic involvement in miscarriages of justice has diminished over time and considered possible reasons for this occurring. These reasons included changes in journalistic interests, resources, and in the very nature of journalism and the public response to it. The increasing commercialisation of the media and increasing competition between different elements of the media brought about particularly as a result of legislative change, has, it was revealed, deeply affected media content and presentation, thereby creating a climate in which, in one way or another, journalists are less likely to be interested and involved in miscarriages of justice. Lastly, the issue of journalistic involvement in this area in the future was examined. Most of the journalists interviewed, were pessimistic about the future of journalistic involvement in miscarriages, however all felt that they personally would continue to get involved in miscarriages, highlighting in particular their moral impetus in feeling that it was part of their role, their social duty as a journalist to do so. The following chapter discusses the results of this study in the light of research and literature already in existence in this area.
CHAPTER 11: DISCUSSION

“You don’t have to convince me that...the press can, and do, dramatically help the pursuit of criminal justice in this country”


Introduction

Lord Leveson recently made this statement at his ongoing inquiry into the culture, practice, and ethics of the press. The remark was made in relation to the case of Fred and Rosemary West, (wherein he had acted as prosecuting barrister) and to ‘The Sun’ newspaper obtaining of a photo of the West’s daughter Charmaine, a photo which proved to be crucial in dating the time of her death, thereby aiding the prosecution of her parents. This statement could, however, have just as well have been made in relation to the activities of the media in revealing miscarriages of justice in this country. The author of this thesis hopes that in making his recommendations for press regulation, Lord Leveson will recognise the plethora of ways in which the media has aided the pursuit of justice, including those situations where it has done so retrospectively by helping to rectify the injustice inflicted upon some individuals by the CJS itself.

This chapter discusses just this issue, namely the positive role of the media in miscarriages of justice cases (aim one), together with how this role has changed over time (aim two) in the light of existing literature within this area. Although the media can play an incredibly important role in some miscarriages of justice cases, as this chapter firstly discusses, the drivers to journalistic involvement in cases can be as strong as the disincentives. Motivations and considerations revolve around issues such as morals, money, risk, reputation, and professional relationships, all of which are analysed within this discussion in determining why some journalists get involved in miscarriages (and others do not). How journalists get involved in cases, what they do once involved, and how they do it, is then addressed, alongside presentation of an original model of the process of journalistic involvement in cases. The latter is then compared with models of investigative journalism already in existence. Whilst there is debate around whether or not investigative journalism requires particular attributes in order for journalists to successfully undertake it; the journalists interviewed in this study felt that journalistic investigations into miscarriages do demand certain attributes for success. These are explored and compared to those which
criminal investigators identify as being important for success. Next, the stories that journalists tell about miscarriages, their aims in telling them, and how they are told, is discussed. In relation to the latter, the results of a narrative analysis of journalistic stories concerning miscarriages are assessed and the development of an original model of journalistic storytelling in this area, evaluated. Lastly, the chapter observes that the media’s involvement in miscarriages has changed over time. How and why this has occurred is discussed, and consideration is given to what it might look like in the future.

**The Importance of the Media in Miscarriages of Justice Cases**

In establishing the importance of the media in miscarriages of justice cases (objective one), this research found that it may play both a positive and negative role. Certainly, interviewees who had been involved in cases, stated that journalists had been partly responsible for causing some wrongful convictions through ‘media climates’ (Jewkes, 2010), i.e. media pressure being placed upon serious crime investigations to get a result quickly. Arguably, the existence of a globalised media today, means that the risk of miscarriages occurring in this area can only increase, as worldwide media scrutiny of police investigations intensifies (Press Gazette, 2012).

Interviewees also argued that the media caused wrongful convictions through inaccurate and prejudicial ‘media coverage’ of a case prior to/during trial (Stephens & Hill, 1999). Such findings support observations made by campaigners (Morrell, 1999) and academics within this area (Corker & Young, 2003). Certainly, the frenzy of media interest in, and coverage of high-profile criminal cases has had negative consequences for some individuals caught up in such cases recently, including those who are not actually on trial! As the experiences of Rebecca Leighton and Chris Jeffries have indicated, even in situations where an individual is arrested but subsequently released from custody, they are often hounded by journalists in the manner of a witch-hunt (Gunter, 2011). In addition, negative media portrayal of such individuals’ characters can have lasting consequences, ruining reputations and careers forever (Wright, 2011). These are arguably, no less damaging media-induced miscarriages than those focussed upon within this study.

Although the Contempt of Court Act (1984) gives some protection in relation to media coverage before/during trials (Halliday & Morris, 2011), successful appeals against criminal convictions based upon the grounds that a fair trial was not possible due to media
coverage of a case, as occurred in the case of Michelle and Lisa Taylor ((1993) 98 Cr App Rep. 361) are rare. Moreover, recent changes in judicial interpretation of this act, whereby the standpoint more often adopted is that juries are capable of thinking robustly and independently in the face of negative press coverage mean that successful appeals on this point are arguably even less likely in the future (BBC, n.d.). They also mean that the media may be more likely to ignore the act, as has recently occurred in a number of cases, wherein the Attorney General’s warnings around contempt have had little effect upon journalists covering them (Halliday & Morris, 2011).

The aforementioned factors, together with this study’s findings that negative media coverage post-conviction, may mean an individual is adversely treated in prison, and prolong a wrongful conviction by inhibiting their attempts to launch a campaign, demonstrate how the media can cause and prolong miscarriages on several levels.

Interestingly, the negative involvement of the media in criminal cases is just one issue under scrutiny in the ongoing Leveson inquiry, an inquiry in which Jeffries has also highlighted the negative use of media investigations to contact and pursue people who knew him, arguing that work undertaken here “was extraordinary and worthy of private detectives” (Gunter, 2011, n.p.). The importance of the Leveson inquiry to the findings of this research, are reiterated throughout this chapter. This research also however, found that the media has played a positive role in relation to miscarriages of justice. Indeed, it has been argued that most ‘rightings’ of wrongs in this area have had some form of media involvement (Morrell, 1999). Whilst journalists obviously cannot rectify wrongful convictions alone, all of the victims in this study (although small in number, N=3) stated that the media played the most important role in their case. The ways in which the media are important to cases is now discussed.

The Ways in Which the Media are Important to Miscarriages of Justice Cases:

i) Providing Links and Support

The media can be important in providing links in a ‘chain of fortune’ (Eady, 2003) for those involved in miscarriages of justice. The journalists interviewed had developed many links with professionals whom they could place prisoners in contact with. This, it was found may not only directly aid a case, but may also add credibility to a prisoner’s claims of innocence. Interviewees noted that the media can also sometimes provide support to
prisoners, through visiting them in prison. Having someone willing to listen to one’s claims of wrongful conviction is arguably important to the otherwise silenced prisoner (Cannings, 2006), and, as senior law lords have recognised, may be the first stage in ultimately identifying a miscarriage of justice (Lord Steyn, 1999, cited by Hanson, 2011, n.p).

Journalists have also, this research revealed, aided prisoners in fighting for compensation as part of the support provided to them after their conviction has been quashed. Here, they help to fill what might be termed a ‘support gap’. Very little formal support exists for victims of wrongful conviction, excepting the recently established Miscarriage of Justice Support Service (Royal Courts of Justice Advice Bureau, n.d.) which is limited in terms of its provision. Wrongly convicted individuals today arguably require all the help they can get in fighting for compensation, because, as the case of Barry George demonstrates, the standards for awarding it are becoming increasingly impossible to meet (BBC, 2012b). Interestingly, unlike the other ways in which the media aid miscarriages of justice cases (soon to be discussed) their role in providing links and support to prisoners is difficult to explain from an instrumentalist perspective which argues that journalistic practice is solely concerned with making money for the powerful (Chambers 2000). Were this to be journalists’ only aim in getting involved in miscarriages, the activities mentioned here would arguably reap few financial rewards.

\[ii\) Providing Publicity\]

The importance of the media providing publicity for miscarriages of justice cases has been stressed by many campaigners (Pardue & Pardue, 1999), including those in this research study. Although publicity may sometimes constitute the ‘tip of the iceberg’ of journalistic involvement in a case, all interviewees felt that it was one of the most important aspects of that involvement. It is what prisoners and their associates want, and what journalists must be able to ‘do’, as part of their basic ‘informer’ role within society (Lasswell, 1948).

Publicity is important, interviewees revealed, in providing the public with information about a case and raising its profile. This may in turn attract individuals whose support may help to place a case onto the agenda of powerful entities (Grant, 1989), who may in turn pressurise the CJS to deal with it. Indeed, continued publicity may make a case something which the authorities simply cannot ignore for fear of losing public confidence.
in the CJS, as some claim has occurred in the past (Rose, 1996). Publicity can also, interviewees revealed, permit the prisoner’s ‘voice’ to be ‘heard’. This, they may use to ‘table’ arguments concerning their innocence on the ‘public platform’.

Despite the benefits of publicity however, it can, as the interviewees in this research confirmed, be a ‘double-edged sword’ as a prisoner has no control over media portrayal of their case (Stephens & Hill, 1999). In addition, not all cases attract it (Morrell, 1999). Indeed, this research study found that some prisoners/convictions are more newsworthy than others (an issue discussed shortly).

In providing publicity, the journalist could be said to be filling ‘an information gap’ in relation to a case. This is because when a conviction is achieved, the ‘story’, for journalists at least, is one of ‘guilt’ as journalistically ‘conviction’ translates as ‘guilt’ (Nobles & Schiff, 1995). Therefore, the only information which makes it through the ‘media gates’ (Galtung & Ruge, 1965) and into the public domain is that which supports the notion (and story) that the individual is guilty. This information is obtained from ‘primary definers’, i.e. official sources, such as the police and courts, from whom journalists obtain most of their stories (Hall et al, 1978). Therefore, journalists who later publicise the ‘other (prisoner’s) side of the story’, i.e. the possibility that they have been wrongly convicted, arguably fill an ‘information gap’ in the story of the murder. This is a story, in relation to contested criminal cases, that the public rarely get to hear.

**iii) Investigations**

Providing publicity for a case can, interviewees suggested, comprise the full extent of journalistic involvement in it, however they also highlighted the importance of conducting investigations into miscarriages of justice. The journalists interviewed, felt that they now, essentially became detectives, starting with a ‘blank slate’ and re-opening a case. However, they were also arguably fulfilling what classical liberal theorists term their ‘fourth-estate’ or ‘watchdog’ role ( Carlyle, 1841). This role, which supposedly lies at the heart of journalism, involves journalists seeking and exposing injustice/wrongdoing on the public’s behalf so as to bring about positive change (DeBurgh, 2008b). Instrumentalist theorists however, suggest that this is an idealised stance which few journalists actually adopt (Seymour-Ure, 1991). This is a claim supported by miscarriages of justice campaigners (Morrell, 1999) and indeed the results of this research, which revealed that
journalistic investigations into miscarriages are relatively rare. Journalistic investigations into miscarriages of justice involve a number of activities (DeBurgh, 2008a). However, these activities can be summarised under two main headings, namely ‘desk-based research’ and ‘going out and digging’ or ‘investigative legwork’.

a) Desk-Based Research

Here, the journalist is engaged in a case at a deeper level, in conducting desk-based enquiries around a case, the results of which have sometimes permitted them to present the case differently to the public and/or raise significant doubts about the safety of a conviction through ‘investigative writing’ (Goodwin, 1999). This, in turn, has sometimes prompted debate within the public sphere (Habermas, 1989). It has also, occasionally, provoked official investigations into cases as part of what Protess et al (1991) term ‘deliberative policy outcomes’. i.e. whereby officials commit themselves to re-examining the issue on the basis of information revealed/questions raised. In other words, the findings of journalists’ desk-based research have occasionally prompted officials to conduct their own investigation into a case.

b) ‘Going out and Digging’ or ‘Investigative Legwork’

Desk-based research often amounts to the deepest level of journalistic involvement in cases. However, some journalists delve even deeper, leaving their desks to ‘go out and dig’, thereby conducting ‘investigative legwork’ into a case. The journalists in this study felt that ‘going out and digging’ often had the greatest impact in cases, in terms of discovering crucial fresh evidence which might eventually drive a conviction back to appeal. Activities such as re-interviewing existing and finding new witnesses through door-knocking exercises, together with re-examining timings and visiting significant places in a case, also occasionally reveal evidence which proves that an individual could not have committed the murder in question. Interviewees involved in cases and campaigns felt that unlike solicitors and campaigning organisations, journalists had the resources and time to fill what might be termed an ‘investigative gap’ in terms of scrutinising claims of wrongful conviction. When the CCRC started work in 1997 (Ashworth & Redmayne, 2004), they envisaged it filling this gap, but felt that it had not lived up to their expectations (for reasons discussed shortly), thereby explaining why journalistic investigations into miscarriages were still very much needed.
A Campaigning Ally?

Campaigning literature surrounding miscarriages of justice recommends getting a journalist to become part of one’s campaign (Pardue & Pardue, 2004). However, this research found that most journalists (N=22) viewed campaigning groups poorly due to their partial viewpoints (Allan, 1999) and established case theories (i.e. that the prisoner is innocent). These journalists sought to remain completely separate from campaigns as they felt that allegiance would inhibit them from conducting an open-minded investigation. Here, the journalists were clearly recognising a difference between ‘campaigning journalism’, (involving collecting facts to affirm a particular argument) (Waterford, 2002, p. 38) and ‘investigative journalism’ (which attempts to establish ‘what happened’ through meticulous collection and evaluation of evidence) (Ehrlich, 1996, p. 14).

Although, a small minority (N=5) of the journalists did get involved in campaigns, their allegiance seemed to develop over time as their investigations gradually uncovered evidence raising doubts about the safety of a conviction. Such findings perhaps confirm scholarly suggestions that whilst the investigative journalist may wish to remain ‘dispassionately evidential’, after dedicating months to investigation of an event, they are at some point compelled to a preferred reading of it so as to be able to produce a story calling for change (Tapshall & Phillips, 2002, p. 301).

Miscarriages of Justice: To get Involved or not to get Involved?

This research found that miscarriages of justice as a genre is a ‘niche area’ in which few journalists get involved. In determining why this was the case (objective two), it was found that several different motivations and considerations were significant.

Moralistic Motivations: ‘Servants of the People’

A major motivating factor for journalistic involvement in miscarriages of justice was found to be moral outrage in relation to the possibility of an individual suffering injustice. Here, the journalists were arguably demonstrating possession of a social conscience (Bromley, 2008) which for some, was strengthened by their own past experience of injustice and recognition of their ‘journalistic power’ (Franklin, 1997) to do something about this issue. The journalists also highlighted their professional duty to get involved in cases, herein endorsing a pluralist view, which argues that the media’s proper role within
society is to occupy an ‘active-participant’ stance (Cohen, 1963, p. 1) scrutinising and critiquing the CJS on the public’s behalf. Such findings are consistent with those of other studies of investigative journalism which highlight moral indignation, frustration at the misuse of power by the powerful against the powerless, and a desire to fulfil the watchdog role, as key motivators in journalists’ decisions to get involved in, and investigate, social problems (Ettema & Glasser, 1998; DeBurgh, 2008b).

Interestingly, just as the journalists felt that the presence of a social conscience was a key motivator for them getting involved in miscarriages; they believed that an absence of one explained why most journalists do not get involved, thereby suggesting that most prefer to adopt a ‘neutral-informative stance’ within society, simply reporting information to the public in a mirror-like fashion (Cohen, 1963, p. 1).

**Attributional Motivations**

Another motivating factor for journalists’ involvement in miscarriages was found to be their view that they possessed particular attributes, such as a ‘nose for the job’, which ‘smelt’ that something was not ‘right’ with a case. This was a nose, they added, that many journalists did not possess and partly explained why they did not get involved in miscarriages. These findings are consistent with those of Ettema and Glasser (1998) and Zelizer (2004), whose interviews with investigative journalists found that their involvement in issues was motivated by their stated possession of an instinctive ‘nose’. They are also consistent with these studies in finding that common-sense observations, i.e. ‘facts’ surrounding an event appearing ‘obviously wrong’ (Ettema & Glasser, 1998), acted as major motivating factors in journalists’ decisions to undertake investigative work around miscarriages.

**Economic Considerations: Miscarriages of Justice as ‘Money-Makers’**

As previously mentioned, a journalist’s main ‘job’ is to produce stories (Randall, 2007). Whether a case would make a ‘good’ story which would attract audiences, (and therefore make money) was a key consideration for journalists in deciding whether to take it up. This demonstrates the importance of a case’s newsworthiness (Chibnall, 1977) or marketability to journalists’ decisions to get involved in miscarriages.
Miscarriages of justice possess many important news values (Watson, 2003; Greer, 2007) which, one would assume, mean that they would attract media attention and be selected by journalists as ‘stories’. However, this research revealed that story selection (and therefore, journalists’ decisions to get involved in cases), was also affected by features of: i) the case/conviction in question and ii) the prisoner. Regarding the former, unlike the CCRC, which will in theory, consider any case which has unsuccessfully passed through the appeals process (Naughton, 2012), journalists do not get involved in many cases, including ‘wrong sentence cases’ (Walker & Starmer, 1999), ‘routine and mundane miscarriages’ (Naughton, 2007), and cases involving ‘errors of process’ (Walker & Starmer, 1999), because, interviewees argued, they are not considered newsworthy.

Considerations of newsworthiness then, result in the ‘journalistic definition’ of a miscarriage of justice being rather narrow compared to that of the CJS. Those miscarriages which are most newsworthy, and which the journalist is most likely to get involved in, are, interviewees revealed, cases of ‘stranger-murder’ (Maguire, 2003). These ‘Agatha Christie type’ cases, preferably containing particular types of victims (see below) are those which the journalist anticipates will arouse public interest and sympathy. They also provide relatively unambiguous, uncomplicated stories, which Protess et al (1991) suggest are important in journalism (an issue returned to shortly).

The media’s focus on stranger-murder cases however, is not only problematic for individuals seeking journalistic input into their cases, it arguably has much wider ramifications. Stranger-murder cases make up the minority of miscarriages of justice which are revealed annually in England and Wales (Naughton, 2007). Rather, the wrongful convictions which occur on a daily basis (Naughton, 2005a) are precisely the types of convictions which the media are not interested in, particularly those achieved in magistrates’ courts (Hanson, 2010). Research indicates that the impact of these wrongful convictions upon the individuals involved can be just as damaging as the impact of wrongful convictions for murder (Ford, 1998) and that their causes are the same (Huff & Killias, 2010). However, arguably the media’s focus upon the latter, rather than the former, leads to a public perception of miscarriages as a rarity and may actually contribute to sustaining public confidence in a CJS which appears to make few errors. In selecting such cases then, journalists have arguably helped to disguise the reality and nature of most miscarriages which occur, and the frequency with which they occur.
As mentioned, features of the prisoner themselves also appear to be important in journalists’ decisions to get involved in cases. Here, the journalists revealed that miscarriages involving prisoners from middle-class, professional backgrounds, who from a media perspective, signal ‘respectability’ (Doward, 2003) are more newsworthy and more likely to attract journalistic involvement, than those involving prisoners from poor, marginalised backgrounds - those who, research suggests, are more likely to be victims of miscarriages (Taylor & Mansfield, 1999). Arguably then, just as there are ‘ideal’ victims of crime from a media perspective (Greer, 2003), there are also ‘ideal’ victims of miscarriages. Furthermore, media focus upon particular types of victims of miscarriages, may mean that those most vulnerable to being wrongly convicted and the reasons for this, go ignored.

Interestingly, the skewed focus on particular types of convictions and prisoners, leads, one journalist claimed, to journalists effectively cherry-picking cases and rejecting 96% of prisoners requesting help. Arguably, this ‘cruel lottery’ could be considered to be a miscarriage of justice in itself. Certainly, if only 4% of those asking for media help receive it, there is strong support for the argument that prisoners should not place too much faith in journalists helping them to overturn their convictions (Lean, 2007). This is particularly the case, this research revealed, for individuals wrongly convicted of crimes which the CCRC itself finds the most difficult to investigate, such as rape cases or historical cases of child abuse, where evidence may amount to one person’s word against another’s (Webster, 1998; Webster, 2009). These cases have absolutely no chance of media interest or involvement, this study revealed, as they provide complicated, ambiguous stories or concern topics which the media largely views as ‘untouchable’ from the viewpoint of questioning the conviction.

_Economic Considerations: Risking Money_

Remaining with economic factors, whilst all investigative work carries with it some monetary risk, in terms of ‘investigating’ without necessarily ‘finding’ (Greenwald & Bernt, 2000), journalistic investigations into miscarriages are, interviewees revealed, particularly problematic, with thousands of pounds sometimes being invested in investigating a case which sometimes results in no story. The possibility of a massive financial loss is a major disincentive to journalists working in newspapers, particularly local newspapers, which have few resources (Aldridge, 2003; House of Lords Select
Committee on Communications, 2012). One local journalist however, claimed that investigations into miscarriages did not have to be costly, depending upon how they were conducted, thereby supporting scholarly suggestions that success in journalistic investigations rests more on basic professionalism than resources (Berry, 2008).

**Political Considerations: Ruining Relationships with the Powerful**

Political considerations also affected journalists’ decisions to get involved in miscarriages of justice. Interviewees revealed that miscarriages are risky subject-matter in terms of their potential to offend those in power and that journalists who get involved in them are generally not ‘well-liked’. Such findings support scholarly suggestions that investigative journalists are reluctant to undertake investigations which may result in conflict with ‘primary definers’ (Hall et al., 1978). This was certainly the case in relation to journalistic involvement in miscarriages as it was found that a particular disincentive to working in this area was that it was said to risk ruining relationships with the police. As previously mentioned, the police are a major source of daily crime stories for journalists (Chibnall, 1977). Therefore, journalists have usually established strong relationships with them, as submissions to the Leveson inquiry have made clear (O’Carroll, 2012). Here, it was recently revealed that the Metropolitan Police for example, had a system of ‘grading’ national newspaper journalists on how positively they reported force activities, and over time had identified a circle of ‘trusted journalists’ who they would talk to (O’Carroll, 2012). Such ‘political’ considerations not only present ethical issues for both policing and journalism, as noted by the recent Filkin report (2012) into police and press relations, they seem to jar against the notion of the journalist as a free, independent public servant (Chambers, 2000). They also explain journalists’ concern in this research that they risked disrupting or damaging such relationships by their investigations into miscarriages which often involve critiquing/exposing police activities/methods.

**Other Considerations**

It has been suggested that journalists value the claims of ‘Knowns’ (i.e. the powerful/professional) over those of ‘Unknowns’ (i.e. the powerless) in what might be termed a ‘hierarchy of credibility’ (Watson, 2003, p. 124). In deciding whether to get involved in miscarriages of justice cases, journalists, this research revealed, undertake such considerations in assessing the credibility/trustworthiness of those already involved.
If an entity already championing a case was a ‘Known’, (such as an expert) or someone with whom the journalist had developed a trusting relationship (such as a lawyer), their claims that a prisoner had been wrongly convicted were viewed as more credible than ‘Unknowns’ without professional standing or whom journalists had never met, (such as prisoners’ relatives). This arguably highlights the importance of prisoners and their supporters trying to enlist the support of respected, professional individuals in their cases/campaigns as journalists are more likely to listen to arguments concerning a prisoner’s innocence made by these entities.

Journalistic involvement in miscarriages can be draining upon human resources and time. Investigations in particular, are, it was found, often complicated, difficult work taking months/years to complete. This conflicts with the requirement for journalists to produce stories regularly and quickly (Nuttall, 2006), (a pressure which is only likely to increase with the more recent development of new technologies which ‘demand’ that news is presented quickly and updated regularly (Harcup, 2009)). It certainly acted as a disincentive, journalists suggested, to their involvement in miscarriages.

The plethora of legal restrictions which constrain investigative journalism in the UK (Hagerty, 2009) were also considered by interviewees to be disincentives to journalistic involvement in miscarriages of justice. As has been mentioned, British investigative journalists work without any special legal rights (Reporters Without Borders, 2009) unlike in, for example, America. In addition, some of the strictest laws in Europe relating to disclosure, official secrecy, defamation, libel, and privacy restrict their access to, and gathering and publishing of, information (Hagerty, 2009, p. 4). Such constraints have acted as disincentives to journalists conducting investigations in many genres (Welsh et al, 2007; House of Lords Select Committee on Communications, 2012) and are arguably increasing in relation to matters of justice due to greater use by courts of injunctions (Porter, 2011), an issue discussed shortly.

Dangers (including death threats and abuse) experienced by journalists working within this area, also acted, interviewees felt, as disincentives to journalistic involvement in miscarriages. The latter adds weight to Finklestein’s (2008) claim that threats and intimidation act as major obstacles to journalistic investigations. Journalists may also be deterred from involvement in miscarriages due to recognising the possibility that they may help to free a prisoner who was later discovered to have been rightly convicted!
This research study’s findings regarding the reasons as to why journalists do/not get involved in miscarriages are broadly consistent with those of other research studies which suggest that external and internal considerations and the attributes and motivations of journalists, affect their ability and willingness to fulfil their watchdog role (Meek, 2005). The findings also highlight a conflict between journalists’ moralistic motivations to be servants of the people in relation to miscarriages, and their considerations, which mean that to some extent, they are compelled to serve the powerful and profiteers through selecting and telling stories that will ‘sell’. Therefore, whilst these journalists may, in their hearts, be ‘crusaders on the public’s behalf’ (Franklin, 2006, p. 66), commercial considerations mean that in reality, this is often difficult to achieve.

Getting Involved in Miscarriages of Justice: What Journalists do and How they do it

The third objective of this research was to determine how journalists get involved in miscarriages of justice and what they do and how they do it once involved, particularly in terms of investigative methods/strategies utilised. Very little research has been conducted in this area worldwide (Levine, 1980). However, American research involving interviews with TV (Ettema & Glasser, 1985) and newspaper (Protess et al, 1991) journalists (who had achieved success in investigating different topics) did result in conceptualisation of a 4 and 5 step process (respectively) of investigative methodology (see Figures 4.1 and 4.2, p. 70-72). Although these models described the investigative process and its end product only, they were utilised to interpret the findings of this research study concerning the activities of journalists working in the field of miscarriages of justice, and as a base from which to create the first model of journalistic involvement in miscarriages of justice (see Figure 11.1).

This five-stage model incorporates findings from this research regarding journalists’ routes into cases, the decision-making processes undertaken, and the types of story they can produce and is discussed below.
Figure 11.1: A Five-Stage Model of Journalistic Involvement in Miscarriages of Justice

**STAGE ONE**
The Root of the Story
Source or Journalist

- Providing Contacts
- Produce a Passive Product (Newspapers)

**STAGE TWO**
Decision Making Process
Considerations / Motivations / Attributes
Resource Check

- No Action (TV)

**STAGE THREE**
Investigation: Desk-Based Research
(Locating existing facts/opinions)
Researching
Existing Paperwork
Seeking Opinions

**STAGE FOUR**
Investigation: Analytical Decision Making Process
Enough Gaps/lines of enquiry to pursue. Complexity of potential deeper investigation. Hypothesis testing.

- Resource Check
  - No
  - Yes

**STAGE FIVE**
Investigation: Going Out and Digging/Legwork

- Decision Making
- Locating new facts/fresh evidence from: people, places, science

The Maverick

Support? Campaigning? Continuing Support?

End Product

No Action (TV)

End Product


Stage 1: The Root of the Miscarriage of Justice Story

As Figure 11.1 demonstrates, this first stage of journalistic involvement in miscarriages of justice, (similar to step 1 of Ettema and Glasser’s (1985) and stage 1 of Protess et al’s (1991) model) concerns how a story about a case gets onto the journalist’s agenda. This happens through sources (such as the prisoner’s family) approaching the journalist or through the journalist approaching those already involved in a case. As a result of information received, the journalist may decide to: do nothing, provide the source with links to others who may help their fight for justice, or write a story based upon the information received. This may be a general feature-piece, but is more likely to be a piece which requires the journalist to wait for a news hook to emerge, i.e. a new development in the case which then permits them to discuss it. Here, the journalist occupies an ‘information messenger’ role, wherein they have gathered ‘surface phenomena’ about a case and written a story around this (Mannheim, 1998). This role differs from that described by Protess et al (1991) – see Figure 4.2, p. 70, and is played by newspaper journalists only. Due to the resources required to make a TV programme on a case, only one type of story is generally produced via this medium (as discussed shortly). Although this role may remain unchanged throughout a journalist’s involvement in a case, some journalists now enter onto stage 2.

Stage 2: Decision-Making

Whether a case continues along the model now depends upon a number of motivations and considerations involved in journalistic decision-making (similar to those undertaken at stages 1 and 2 of Protess et al’s model), including whether a journalist feels that they have a duty and the attributes to proceed and expectations of a case’s continued newsworthiness (Chibnall, 1977). If considerations and motivations are favourable, the journalist will approach their superiors for resource-investment (time and editorial support) to proceed onto the next stage. If resources are not secured, most journalists will not proceed, although newspaper journalists may continue to look for ‘news hooks’ in the future, which they may use to keep the case in the public mind. Importantly however, some newspaper journalists reach this stage with the motivation to proceed and the considerations reasonably favourable, but lack support from their superiors to continue. In response, these ‘maverick’ journalists (see Figure 11.1) continue onto the remaining stages of the model alone, using their own resources, (often suffering huge financial losses) and working in their own time until injustice is exposed. Examples of the ‘maverick’,
arguably the purest form of public servant, (whose position is difficult to explain from an instrumentalist perspective which views journalists purely as ‘servants of the powerful’) can be found within anecdotal literature concerning miscarriages (see Hale, 2002). However, this research found that s/he is a rarity, with most journalists requiring support in order to proceed onto stage 3.

**Stage 3: Investigation: Desk-Based Research**

As Figure 11.1 indicates, this stage involves a deeper level of journalistic involvement in a case. It is the first stage of journalistic investigation into a case. For some journalists, ‘desk-based research’ marks the beginning and end of their activities. For others, it marks the beginning of, what Ettema and Glasser (1985) call, a full ‘investigative probe’ and is similar to step 2 of their model (and to stage 3 of Protes et al’s model) as it involves gathering existing information. ‘Desk-based research’ is primarily a passive exercise whereby the journalist tries to locate existing facts about a case, through researching: media sources, (i.e. past newspaper reports), case-related sources, (such as solicitors’ files), and public sources, (such as official records), which s/he views as credible and reliable through virtue of being ‘provided’ by professionals (Watson, 2003). However interestingly, the journalist also often seeks existing opinions at this stage, from entities including the prisoner’s family, thereby following common-sense thinking that those closest to the prisoner know them best (Stephens & Hill, 1999, p.276).

The notion of turning to those closest to the prisoner for their opinion upon the case/conviction/prisoner is interesting. Journalist John Sweeney highlights how the police should have done this in relation to the ‘cot death’ cases of Sally Clark and others, and stresses that ignoring such entities resulted in vital lines of inquiry, pointing to the innocence of the women, being ignored (BBC, 2008). Adopting a similar position to the journalists in this study, Sweeney argues that the journalist takes the common-sense view that the prisoner’s family and friends know them best and should therefore at least be listened to, (thereby valuing the proximity of their experience) (BBC, 2008). The CJS however, arguably adopts the opposite stance in often devaluing the position of suspects’/defendants’ family and friends. For example, in relation to alibis based on suspects being with friends/family at the time of an offence (a place where, incidentally, innocent people are usually found), the latter are often disregarded as credible witnesses due to having a strong motive to fabricate (The Jensen Defence, n.d.). The danger of the
CJS ignoring such common-sense notions however, was revealed at the recent successful appeal of Sam Hallam against his murder conviction. Here, it was revealed that Sam’s father’s claim that Sam was in the pub with him at the time of the murder was not properly investigated by police. This failure, in part, resulted in Sam spending seven years in prison for a crime he could not have committed (Rose, 2012).

Returning to the five-stage model, on the basis of information gathered as a result of research into such issues, journalists then move onto the next stage, namely analytical decision-making.

*Stage 4: Investigation - Analytical Decision-Making*

Journalists have now amassed a body of information which requires analysis in order to assess whether there are enough gaps in the case which might be investigated further and the complexity involved in doing so. The journalists were well aware that the CCRC primarily refers cases to appeal upon the discovery of fresh evidence (CCRC, n.d) and if finding this in a case was envisaged as being difficult, progression was less likely. In a similar way to journalists in Ettema and Glasser’s model (1985), the journalist also now engages in testing the ‘null hypothesis’ (Brock, 1997, p. 151), i.e. they seek to prove the case against the prisoner on the basis of available evidence. If they fail to do so, they may choose now to publish the results of their investigation in a way that allows them to present the case to the public differently, primarily as a ‘cause for concern’ story. In doing so, local newspaper journalists may aim to attract the attention of the national press, which carry more influence (McQuail, 2005) and the latter may attempt to attract TV producers, who generally have more resources to conduct deeper investigations into cases (Jessell, 1994). They may also choose, if there are enough issues worthy of further scrutiny and resources (finances/time) are secured, to proceed onto the final stage of an investigation, namely ‘going out and digging’ or ‘investigative legwork’.

*Stage 5: Investigation – Going Out and Digging/Legwork*

Here, the journalist takes on an ‘activist-reformer’ role, (a role which again differs from that proposed by Protess et al (1991)), in leaving his/her desk, going out, and actively digging for new information in a case. TV journalists are most likely to proceed to stage 5 due to possession of greater resources. However, this research also revealed many
examples of newspaper journalists managing to conduct such work, sometimes in collaboration with TV journalists. In relation to those newspaper journalists who do continue onto stage 5, stories may be written early in this stage which attempt to mobilise the public to do something (Lloyd, 2002) such as to come forward with information on the case. However, as mentioned, primarily this stage concerns all journalists ‘going out’ to find new information from people, places, and sometimes science, in an attempt to fill the ‘investigative gap’ previously mentioned.

Decision-making occurs throughout stage 5, concerning the direction the investigation should take, the adequacy of evidence collected, and whether it can be corroborated. Timelines of witnesses’ movements in the case are often constructed and the ‘interlocking directorate schematic’ (Ettema & Glasser, 1985) is often used in examining the relationships of individuals to each other and to events, in an attempt to piece together a jigsaw of events. Importantly, the journalists rarely obtain all the puzzle’s pieces (a full account of ‘what happened’), as Ettema and Glasser (1985) suggest. Therefore, considerations now concern whether a convincing case can be put to the audience. In order to tell a story, TV journalists must, this research revealed, make a major breakthrough in a case or no product is possible. However, unlike other investigative stories which contain ‘clear-cut’ messages, including that of ‘who is to blame’ (see Ettema and Glasser’s step 4 and Protess et al’s stages 4 and 5), the story told is one of ‘reasonable doubt’ surrounding the conviction and blame is not allocated (an issue returned to shortly).

Post-investigation, newspaper journalists may do ‘follow-up’ stories (Dygert, 1976) and some newspaper and TV journalists continue to personally support cases. At any time during the process, journalists may also become part of a prisoner’s campaign, (as Figure 11.1 indicates).

These findings demonstrate that different elements of the media can play different roles in miscarriages of justice cases. Newspaper journalists have fewer resources to go out and dig deeply for fresh evidence in a case. However, they may be able to offer a case continued publicity, thereby keeping it in the public-eye over a longer period of time than TV journalists. TV journalists are unlikely to get involved in a case unless there is a strong possibility of discovering fresh evidence around which they can produce a programme. However, the resources which they can bring to investigating a case, if such favourable circumstances exist, are often more substantial than a newspaper could devote.
To date, the only piece of research which has applied Ettema and Glasser’s (1985) and Protess et al’s (1991) models to the case-work of journalists working within a specific genre is that of Sanders and Canel (2006) who found that journalists investigating political scandal adopted similar strategies. The model of journalistic involvement in miscarriages of justice presented here, also demonstrates that journalists adopted similar strategies. This model is also similar to those mentioned above in that its primary goal, according to the journalists interviewed, is to discover ‘the truth’.

‘Truth’ and Miscarriages of Justice Investigations

As mentioned in previous chapters, the notion of ‘truth’ is a slippery concept and for the purposes of this thesis, amounts to one’s perspective or interpretation (Nietzsche, 2003). This, for the individual concerned, equals ‘truth’. In searching for ‘the truth’ from their perspective (which amounted to finding out ‘what happened’), the journalists in this study recognised that they obviously could not go back and view events as they occurred in ‘real time’ in a murder case (Wykes, 2001). Rather, the best they could achieve was, they felt, ‘correspondence to reality’ or rather ‘correspondence to what happened’, through gathering all available information in a case, and where this was insufficient, searching for more (Ehrlich, 1996, p. 14). This, Ekstrom (2002, p. 272) terms the practical production of truth. Nevertheless, the journalists, and indeed other interviewees, felt that their perspective on truth differed from that of the CJS in relation to miscarriages of justice. They argued that ‘truth’ was often obscured due to information being lost, overlooked or not considered, at several stages of the criminal justice process, including, as Taylor (2005) claims, the police investigation and, as Evans (2012) claims, the trial. They added that it was also obscured post-conviction, particularly at the CCRC which in their view, often restricts itself to paper reviews of cases, and is bound by legal rules which prevent it from properly investigating some claims of innocence. The CCRC cannot for example, the interviewees claimed, re-examine material which was available at trial (CCRC, n.d.) and can only refer a conviction to appeal if it thinks the appellate courts will quash it (regardless of its view on the appellant’s innocence based upon the information gathered/discovered).

Interviewees felt that due to the CCRC’s inability/unwillingness to conduct full investigations which consider all available information in cases, and where this is insufficient ‘go out and dig’ to seek more, the truth of what happened often cannot be fully
accessed (and therefore, a person’s claims of innocence cannot be fully addressed), thereby supporting scholarly claims that the CCRC is not ‘fit for purpose’ (Robins, 2012). However, they felt that the journalist’s *common-sense* decision that all available information should be taken into account (and where it is insufficient, more should be sought) enabled them to fully assess such claims (Stephens and Hill, 1999).

*Common-Sense and Miscarriages of Justice Investigations*

The importance of possessing common-sense, i.e. “*sound judgement derived from experience rather than study*” (Taylor, 2011a, n.p.) or what has been termed ‘*practical intelligence*’ which cannot be learnt/taught (Sternberg, Wagner, Williams, & Horvath, 1995) was stressed by the journalists in this research, in relation to a number of aspects of their involvement in miscarriages. It may act, they claimed, as a motivator for initial interest in a case through the notion that ‘something was obviously wrong’ and as an influence upon actions and decision-making in the investigative process (such as the decision to seek the prisoner’s family’s opinion). Although scholars are divided upon the usefulness of common-sense in problem-solving (Watts, 2011) it certainly seems to play a role in journalistic investigations into miscarriages of justice. It is also an *attribute* which the journalists in this study argued was important to possess in order to successfully investigate miscarriages of justice.

**The Attributes Required to Successfully Investigate Miscarriages of Justice**

Having examined journalistic involvement in miscarriages of justice more generally, this discussion now focuses specifically upon journalistic *investigations* into miscarriages and the attributes needed to successfully conduct them (objective four). Investigative journalism literature (IJL) suggests that success is achieved when journalists uncover and expose the ‘truth’ (Ekstrom, 2002, p. 26) and bring about positive change (DeBurgh, 2008b, p. 3). Journalists investigating miscarriages also viewed success as discovering the ‘truth’, (which they viewed as finding *all* information on what actually happened in a murder case), and helping to quash a conviction. However, success also included ‘anything that encouraged fresh investigation’ by officials.

The journalists suggested that there were two types of journalists who get involved in miscarriages of justice, namely those who ‘do’ one case and then ‘walk away’ and those
who make a career out of, and are very successful in, exposing miscarriages. The latter, one journalist argued, had particular characteristics such as social wherewithal and confidence, suggesting that they were perhaps a ‘breed apart’ from most other “bog standard” (NEWSN) journalists who do not/rarely get involved in this area.

Scholars are divided upon whether those who undertake investigative journalism regularly are in some way different to those who do not/rarely undertake it (Haxton, 2002). (Interestingly, a similar debate is present in criminal investigation literature (CIL) (Innes, 2003)). However, a body of literature suggests that working at this ‘higher level’ (Protess et al, 1991) does require particular attributes for success (see Tables 4.1, 4.2, 4.3, and 4.4, p. 64-69). This is referred to below, alongside DeBurgh’s (2008a) research in which (three) journalists who investigated miscarriages identified: persuasiveness, an analytical brain, strategic planning, knowledge of how to relate to the police, and obsession as being important for success.

The findings of this research suggest that the mix of skills required by journalists in order to successfully investigate miscarriages involving murder depend, to some extent, upon the case being investigated. However, most of the attributes the journalists outlined in their interviews were similar to those mentioned in IJL. Some however, could not be matched to existing literature, and it is suggested, might therefore be particularly important in order to achieve journalistic success in investigating miscarriages. These were: ‘intellectual drive’, ‘the ability to mentally multi-task’, ‘the ability to manage resources’, ‘having already built up a reputation as a successful investigator’, and ‘flair’. These attributes differ from those pinpointed by DeBurgh (2008a). However, the importance of possessing ‘an analytical brain’ (DeBurgh, 2008a) is arguably evident in the attributes ‘intellectual drive’ and ‘the ability to mentally multi-task’, and suggests that journalistic investigations into miscarriages may be particularly demanding in terms of mental abilities.

The notion of ‘flair’ deserves further attention, particularly as it is also mentioned within literature concerning the attributes required for success in criminal investigation (see p. 65), discussed shortly. ‘Flair’ can be defined as “a special or instinctive aptitude or ability for doing something well” (The Oxford English Dictionary, n.d, n.p.), originating from the French ‘flairer’ meaning ‘to smell’. This returns us to the notion that successful investigators have a particular ‘nose for the job’, an attribute highlighted as being
important by the journalists interviewed in this research and by studies of investigative journalism (Ettema & Glasser, 1985; Zelizer, 2004). These studies also found that this ‘nose’ seemed to grow over time and be linked to a journalist’s experience to see bits of information that suggest something bigger. The fact that 50% of the journalists in this research had worked in journalism for over 30 years and most (N=22) had experience of investigating more than one case, adds support to such claims. ‘Flair’, like common-sense, (mentioned earlier), is also evidently an innate quality which cannot be learnt/taught. Certainly, the journalists in this study suggested that one either possessed it or did not, (an issue returned to shortly).

Whilst IJL suggests that empathy is important for investigative journalists to possess (see Table 4.1), the journalists in this study were divided over whether empathy for prisoners was important or could actually endanger their investigations through compromising their ability to remain objective. IJL also suggests that interviewing skills are crucial for success as people are not obliged to talk to journalists. The journalists who investigated miscarriages also highlighted the importance of such skills in terms of needing good ‘communication’ and ‘people’ skills. Interestingly however, although IJL suggests that a number of skills are important for success; the journalists, in their interviews, highlighted very few skills and many more personal characteristics and mental abilities as being important, again suggesting that this work is particularly demanding of these attributes.

The Journalistic Investigator versus the Criminal Investigator

There is something of a mythology surrounding the attributes of ‘the successful detective’ (Lea, 2008). However, Bayley (1994, p. 28) argues that “whilst criminal investigation is regarded as the epitome of policing” it is not clear that it requires attributes that are “peculiar to the police”. Certainly, investigative journalists working in a variety of genres, including those in this study, have argued that their work requires similar attributes (Ettema & Glasser, 1998). This was explored further through a quantitative comparison of journalists’ and police officers’ opinions upon what attributes they felt were important in order to be a successful investigator in their respective fields (objective five).

Table 11.1 demonstrates how the findings of this phase of the research are in/consistent with IJL (see Tables 4.1 and 4.2, p. 64-66) and CIL (see Tables 4.3 and 4.4, p. 67-69) regarding the attributes required to be a successful journalistic or criminal investigator.
Table 11.1: A comparison of the findings from this study regarding the attributes which are most and least important to possess in order to be a successful investigator, with IJL and CIL concerning the attributes required for success

<table>
<thead>
<tr>
<th>Findings from this research study regarding the attributes most and least important in order to be a successful investigator</th>
<th>Consistent with IJL concerning the attributes required for success? (ref. Tables 4.1 &amp; 4.2, p. 64-66)</th>
<th>Consistent with CIL concerning the attributes required for success? (ref. Tables 4.3 &amp; 4.4, p. 67-69)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Investigators as one group (N=100)</strong></td>
<td>Most important attributes for success</td>
<td>integrity, good listening skills, commitment to the case</td>
</tr>
<tr>
<td></td>
<td>Least important attributes for success</td>
<td>formal education, previous training, strategic awareness</td>
</tr>
<tr>
<td><strong>Journalists as one group (N=30)</strong></td>
<td>Most important attributes for success</td>
<td>commitment to the case, persistence, motivated/tenacity</td>
</tr>
<tr>
<td></td>
<td>Least important attributes for success</td>
<td>previous training, formal education/ability to work as part of a team, stable disposition</td>
</tr>
<tr>
<td><strong>Police officers as one group (N=70)</strong></td>
<td>Most important attributes for success</td>
<td>integrity, good communication skills, good listening skills</td>
</tr>
<tr>
<td></td>
<td>Least important attributes for success</td>
<td>formal education, nose for the job, strategic awareness</td>
</tr>
</tbody>
</table>

Overall, police officers responses regarding the least important attributes required for success were less consistent with CIL, than were journalists responses with IJL. Interestingly, application of a Kendall’s coefficient of concordance on the data in this research study, also demonstrated that the police officers were less consistent in their views regarding the importance of the attributes considered, than were the journalists.
As Table 11.1 indicates, the attributes identified by the investigators as one group (N=100) as being most and least important for success, were consistent with IJL. The attributes identified as being most important for success were consistent with CIL; however those identified as being least important were inconsistent with CIL, as this literature highlights the importance of possessing all of these attributes for success.

The attributes identified by police officers (as a group) and journalists (as one group) as being most important for success were consistent with CIL and IJL respectively. However, the attributes identified by police officers as being least important were inconsistent with CIL, as this highlights the importance of possessing these.

Similarly, regarding the least important attributes identified by journalists, whilst ‘previous training’ and ‘formal education’ are not mentioned in IJL as being important, ‘ability to work as part of a team’ is mentioned as being important. This is perhaps because, unlike in many other journalistic investigations, journalists often conduct investigations into miscarriages alone (Hale, 2002; Sekar, 2012). Indeed, the journalists in this study argued that this was important in order for them to be able to have control of, and ‘see across’, the whole investigation. Interestingly, the attribute ‘ability to work as part of a team’ was also the attribute upon which police officers’ and journalists’ opinions (as to its importance) differed most markedly, as demonstrated by the quantitative analysis performed in this study (see chapter 7). Police officers invariably work on murder investigations in teams (ACPO, 2006) and arguably therefore, need to have good team working skills in order to be successful. This perhaps explains why they rated this attribute relatively highly in terms of importance and journalists rated it relatively lowly.

Similarities and Differences between Journalistic and Detective Work: Attributes Required for Success

As mentioned previously, journalists and police officers differed in terms of their identification of the top three most, and bottom three least, important attributes for success, with the exception of ‘formal education’, which both groups identified as being one of the least important attributes to possess (a finding which is inconsistent with CIL, but is consistent with IJL). Interestingly, in their response to the open-ended question in the questionnaire, a police officer argued that: “sometimes well-educated...detectives are
taken for a ride by cunning suspects”. Similarly, a journalist interviewed argued that his well-educated producer: “...wanted to go door-knocking...[But...he couldn’t]...get any information [as]...he couldn’t relate to people from those walks of life” (PRESN). Being formally-educated then, may actually hamper investigations!

At this point, it is important to remind ourselves of the attribute ‘common-sense’. Performance on tests which measure common-sense in schools have interestingly been found to be more predictive of success in the real world, (on indicators such as job performance) than performance on standard IQ (intelligence) tests (Sternberg et al, 1995). Such findings are interesting when compared to the views of the journalists and criminal investigators in this study, that formal education (or performing well in formal academic studies) is not important for investigative success and may indeed hinder it.

Although the two groups differed in their ranking of the top and bottom three attributes (with the exception of formal education which both groups identified as one of their bottom three least important attributes to possess for success), their mean scores for these attributes did not differ greatly. Indeed, this was also the case for most of the attributes which the two professions rated as separate groups. This is with the exception of ‘tenacity’, ‘persistence’, ‘nose for the job’ and, as mentioned ‘ability to work as part of a team’. Differences between police officers and journalists in relation to ‘ability to work as part of a team’ have already been discussed. The fact that journalists rated ‘tenacity’ and ‘persistence’ rather more highly than police officers (a difference which was statistically significant, i.e. the difference did not occur by chance) is inexplicable as CIL highlights the importance of possessing such attributes (see Table 4.3) and there is no reason to believe that criminal investigators do not require these attributes as much as journalistic investigators. However, the difference between the two groups in relation to the attribute ‘nose for the job’, which journalists rated somewhat higher than police officers who rated it amongst their three least important attributes (a difference which was statistically significant), deserves further discussion.

The journalists’ in this study revealed in their interviews that they highly prized their ‘nose for the job’. Indeed, they argued that the first step in their investigations, (and one of their key motivations), was often use of their ‘nose’, which they described as an intuitive sense of there being more to an issue than meets the eye (i.e. a hunch that something is wrong). The importance which the journalists placed upon their ‘nose for the
job’ is mirrored in IJL (Ettema and Glasser, 1998), wherein investigative journalists have argued that their nose was a genuine ability to see meaning in what others might overlook, and was linked to a reporter’s experience to see bits of information that suggest something bigger (Zelizer, 2004). Whilst the importance of having such a nose is also mentioned as being important in CIL, it is suggested that in the last decade the increased focus by police and policy makers on the need to ‘professionalise’ criminal investigation (Stelfox, 2007; Flanagan, 2008), a drive which promotes the need to understand the practice of detective work (and how it can be enhanced), has resulted in less emphasis being placed upon the importance of attributes which are so illusive and difficult to explain (Barrett, 2009).

Indeed, where such an intuitive ‘nose’ or hunch is mentioned, more recent professionalising policing documents suggest that utmost care must be taken in following it without extensive qualification as to why one is following it. The MIM (ACPO, 2006, p.230) for example, states that officers should specify their reasons for possessing a hunch around a particular suspect. Similarly the CID (Centrex, 2005a, p.58) states that officers must expect to account for, (and be able to explain the rationale behind) their decisions made in relation to hunches, to victims, witnesses, supervisors, managers and/or to partners in the CJS. In contrast, it was evident that the journalists in this research felt much less accountable for their hunches and use of their investigative nose. Indeed, they argued that they had greater flexibility and freedom to explore hunches than police officers and that they could ‘go’ on an unexplained: “…hunch a little bit more” (PRODN).

Despite such differences between the journalists and police officers, in revealing that the investigators as a group, and within groups, placed greater weight upon personal characteristics and mental abilities, rather than practical, work-based skills and training, the findings of this research suggest that in order to be a successful investigator, qualities ‘within the person’ are more important than qualities from ‘within the profession’. This is a claim further supported by the responses from journalists and police officers to the open-ended question at the end of the questionnaire, as far fewer practical, work-based skills and training, than personal characteristics and mental abilities were mentioned. Whilst, these findings are inconsistent with CIL, which highlights the importance of possessing many practical skills and training for success, both journalism and policing scholars have suggested that professional training in particular, may diminish/remove a journalistic investigator’s creativity and crucially, flair (Zelizer, 2004; Lea, 2008) which, as mentioned above, seems to be important for conducting successful journalistic and criminal investigations.
It can be concluded then that, as IJL (and indeed the journalists in this study) claim, journalists are (with a few exceptions) very similar to police officers in terms of the attributes required in order to be a successful investigator, even if their views upon the attributes most (and least) important to possess in order to succeed, primarily differ.

**Similarities and Differences between Journalistic and Detective Work: The Investigative Process**

The results of this research also suggest that journalists and police officers carry out a similar *role* in investigating criminal cases, in terms of the activities undertaken. Indeed, interestingly, whilst the journalists in this study initially differentiated between ‘research’ and ‘investigation’, reference to CIL helped to clarify that the activities which the journalists differentiated between, namely ‘desk-based research’ and ‘going out and digging’ or ‘investigative legwork’, were actually both part of the investigative process (Centrex, 2005a; ACPO, 2006). The MIM (ACPO, 2006) in particular, highlights that research is an inherent part of criminal investigation, for example. Reference to such practice documents also confirms that, in their investigations into miscarriages, the journalists’ role involves broadly similar activities to those of the detective (as discussed below).

Where investigative journalism and criminal investigation differ is that a journalistic investigation into a miscarriage may proceed no further than the ‘desk-based research’ stage (for example, journalists might research around and publish a story about a case, but not leave their desk and go out to ‘dig’ into it further); whereas a criminal investigation into a murder will arguably almost always involve ‘going out and digging’. A journalist then, may *choose* (depending upon time and resources) to occupy the role of investigator (into a murder) to varying degrees (or levels); whereas a police officer in a similar position is unlikely to have *the choice* to do so. In this respect, in relation to their role and involvement in criminal cases the journalist arguably has more freedom than the police officer, an issue returned to shortly.

If the investigative process is delved into further, it can be noted that there are other similarities and differences between journalists who conduct investigations into miscarriages and police officers who conduct criminal investigations (see Table 8.4, p. 172). Both investigators begin their investigations with, as one journalist in this study
stated, a ‘blank slate’, knowing very little, and “…having to find it all out” (NEWSN). As the journalists argued, evidence gathering and analysis are clearly central to this ‘finding out’, i.e. the investigative process which both professions engage in (which for the police officer, involves constructing, and for the journalist, deconstructing, a case). This is confirmed by CIL (Maguire, 2003) and IJL (Spark, 1999) respectively. In this respect, both investigators are involved in building narratives (for presentation in court and publication/televisation respectively) and in doing so, carry a great responsibility to verify information. This is because, as journalists in this study stressed, one mistake will lead to questioning of the investigator’s professionalism, method, and conclusions (Nuttall, 2006). It may also arguably cause miscarriages of justice, both in terms of the guilty walking free and the innocent being convicted (Walker, 1999). It is also clear that, (despite some of the journalists insisting in this research that they were different from police officers, who they argued ‘have a hypothesis and collect and test evidence against it’; whereas journalists ask ‘What happened? and gather evidence to answer that question’), both types of investigator have, as Cashore (2003) claims, the potential to make investigative mistakes.

In terms of differences, the journalists claimed that their investigative process had access to fewer human and financial resources than the criminal investigative process, constraints also highlighted anecdotally by those journalists involved in investigating miscarriages (Jessell, 1994). However, such literature also suggests that journalists may actually be more successful in their investigations into cases than police officers (Mullin, 1996). This may be because, as this research found, journalistic investigations operate with the benefit of hindsight, often occurring many years after the original police investigation when more information may be available (DeBurgh, 2008a). However, it has also been suggested that journalists may, through virtue of working in a variety of environments, bring a different cast of mind to an investigation from that of the detective, one not bound by rules of evidence or particular professional conventions (DeBurgh, 2008a), i.e. one which, as previously suggested, has greater freedom from a number of constraints.

*The Importance of Freedom in Investigations*

The journalists in this study argued that they had much greater freedom (being bound by few rules, regulations, and administrative requirements) in their investigations into miscarriages, than the police had in their investigations. In relation to evidence gathering, as previously mentioned, they felt they had greater flexibility and freedom to follow their
‘gut instinct’ or ‘nose’ (i.e. hunches) than police officers. Certainly, such a ‘nose’ seems to require less explanation and justification to, for example, a journalist’s supervisors than it does at any stage of a criminal investigation (Centrex, 2005a; ACPO, 2006). The journalists also felt that their approach to witnesses could be more relaxed and informal, which sometimes meant that they obtained more information from them. The journalists also stressed that they had greater freedom of thought and more flexible, creative minds than police officers, who they described as often rigid and unimaginative in their thinking. It is important to note here however, that none of the journalists had ever found themselves in the place of a detective. Therefore, one might question their assumptions. Certainly, CIL highlights the importance of criminal investigators possessing a creative mind and actively encourages creative thinking (Centrex, 2005a; ACPO, 2006) and rather interestingly, the quantitative phase of this research revealed that journalists and police officers rated the attribute ‘creative’ rather similarly in terms of its importance in order to be a successful investigator.

A major difference which the journalists highlighted between their miscarriages investigations and police investigations related to the issue of pressure. The journalists felt that police investigations into murders, operated under much greater pressure than their investigations into alleged miscarriages of justice involving murder. Such claims are supported by Bayley (1998) who argues that when a horrific murder occurs, politicians, the media, and the public, quickly begin to scrutinise the investigative progress being made by police officers and there is huge pressure to catch the culprit before they strike again. This is evidently not the case with journalistic investigations into miscarriages. Indeed, often the public and other media do not become aware of such investigative work until publication of the story relating to it.

The journalists also believed that they enjoyed greater freedom from the constraints of officialdom than criminal investigators. For example, whilst police officers must provide audit trails of their work; the journalist investigating a miscarriage, can: “just turn up and have a drink with someone” (RES). The journalists also suggested that theirs was an occupation where much more initiative, (arguably another type of freedom) was possible at lower levels of the profession; whereas policing was hierarchical.

Overall, these ‘amateur journalistic investigators’ claimed to enjoy much greater freedom of thought and action, and from rules, regulations, hierarchies, and external pressures in
their investigations than ‘professional criminal investigators’. The police have, over time, been given a number of tools and powers in order to aid their investigations (Lea, 2008), however, simultaneously, policing is arguably a profession which has become more constrained in terms of rules/ regulations governing actions and decision-making, (partly so as to make officers more accountable). Arguably, such constraints may, particularly when combined with the pressure to get a result in high-profile cases, sometimes result in these professional criminal investigators looking through a ‘smaller investigative window’, than journalists in their investigations, thereby to some extent, possibly narrowing or constricting their search for information (Stephens & Hill, 1999).

Conversely, journalism is a profession built upon the requirement for freedom (Harcup, 2009). Indeed, research indicates that journalists and citizens agree that journalists must be free in order to provide people with the information that they in turn need in order to be free and self-governing (Kovach & Rosentiel, 2007, p. 5-6). Freedom is also required so that journalists may fulfil their democratic watchdog role of independently monitoring the in/actions of the powerful and exposing their wrongdoing (Randall, 2007).

The recommendations of the forthcoming Leveson report may have major implications within this area. This thesis has argued that the work of criminal justice professionals is bound by rules and regulations which may serve, in some ways, to restrict their investigations and that, in contrast, journalistic investigations seem to benefit from greater freedom from such constraints. It is of concern that future reforms resulting from the Leveson inquiry may introduce more rules surrounding, and greater regulation of, journalistic practice (Bailin, 2011; Pugh, 2012). If this occurs, journalists may find that their investigations into miscarriages and other societal problems, enjoy less freedom.

In summary, as the journalists had suggested in their interviews, journalists who investigate miscarriages of justice are very similar to detectives who investigate crime, in terms of their investigative role, the activities involved in this role, and (with some exceptions) the attributes required in order to achieve success. The journalistic investigative process is very similar to that of criminal investigators, particularly in terms of the activity of evidence-gathering. However, this process, for the journalist appears to take place under far less pressure and scrutiny, and may allow the journalistic investigator greater freedom than the criminal investigator.
Certainly, this study’s finding that journalists’ freedom seemed to aid them in their investigation in conjunction with the finding (above) that qualities ‘within the person’, rather than ‘within the profession’, seem to matter more in terms of being a successful investigator, becomes particularly interesting when interpreted through the lens of detective fiction. This is because in most of the great detective stories of English crime fiction, the brilliant detective is not professionally trained, but is an amateur sleuth (Lea, 2008) who arguably ‘roams freely’ through the case, with seemingly few restrictions upon their investigation. Lacking the resources, powers, skills, and training of the police detective; the sleuth relies upon mental abilities, (detached intelligence, rationality, and common-sense reasoning) and personal characteristics (their relaxed, friendly approach encourages witnesses to talk) to solve the puzzle of ‘Who?’, a puzzle which the professional police cannot solve (Dove, 1997). Such issues are discussed further below.

**Miscarriages of Justice Stories: Journalists’ Aims in Telling Them and How They are Told**

Journalists’ aims in telling stories about miscarriages of justice and how these are told (objective six) are discussed below.

*Journalists’ Aims in Telling Stories about Miscarriages of Justice*

The aims of journalists in telling stories about miscarriages, differed depending upon what stage of the five-stage process (above) they were at, but included aiming to: inform the public of developments in a case, raise doubts and prompt public debate about a case, mobilise the public to come forward with information, encourage audiences to empathise with the prisoner through appealing to a shared sense of vulnerability to injustice, monitor the official response to an investigative exposure, and prompt officials to conduct an investigation into aspects of a case. Here, Ettema and Glasser’s (1998) suggestion that investigative journalists’ over-arching aims are that of publicity, solidarity, and accountability, were evident. The journalists also aimed to place the miscarriage on political, media, and public agendas (Protess et al, 1991). However, in relation to the latter, rather than their ultimate goal here being to mobilise the public to push for change...
in relation to a case (Lloyd, 2002); it was to directly influence those with the power to bring about change, such as the Court of Appeal judges and CCRC.

The latter, is an interesting finding, when interpreted in the light of the only piece of research to date which has examined the impact of miscarriages of justice stories. This study found that a series of programmes questioning the convictions of the Birmingham Six, (by exposing serious failures in the police investigation of this case) by no means mobilised the public who watched them to push for change; rather many were not even convinced that the new information divulged in them was true! (Kilborn & Izod, 1997). Miscarriages of justice stories then, may well succeed in setting an agenda for the public, i.e. telling them what to think about, however as McCombs and Shaw (1968) claim, whether they succeed in telling them what to think (i.e. changing public opinion) is a very different matter. The journalists in this study may well have recognised this, in aiming to influence those in power to act. Indeed, research findings regarding the impact of journalistic storytelling upon policymakers is more promising, suggesting that media exposes may well influence the powerful to act in relation to the social problem exposed, due to the desire to maintain public confidence in the system under scrutiny (Protess et al, 1991).

Interestingly however, a paradox concerning these miscarriages stories, is that the legal process which caused the miscarriage in the first place, is trusted to rectify it (Nobles & Schiff, 2004). This is quite different from other investigative exposes of, for example, ‘dodgy dealings’ between companies which may, as a result of the expose, be investigated by the police. These miscarriages stories appeal to the very system which caused the injustice in the first place, including the appellate element, which in all of the cases which journalists investigate, has already previously rejected the prisoner’s appeal.

*How Journalists tell Stories about Miscarriages of Justice*

This study revealed that in the way in which they are told, investigative stories concerning miscarriages meet Cordell’s criteria for a story to be classified as investigative (see Table 11.2).
Table 11.2: How miscarriages of justice stories meet Cordell’s criteria for classification of a story as investigative

<table>
<thead>
<tr>
<th>Cordell (2009, p. 123): The criteria which a story must meet in order to be classified as investigative</th>
<th>The miscarriages of justice stories produced by journalists who have investigated cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) there must be a clearly defined powerless victim to empathise with and a powerful villain (individual/institution) to blame</td>
<td>i) the audience is encouraged to empathise with the prisoner (powerless victim). The powerful villain could be considered to be the CJS</td>
</tr>
<tr>
<td>ii) the information revealed about the villain (which they want suppressed) must be in the public interest</td>
<td>ii) the information revealed about the murder conviction in terms of errors/omissions made is in the public interest, although it is not clear that the villain wants this suppressed</td>
</tr>
<tr>
<td>iii) it must offer ideas so as to initiate public dialogue around what must change</td>
<td>iii) the audience is left with a message that the conviction should go back to appeal, although the prisoner is not proclaimed ‘innocent’</td>
</tr>
<tr>
<td>iv) it must pursue the issue beyond a balanced representation of allegation and denial, through meticulous collection/evaluation of evidence to support allegations</td>
<td>iv) Through meticulous collection and evaluation of evidence to support allegations made, the stories go beyond a balanced representation of allegation and denial in establishing reasonable doubt concerning a conviction</td>
</tr>
</tbody>
</table>

It also revealed that these stories are like other investigative stories in the ways mentioned in Table 11.3 (below).

Table 11.3: How miscarriages of justice stories are like other investigative stories (as detailed by: Protess et al, 1991; Ettema & Glasser, 1998; DeBurgh, 2008a; Sanders & Canel, 2006)

| How miscarriages of justice stories are like other investigative stories |
|---|---|
| The message | How this is achieved |
| i) A simple, but compelling, message | Providing the most interesting and convincing points for a story. Presenting a message of ‘reasonable doubt’ and that ‘something must be done to rectify
ii) A moralistic message

Presenting cases of injustice to the public and suggesting that an unfairness has occurred.
Empathy is created for the prisoner through privileging their account and emplotting their experience as a tragedy at the hands of an indifferent system.

iii) An objective message

Appeals to common-sense such as the ‘jaw-dropper’, i.e. a societal violation that is ‘obviously wrong’ (Rabiger, 1998).
Providing a balanced overview of the case in terms of defence and prosecution arguments (presentation of conflicting possibilities) and presenting all supporting evidence for claims made in a balanced manner without journalistic comment (Tuchman, 1972).

---

i) A Simple but Compelling Message

As Table 11.3 indicates, the journalists in this study wished to present a simple yet compelling message to audiences. This involved sifting the detail of hours of research on a case so as to provide the most interesting and convincing points for a story. In presenting a message of ‘reasonable doubt’ and that ‘something must be done to rectify this situation’, miscarriages stories are like other investigative stories in that a strong case for coming to a particular conclusion is built throughout the narrative: “At the beginning you reveal...she’s in prison for this...crime...Then...your story gets stronger and stronger...evidence then...more evidence...then at the end you get your jaw dropper, something astonishing” (PRODN) and the audience is left with a clear message about what needs to be done, i.e. the conviction should go back to appeal. However, unlike other investigative stories, miscarriages stories do not clearly assert who is to blame for the injustice revealed (Ettema & Glasser, 1998).

ii) A Moralistic Message

The journalists wished to present cases of injustice to the public and suggest that unfairness had occurred in the hope of engaging the public conscience and evoking outrage. Empathy was created for the prisoner through privileging their account and
framing their experience as a tragedy at the hands of an indifferent system (Protess et al, 1991). In this respect, miscarriages stories are, like other investigative stories, moralistic stories and to some extent fit the ‘morality master-frame for investigative stories’ (see Table 11.4 below). Unlike other investigative stories however, miscarriages stories focus upon particular cases, rather than classes, of injustice/patterns of wrongdoing. Interestingly, this focus in itself may have implications for public awareness and understanding of miscarriages, particularly in relation to their causes, which are arguably portrayed as isolated errors/instances of malpractice. If, instead, the media focussed upon classes of miscarriages, (such as street-level injustices or those caused as a result of plea-bargaining) this may serve to educate the public by highlighting the systemic problems/deficiencies in the CJS, (such as individuals’ rights being breached regularly) problems which lie at the root of miscarriages at all levels (Walker, 1999).

Table 11.4: A master-frame for investigative journalists’ stories (Ettema & Glasser, 1998, p. 34) and demonstration of how miscarriages of justice stories ‘fit’ this framework

<table>
<thead>
<tr>
<th>A Master-Frame for (or Core Structure of) Investigative Journalists’ Stories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial</td>
</tr>
<tr>
<td>Demonstration of a pattern of harm/ wrongdoing</td>
</tr>
</tbody>
</table>

**Investigative stories about miscarriages of justice**

Demonstration of an individual having been possibly harmed – the prisoner wrongly convicted?

Explanation of errors & omissions made & sometimes hints of malpractice on the part of CJ professionals

**The above is told in four parts (Ettema & Glasser, 1998):**

<table>
<thead>
<tr>
<th>Initial</th>
<th>Followed by</th>
</tr>
</thead>
<tbody>
<tr>
<td>What’s going on?</td>
<td>How is it going on?</td>
</tr>
</tbody>
</table>

**Investigative stories about miscarriages of justice**

A prisoner claims to have been The prosecution story – the Problems, gaps, holes in this There is reasonable doubt to send this
wrongly convicted for murder
evidence on which s/he has been convicted
evidence, shaky foundations of this argument
case back to appeal & this is what ought to happen

Footnote 36

A final point to raise on the issue of miscarriages of justice stories containing a moralistic message, is that although these stories present a situation of injustice/wrongdoing they, like other investigative stories, always stop short of saying it is wrong (Ehrlich, 1996). This occurs because, in theory, investigative stories conflict with the professional requirement for journalistic storytelling to be objective (Gans, 1979).

iii) An Objective Message

This research revealed that just like other investigative journalists, those producing miscarriages stories try to meet the requirement for objectivity in their storytelling through appealing to common-sense, by for example, presenting the ‘jaw-dropper’ (see Table 11.3), and by providing a balanced overview of the case, and presenting all supporting evidence for their claims, without journalistic comment. These ‘strategic rituals’ (Tuchman, 1972) insulate the journalists from charges of bias, whilst allowing them to challenge the CJS’s account of a particular conviction.

The importance of common-sense in terms of motivating journalists’ involvement in cases, driving some of their investigative actions and decision-making, and acting as an important attribute for investigative success, has already been mentioned. However interestingly, the aforementioned discussion suggests that common-sense also plays a role in journalists’ stories about miscarriages of justice.

Stories about Miscarriages of Justice as Detective Stories

As previously mentioned, journalistic stories about miscarriages can be considered to be moralistic stories. Indeed, the journalists likened them to one of the most popular moralistic stories, namely the fictional detective story. The detective story transforms crime into a puzzle, which the detective solves, by acquiring information and assembling this into a narrative of the crime (Cawelti, 1976). Analyses of investigative stories (see Table 11.4 indicates that the findings of this PhD research also build upon the work of DeBurgh (2008a) who on the basis of his interviews with three ‘Rough Justice’ journalists argued that they structured their investigative stories about miscarriages in three sequences: Part one (conviction, i.e. all prosecution evidence); Part two (the human story); and Part three (production of evidence which destroys the prosecution case).
Campbell, 1991) have revealed that their structure is the same as fictional detective stories, particularly the ‘Whodunit?’, in that they involve the journalist, embarking as a lone detective, upon an investigative journey and engaging the audience in seeking clues.

Application, in this study, of Dove’s 7-step model of detective fiction to the miscarriages of justice narratives under consideration, revealed that their structure was also similar to that of the ‘Whodunit?’ (containing the ‘wrong person convention’) (Klockars, 1985), in that they begin with a dead body and someone is soon arrested (and convicted) for the murder. The journalist then embarks upon a journey to uncover evidence. However, as comparison with Campbell’s (1991) ‘60 Minute’ investigative narratives (see Table 11.5) indicates, unlike in the classic detective story and indeed other journalistic investigative stories concerning murder, in miscarriages narratives we do not discover who did it and why (or according to Dove (1997) step 6: solution and step 7: explanation), just that ‘Whodunit’ possibly did not.

Table 11.5: How a ‘60 Minutes’ narrative fits the structure of fictional detective stories (Campbell (1991, p. 40–60) and how the structure of investigative stories about miscarriages of justice differs

<table>
<thead>
<tr>
<th>The fictional detective story (Cawelti, 1976)</th>
<th>Narrative proceeds from Effect to…</th>
<th>…reconstruction of events, twists and turns, conflict, finding and interpretation of clues, so as to reach…</th>
<th>Solution or Cause (Isolation and specification of guilt required)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure of ‘60 Minutes’ investigative stories concerning murder (Campbell, 1991)</td>
<td>i) Notion of victim established</td>
<td>ii) Transformation of crime into puzzle</td>
<td>iii) Search for clues</td>
</tr>
<tr>
<td>Structure of miscarriages of justice investigative stories concerning murder (ref. Dove’s 7-step model)</td>
<td>i) Statement of the problem &amp; first solution (the murder and conviction of the most</td>
<td>ii) The complication (the suggestion that ‘whodunit’ might not have! Now there is a puzzle to be solved)</td>
<td>iii) Period of gloom (the evidence appears to be hopelessly contradictory as a result of the search for clues)</td>
</tr>
</tbody>
</table>
In demonstrating, through the application of Dove’s model, that miscarriages stories differ from other investigative stories, these findings lend support to DeBurgh’s (2008a) observations that whilst there are similarities between this type of investigative journalism and other types, there are also important differences. Indeed interestingly, these miscarriages narratives could, when interpreted through the lens of detective fiction, be viewed as having unsatisfactory endings when compared to other investigative stories in that they leave the audience with no more than ‘reasonable doubt’. However, if such endings are compared with ‘outcomes’ possible within the appellate system, they are satisfactory. The outcome of a trial is a declaration of ‘innocent’ or ‘guilty’ (as occurs in most investigative narratives - see Campbell (1991) above - where a ‘guilty’ verdict is passed’ by the journalist, i.e. blame is clearly attributed). However, a conviction is quashed via the appellate system due to being ‘unsafe’ (Quirk, 2007). The outcome is not a declaration of innocence, just as is the case in the miscarriages narratives analysed.

In relation to the issue of endings, the results of the narrative analysis permitted the researcher to propose an alternative step 6 in relation to the TV miscarriages stories, namely ‘The story of the investigative strategy’. This runs throughout the TV narratives, rather than occurring at the end of the story, as is the case in the ‘Whodunit?’ (Cawelti, 1976), and details the journalist’s discoveries, the significance of which s/he shares with the audience as s/he comes across them.

In relation to the newspaper narratives, step 6 was ‘Playing the informant’. Here, the journalist occupies the main role of ‘informer’ throughout the newspaper narrative, unlike the detective figure in the ‘Whodunit?’ who only becomes an ‘informer’ at the end of the narrative (Cawelti, 1976) (up until this time, other characters provide him/her with information). In addition, the investigator within the newspaper narratives is often an entity other than the journalist producing the narrative.

The development of an alternative step 6 for these narratives also revealed that the journalist in the TV narratives is much more like the detective figure in the fictional ‘Whodunit?’, than are the investigators in the newspaper narratives. This is because in the latter, as an audience, we do not see the characters who undertake an investigative role.
going on a journey to uncover evidence, nor how/where they found the information they reveal. In other words, the ‘investigator character’ within them is not as obviously identifiable as a ‘detective’. Such observations also add weight to this study’s findings that newspaper journalists conduct fewer investigations of miscarriages than TV journalists.

**The Changing Involvement of the Media in Miscarriages of Justice**

All interviewees in this study felt that journalistic involvement in miscarriages of justice had changed over time (objective seven) from the 1960s through to the present day. These changes are now discussed in the light of existing literature within this area.

*The 1960s and 70s: The ‘Golden Age of the Public Servant’...for Everyone Except the Wrongly Convicted*

The 1960s and 70s have been termed the ‘golden age’ of investigative journalism in the media (Tumber & Waisbord, 2004), due to journalists having the time, freedom, and resources to go out and ‘dig’ (Williams, 2009). Newspaper editors supported such work viewing this watchdog journalism in the public interest as something the media *ought* to be doing (Baistow, 1985) and public service broadcasters had a legislated social responsibility to prioritise ‘public affairs’ over ‘public wants’ (McQuail, 2005). All journalists were encouraged to develop a spirit of independence to undertake risk-taking investigative work (Foot, 1999). Some were also driven by broader changes in societal attitudes at this time, which encouraged less deference towards, and greater questioning and scepticism of, those in authority (Williams, 2009).

In such a climate, this research study found that some investigations into miscarriages of justice occurred in newspapers and on TV (from the mid-60s). However interestingly, whilst the journalists reminisced about this period as being the age when journalists had the freedom, encouragement, and resources to do investigations; the researcher found that investigations into miscarriages were actually rather rare! Indeed, relative to investigative work occurring in other areas, this ‘heyday of investigative journalism’ saw few media investigations into miscarriages. This was possibly because whilst journalists were generally becoming more challenging of authority through their investigations at this time;
the authority of the CJS was still relatively ‘hallowed ground’ for them (O’Hagan, 2011) and they were reluctant to openly question it.

*1980s: The Seeds of Change are Planted for a Media Move away from Serving the People...however, the Wrongly Convicted are Beginning to be Served Well*

The 1980s marked the beginnings of a period of change within the media due to the Conservatives coming to power (Curran & Seaton, 2003). This arguably signalled the start of a media move away from serving the public and towards serving the powerful, particularly within newspapers (Harcup, 2009, p. 83). Elements of this move included: increasing concentration of newspaper ownership, close relationships developing between newspapers and government, and priority beginning to be placed upon reducing production costs and increasing profitability (Stephenson, 1995, p. 22). This, in turn, began to force cost-cutting measures which reduced staffing, resources, and time for investigative work (Franklin, 1997).

However, much investigative work continued in newspapers during the 1980s, including investigations into miscarriages of justice. Indeed, this research study found that journalistic involvement in this area actually *increased* during this period. Many newspaper investigations into cases were conducted. Arguably however, broadcasting was a better-resourced medium for investigative work at this time (Harcup, 2009), a period which saw the start of TV’s extensive involvement in miscarriages. This was arguably partly due to the birth of ‘Rough Justice’ in 1982, a TV series which was ground-breaking according to the journalists interviewed, in openly challenging the CJS to rectify the miscarriages it exposed. In this respect, ‘Rough Justice’ may have helped to ‘legitimise’ the subject of miscarriages for journalists more generally, or rather to set a new media agenda (McCombs and Shaw, 1968), thereby increasing their newsworthiness (Chibnall, 1977).

As mentioned, TV investigations were well-resourced during the 1980s (DeBurgh, 2008a). In relation to miscarriages, most of these resources were spent on investigating cases, rather than story production. In addition, greater priority, it was found, was placed upon the moral worth of the case under investigation, and less upon how it might be publically received. This indicated, to some extent, that journalists’ social consciences dominated
decisions on which prisoners to help, and explained why, according to the journalists interviewed, some obscure cases were taken up by the media at this time.

By the mid 1980s, Thatcher was forging ahead with her quest to make broadcasting more of a commercial than public service activity (Crisell, 2002, p. 234). Against this backdrop of change however, ‘Rough Justice’ and other investigative programmes which tackled miscarriages, continued to play a crucial role, this research found, alongside print journalists in exposing serious errors in many cases, including that of the Guildford Four. Indeed, the results of journalistic investigations into this case contributed to a successful appeal in 1989. This event, interviewees argued, marked the beginning of a period when miscarriages became massively newsworthy, perhaps because, as Nobles and Schiff (2000) suggest, journalists now had a major ‘news hook’ for their miscarriages stories, namely a media-constructed, meta-narrative of ‘justice in crisis’. This crisis developed, the researchers claim, due to the CJS being unwilling/unable to do what it was ‘supposed to do’, namely to quash convictions which journalists had exposed as wrongful convictions throughout the 1980s. What followed, the results of this research confirm, was a prolific era of journalistic investigations into, and storytelling about, miscarriages of justice (Rose, 1996).

The 1990s: A Move from Public Servant to Servant of the Powerful and Profiteers...except, for a while, in Relation to the Wrongly Convicted

The 1990s is pinpointed as the decade when the media as a whole gradually moved from serving the public to serving the powerful and profiteers (Williams, 2009). The journalists interviewed felt that in TV, this was primarily due to Thatcher’s now legislative push to create a competitive broadcasting environment through the Broadcasting Act 1990, which affected resource availability and meant that TV producers now had to view audiences more as consumers than citizens. This led to prioritisation of low-budget populist programming which guaranteed large audiences and profit, over expensive, serious programming (Leys, 2001). Similar changes occurred in newspapers, where increased commercial pressures, interviewees confirmed, resulted in a move to tabloidised journalism which attracted more readers and increased profit (Harcup, 2009).

Paradoxically however, whilst such changes meant that investigative work in other areas of journalism was quickly disappearing, journalistic work on miscarriages of justice was,
this research found, thriving at local, regional, and national levels, particularly up to the mid-90s. Such findings concur with those of Nobles and Schiff (2000) who argue that 1990-92 saw the highest level of media coverage of miscarriages, because ‘riding on the back’ of success in the Guildford Four case, the media’s exposure of more wrongful convictions served to further fuel the over-riding media theme of ‘justice in crisis’. Indeed, despite the cut-backs and commercial challenges, which by the 1990s, were said to have made newspaper investigations virtually impossible and TV investigations difficult (Franklin & Murphy, 2007); this research found that print journalists were gaining all the support they required from their editors to tell stories about miscarriages and TV journalists were devoting huge pots of resources to investigating them.

By 1993, having exposed many miscarriages, including those in the remaining ‘Irish cases’, journalists’ calls for reform were met by the RCCJ report (1993). The publication of that report, with its promise to establish the CCRC, ultimately resulted, the journalists in this research argued, in miscarriages of justice gradually becoming less newsworthy. This was, according to Nobles and Schiff (2000) because journalists’ ability to link revelations of miscarriages to a general theme of ‘crisis’ gradually began to disappear (i.e. the RCCJ signalled officials ‘dealing’ with the crisis). However, the journalists in this study felt that it was also because, by the time of the RCCJ report, the political and criminal justice agenda had moved from focussing upon wrongful convictions, to focussing upon gaining justice for victims of crime. Hence for journalists, a ‘new’ ‘getting away with it’ type of miscarriage began to become newsworthy.

The above situation may also be explained by the ‘issue-attention cycle’ (Downs, 1991, p. 28) which suggests that the media focus upon a ‘new’ social issue/problem for a period of time, during which, increased media interest in itself creates and sustains further media interest upon that issue. Over time, however the ‘novelty value’, or as the journalists in this research described it, ‘fashion’ for the social issue caught up in the cycle eventually diminishes, leading to reduced media attention. In the case of the journalistic focus upon miscarriages during the 1990s, as the novelty value of wrongful convictions diminished, this was arguably replaced by the novelty value of ‘the victim’s story’ and wrongful acquittals. Indeed, Jewkes (2010) argues that this new media focus upon the crime victim’s story was one of one of most significant changes in media representations of crime ever to have occurred. It was also one which, this research found, created a climate in which those journalists who still wished to ‘do’ wrongful convictions found it
increasingly difficult. This situation worsened by the late-90s with the coming of the Broadcasting Act 1996 which brought further commercial pressures and therefore left even fewer resources and less time to do miscarriages work according to the journalists interviewed.

In retrospect, a tragic observation can be made concerning this period in history. This is that the involvement of the media in miscarriages effectively became a victim of its own success, in that by highlighting miscarriages as a major societal issue and contributing to bringing about the RCCJ (and, as a result, eventually the CCRC), it seemed that journalists were no longer required in this area. Certainly, this was a feeling amongst the journalists interviewed in this study. Unfortunately, as has been mentioned, the CCRC is now being questioned in terms of its ability/willingness to reveal and remedy wrongful convictions (Naughton, 2012) and has been accused of prolonging them in some cases (Woffinden, 2010). Therefore, the position of victims of miscarriages has arguably been further compounded.

By the late-90s, the role of journalism had, interviewees suggested, also changed. Journalists who got involved in miscarriages were no longer commended by their colleagues for helping to free the innocent on the public’s behalf; rather their bosses asked: ‘What have miscarriages got to do with the media?’ and encouraged them to produce lighter, more entertaining stories. Such findings support scholars’ suggestions that the late-90s saw the media’s role as ‘entertainer’ take over from its role as a ‘fourth-estate’ (Conboy, 2004). The new focus on entertainment also affected which prisoners, journalists could select for help. Whilst cases had always needed to provide good stories, now, the journalists revealed, consideration of what entertainment value they might provide was the main selection criteria, leading to cause celebres and ‘attractive cases’ primarily being chosen. As one journalist argued, neither TV, nor newspapers, now wanted to deal with those ‘grubby’, ‘oddballs’ who had previously managed to slip through the ‘media-gates’ (Galtung & Ruge, 1965) and onto journalists’ agendas. Such findings support suggestions that the notion of journalism serving the public interest sits most uncomfortably alongside that of it being a profit-making enterprise, and that eventually the desire for profit will come to dominate (Thussu, 2008).

The coming of popular, cheap to produce, reality TV also affected journalistic involvement in miscarriages from the late-90s, as in comparison, miscarriages
programmes were, interviewees suggested, expensive to make and attracted niche audiences. It is also possible that public reading/viewing habits changed during the late 90s (Pavlik, 2001; 2008), as the journalists observed that media executives claimed that the public now required bite-sized bits of information in their newspapers and the ability to channel-hop on TV. This created an environment, wherein the traditional format of miscarriages stories, (which demanded much concentration for long periods of time), did not fit.

The 2000s: No Service for the Wrongly Convicted?

Whilst some argue that despite the changes occurring in previous decades, the 2000s have seen more journalistic work on matters in the public interest than ever before (Aldridge, 2003); others argue that the media’s role as public servant has virtually ended in favour of serving the powerful/profiteers, with journalists no longer having the time, nor resources, to conduct lengthy investigations (Keeble, 2006). The findings of this research support the latter argument in revealing that journalists still find it incredibly difficult to get involved in miscarriages and feel that there is no longer much public purpose left in journalism.

The demise of journalistic involvement in miscarriages was highlighted as a major issue for society by all interviewees, as it was felt that when the CJS is not being monitored in this way, particularly at a local level (where miscarriages of justice always begin) even more miscarriages will occur. Such arguments concur with Stepniak’s (2003) suggestion that the journalist’s role as scrutineer of the CJS helps to maintain the health of that system, because as in/justice is seen, criminal justice professionals are encouraged to act with propriety (Kennedy, 2004). If journalists are not doing this, an unmonitored system may become an unhealthy system.

The Future

Scholars suggest that future changes within the media are only likely to increase commercial pressures for ratings and therefore result in even less socially-worthwhile journalism (Tait, 2006). This is a suggestion which all interviewees in this study concurred with, in relation to media involvement in miscarriages of justice. Importantly however, one journalist also highlighted more recent changes in criminal justice itself which now made claims of wrongful conviction more difficult to investigate. These
included, what he termed, the increased use of ‘non-publicity’ in certain criminal cases. In support of such observations, there is evidence that reporting restrictions are being imposed more and more frequently by the courts, in relation to particular criminal cases, through the use of injunctions and super-injunctions\(^{37}\) (Porter, 2011). The use of such orders, not only limits journalistic freedom to report on matters of public interest (McNamara, 2012), a freedom necessary to protect citizens from abuse of power at the hands of the CJS (Porter, 2011), it is arguably a miscarriage of justice in itself as it is not compliant with the rules for a fair trial as no public judgement can be passed upon proceedings by way of ‘open justice’ (Taylor, 2011b).

Furthermore, arguably an even greater disincentive to journalistic involvement in miscarriages of justice today and in the future, is a very new type of injunction, termed the ‘quaero injunction’, which means that a journalist can face imprisonment if they ask questions of a victim of a potential miscarriage of justice. This has been described by MP John Hemming as “a recipe for [the State] hiding miscarriages of justice” (cited by Taylor, 2011b, n.p.). Lastly, it is important to mention proposals for closed hearings under the government’s new Justice and Security Green paper (HM Government, 2011). Changes here are likely to present significant obstacles to investigative journalism in this area and will arguably further prevent some people from speaking out about injustice in the future (Porter, 2011).

Although the discussion thus far has been rather pessimistic concerning the likelihood of journalistic involvement in miscarriages of justice in the future; it could be suggested that media involvement in this area will never disappear, chiefly due to the issue of newsworthiness. Nobles and Schiff (2009, p. 468) argue that media-constructed crises around miscarriages (and hence the increased newsworthiness of miscarriages) repeat themselves over time, because the legal system is unable to translate discussions of reforms in journalists’ stories into official legal remedies to deal effectively with miscarriages. Although many scholars disagree that the legal system is \textit{unable} to produce such reforms (Walker & Starmer, 1999), this idea is consistent with media theory in suggesting that media focus upon any topic is much stronger, and therefore journalists are more likely to be interested in it, when an overall linking theme (such as ‘justice in crisis’) is present (Nobles & Schiff, 1995). The journalists in this study noted themselves that

\(^{37}\) i.e. suppression orders that restrain the media from publishing any information relevant to a particular criminal trial (Porter, 2011).
newsworthiness surrounding topics comes in cycles, and that therefore miscarriages of justice may again come back into ‘fashion’. This is a suggestion supported by Downs (1991, p. 30) who contends that issues which have been through the ‘issue-attention cycle’ and have therefore been elevated to national prominence by the media once, are more likely to capture media interest again in the future (and to receive a higher level of public concern). This is a promising prospect for the journalists working in the genre of miscarriages and for all those concerned about miscarriages of justice as a social problem.

Interestingly, when placing interviewees’ claims (mentioned earlier) that the CCRC cannot do what ‘it is supposed to do’, alongside recent discussions amongst journalists and social commentators that the body is not ‘fit for purpose’ (Naughton, 2012; Robins, 2012), renewed media interest in miscarriages may be imminent. There is also evidence that pockets of media involvement in miscarriages have already begun to re-emerge, aided, in some cases, by the Internet.

_The Internet: A Tool to Aid, and Medium for, Miscarriages Work in the Future?_

Just as the Internet (and indeed social media) have more recently contributed to causing miscarriages of justice, as evidenced in recent cases whereby lawyers have used posts by jurors on Facebook and Twitter to overturn court rulings (BBC, 2012c; Eder, 2012); they may well help to remedy them in the future.

The journalists in this study recognised the plethora of possibilities open to them for involvement in miscarriages via the Internet, now and in the future. They particularly highlighted its use in aiding information searches, locating individuals, and publicising cases, thereby supporting Fanning’s (2010) suggestions that the Internet offers many opportunities for the revival of investigative journalism.

The Internet is also, this research revealed, beginning to empower prisoners/their families in bypassing the journalist as ‘gate-keeper of information’ (Galtung & Ruge, 1965) and enabling them to ‘self-publicise’ their cases, i.e. to place their story in the public arena themselves, through development of their own websites, (outlets which are not based upon a case’s newsworthiness). The Internet may also allow these campaigners to become part of a virtual network of people with similar problems/goals (Lean, 2007), which may ultimately serve to empower them.
Arguably, campaigners have, until relatively recently, been ‘border-bound’. However, the Internet is now permitting information barriers between countries to break down (Allen, 2006), with global campaigns around alleged miscarriages developing, as occurred in relation to the case of Troy Davis. Here, Amnesty International and other organisations established campaigns that allowed people to use text messages to join petitions and asked supporters to tweet with the hashtag #TooMuchDoubt, highlighting the Georgia Parole Board’s 2007 ruling that executions should not proceed if doubt exists as to the accused’s guilt (Banks, 2011). Although Davis was subsequently executed, this example demonstrates that the Internet is already serving a new generation of global campaigners who are beginning to build oppositional social movements (Castells, 1997, p. 358) and challenge societal elites en mass, through the use of technology. The virtual meeting places which social networking mediums such as ‘Facebook’, ‘Twitter’, and ‘Blogspot’ offer citizens not only permit discussion of miscarriages of justice cases, they are also being used by campaigning families in order to organise to demonstrations, vigils, and meetings, thereby mobilising citizens into action (see, for example: samhallam, n.d.).

The future may see the Internet and social networking mediums also being used to muster a team of citizens to investigate aspects of an alleged miscarriage of justice themselves, funded by donations from a virtual campaign group, and reporting back to that group their findings, before divulging them to the world. This may seem a distant hope for victims of miscarriages, however it is already occurring in relation to other societal problems, through organisations such as ‘Help me investigate’, a network helping citizens to investigate questions in the public interest (Helpmeinvestigate, n.d.).

Allies for Miscarriages Work in the Future?

The journalists interviewed in this study also felt that the future was likely to see much more work being conducted on miscarriages of justice by students and academics as part of the growing number of innocence projects developing within the law departments of British universities. However, interestingly whilst in America over 260 people have been freed as a result of the work of innocence projects; in Britain, since their establishment in 2004, no such successes have been achieved (Manzoor, 2011). This is despite them uncovering important evidence in the case of Simon Hall whose appeal was unsuccessful in January 2011 (Innocence Project, 2011). The innocence projects in Britain take on many more types of cases than those in America, just as did/do journalists investigating
miscarriages here\textsuperscript{38}. However, it is interesting to compare the performance of UK innocence projects over the last \textit{eight years} to that of ‘Rough Justice’ which, in dealing with the same types of cases (from 1983 to 2005) achieved the quashing of 15 out of 32 convictions examined, many of these achieved in the first \textit{ten years} of its existence. Only time will tell if students and scholars can perform anywhere near as well as journalists in revealing and remedying miscarriages. Innocence projects certainly present opportunities for collaboration between students, scholars, and journalists now and in the future.

Despite their overall pessimism concerning the future, the journalists in this research argued that those who are truly ‘driven’ to act as public servants, will, regardless of the surrounding climate and obstacles in/external to the profession, always find ways to get involved in miscarriages. Such suggestions support Franklin’s (2006) claims that despite the plethora of constraints and difficulties experienced, some journalists will always remain ‘crusaders on the public’s behalf’ as changes in/external to the profession are not, for these journalists, matched by changes in their perception of their role. The journalists in this study saw it as their duty to investigate and expose miscarriages and as Armao (2000) suggests, it is the individual’s desire and determination to right society’s wrongs that fuels investigative journalism. Arguably then, this alone should mean that journalistic involvement in miscarriages of justice will survive into the future.

\textbf{Research Issues}

Although the research in this thesis is the first comprehensive empirical study of the involvement of local and national, newspaper and TV journalists in miscarriages of justice in England and Wales, there are research issues to note. The first of these surrounds the gender distribution of journalists interviewed. This was unbalanced, (with 6 females and 21 males) and may have influenced the research findings. The researcher made great effort to gain a more balanced sample, by undertaking documentary and Internet-based research and seeking contacts for female journalists involved in the area from those journalists already interviewed. This research revealed that the genre of journalism is dominated by male journalists, however an additional four names of female journalists

\textsuperscript{38} Most projects in America investigate only the cases that may potentially be overturned upon DNA evidence. In contrast, most cases taken on in Britain have no hope of having their innocence established through DNA, (because samples are inconclusive or have been lost or destroyed) thereby arguably making their job more difficult (Manzoor, 2011).
who had had involvement in the area were found and contacted for interview. Unfortunately, those four females failed to respond or declined to be interviewed.

The second research issue to note is that 50% of the journalists interviewed in this study had worked in journalism for over 30 years. Of the remaining 50%, it was evident from their comments upon the impact of historical changes that most had worked in journalism for many years (the journalists interviewed confirmed that very few younger journalists were involved in the area of miscarriages). The interviews with journalists in this study required them to look back at the work they had done on miscarriages of justice. In relation to some cases then, journalists were looking back over 30 years. This may have affected the results of this research, as it might have been too long for them to recall experiences accurately. However, such problems were not immediately evident from the responses gained.

**Contributions of the Research to Academic and Other Arenas**

As the first project to examine the involvement of journalists in miscarriages of justice cases over the past 50 years, from the viewpoint of those involved in cases and journalists themselves, the findings of this research will hopefully contribute to the following areas:

**Contributions to Academic Arenas**

It is expected that the findings will make an original contribution to, and enrich academic knowledge within, the areas of criminal justice, journalism, and particularly investigative journalism, in relation to which, very little empirical research has been conducted worldwide. There have been repeated calls for qualitative and quantitative assessments of the phenomenon within specific genres, particularly in relation to its demise or renaissance and with particular focus being placed upon journalists’ motivations for undertaking, and how they undertake, such work (Northmore, 1997, p. 14). In providing research findings upon just these issues, this research hopefully helps to meet such calls.

In analysing how journalists tell stories surrounding miscarriages, this study will, to some extent, have met calls for research to be conducted into the narratives which investigative journalists produce, and how they are told, within particular genres (DeBurgh, 2000a). In being relatively successful in the application of narrative analysis (a method little used in
criminal justice research to date), it is also hoped that this study will encourage other criminal justice researchers to consider utilising this method in the future.

**Contributions to the Area of Miscarriages of Justice Campaigning**

It is anticipated that the results of this study will aid campaigners, particularly in terms of exposing the considerations undertaken, and motivations which drive, journalists’ decisions upon whether or not to get involved in cases. Through, for example, this study’s exposure of the importance of news values to journalists, campaigners will be informed of what factors attract journalists to cases and perhaps more importantly, which cases are never likely to interest them. This may allow them to make an informed decision to invest more time and effort in seeking alternative routes, to, for example, publicise their case themselves via the Internet or to perhaps muster supporters to conduct their own investigations. It will after all be remembered, that whilst they may have contacts, journalists have no special investigative powers, nor access to any more information than any other member of the public.

**Contributions to Real-World Research**

In highlighting the importance of particular attributes and strategies to achieving success in investigating miscarriages, this study’s findings meets calls for researchers to examine a hitherto untouched area within media research, namely the reasons for investigative journalists’ success within particular genres (Northmore, 1997, p. 14). In revealing the attributes which are important (or not) in order to be a successful investigator, whether journalist or police officer, this research also adds to a developing body of literature concerning the attributes required for investigative success across a number of professions. A particularly important finding which those interested in the attributes necessary for successful criminal investigation may note, is that whilst being extremely successful in their investigations into miscarriages, journalists are amateur, not trained criminal investigators and that mental abilities and personal characteristics may matter more than skills, training, and formal education, in achieving investigative success.

**Contributions to Knowledge Regarding the Causes of Miscarriages of Justice**

In supporting suggestions that the CCRC may prolong wrongful convictions (Woffinden, 2010) the findings of this research arguably contribute to knowledge concerning the
causes of miscarriages. Through revealing the importance in journalistic investigations of, for example, ‘going out and digging’, activities which have led to all the major breakthroughs in journalistic investigations, this research supports calls for the CCRC to conduct more investigations, than paper reviews of cases.

Future Research

Although the findings of this study will hopefully contribute to a number of areas, they also lead the researcher to propose suggestions for future research in the area of miscarriages of justice.

Firstly, whilst the comparison of criminal and journalistic investigators in this study was deemed appropriate in that both are involved in their investigations in trying to reconstruct the past in relation to crimes which have occurred (Osterburg & Ward, 2000); a comparison of journalistic investigators to CCRC caseworkers would, it is argued also be worthwhile, as both investigators are working post-conviction, deconstructing cases in order to discover if a miscarriage has occurred.

Secondly, it may in the future be interesting to compare the work of innocence projects with that of journalists investigating miscarriages of justice. As previously mentioned, to date the work which these projects have conducted on cases has not resulted in the quashing of a conviction. Whilst it is hoped that this situation changes, a comparison of journalistic endeavours in this area with those of innocence projects may produce information which is, in turn, useful to those projects.

Thirdly, this study examined journalistic successes in terms of the media’s involvement in miscarriages of justice cases. It is suggested here that the ‘coin be flipped’ and that a study of failed journalistic endeavours, (particularly unsuccessful investigations in this area) would be an equally revealing piece of research for the future.

Finally, this study focussed upon journalists working in England and Wales. As previously mentioned, the genre of journalistic involvement in miscarriages is an ‘untouched’ area worldwide, despite all countries experiencing miscarriages and some being exposed by journalists working within those countries, particularly in America, Canada, and Australia (Huff and Killias, 2010). Future research might compare journalistic involvement in
miscarriages in these countries, in terms of strategies utilised and the professional, economic, social, and political constraints/influences upon such work.

**Conclusion**

This chapter examined the role of the media in miscarriages of justice and how this has changed over time, in the light of existing literature in this area. It discussed how journalists have been crucial in revealing miscarriages over time and through presenting an original model of the process of journalistic involvement in miscarriages, and examining the attributes required in order to conduct successful journalistic investigations into miscarriages, demonstrated how and why. In presenting an original model of journalistic storytelling in this area, the chapter also demonstrated how stories within this genre are told and further clarified what role newspaper and TV journalists often play in cases, i.e. that of informer and/or investigator.

In the light of their successes within this area, particularly in terms of the revelations of journalistic investigations, concerns have been highlighted regarding the growing impact of commercialisation and competition within the media upon journalists’ ability/decisions to get involved in miscarriages. It has also been suggested that future reform deriving from the Leveson inquiry may have ramifications in terms of curtailing the freedom which journalists who have investigated miscarriages highly prize. However, whilst acknowledging their importance in this area, the chapter also demonstrated that, partly due to commercial considerations, few victims of miscarriages can actually be helped by journalists, (particularly in today’s commercial climate) unless they are of a particular status and/or their convictions are particularly newsworthy. Furthermore, it established that the media’s focus upon high-profile cases serves to mislead the public, providing them with a highly selective and unrepresentative image of miscarriages, one which masks their forms, scale, causes, and individuals’ varying vulnerability to becoming a victim of them. If the media really want to reveal, remedy, and reduce miscarriages of justice, arguably their focus should be upon those ‘low-level’ wrongful convictions which occur frequently in this country (Naughton, 2003). However, commercial considerations prohibit such a focus, thereby serving to add support to the argument that despite their service to the public in the cases discussed in this study, journalists must primarily act as servants of the powerful.
CHAPTER 12: CONCLUSION

“Legal investigations have always lagged behind journalistic ones, with the law only acting once the media has placed the evidence on the public table through publication” (Sanders & Canel, 2006, p. 465).

Arguably, this statement is just as relevant to journalistic investigations which have revealed and helped to remedy miscarriages of justice as it is to the journalistic investigation which, we must remember, revealed the phone hacking scandal which originally sparked the Leveson inquiry (Thomson, 2011). Indeed, as the phone hacking scandal demonstrates, the media can be both a cause and a remedy of societal problems (Pugh, 2012) and the same is arguably true in terms of their relationship to miscarriages of justice.

Certainly, whilst the media’s role as a cause of miscarriages of justice (Stephens & Hill, 1999) cannot be ignored; this research found that their contribution toward revealing and remedying them has been invaluable. This is particularly the case in relation to some wrongful convictions for murder, wherein informal journalistic investigations have proved to be the only way that new evidence (leading to the eventual quashing of those convictions) was found (Eady, 2003). This can be juxtaposed against the fact that no research had hitherto provided a comprehensive examination of the positive role of the media (i.e. local, regional, and national newspaper and TV journalists) in miscarriages of justice cases in England and Wales (aim one) and how this has changed over time (aim two). The research for this thesis aimed to meet this shortfall.

In determining the importance of the media in miscarriages of justice cases (objective one), this research found that journalists can provide links to networks of professionals who may be able to aid prisoners, and support, which sometimes continues after a conviction has been quashed. However, their major contribution to this area comes in the form of publicity and investigations. All those involved in cases, including journalists, want publicity but what makes the biggest impact is journalistic investigation. The investigative journalist has the resources, time, and crucially the freedom to conduct ‘full and fearless’ investigations into cases which may result in the discovery of fresh evidence that subsequently proves to be crucial at appeal. The latter means that these journalists can sometimes act as prisoners’ ‘court of the last resort’, (providing a ‘safety valve’ in
situations where the CJS proves to be fallible (Hanson, 2011)) and despite the existence of formal mechanisms, (namely the Court of Appeal and CCRC) to do just this.

A number of motivations and considerations influence journalists’ decisions upon whether or not to get involved in miscarriages of justice (objective two), including their views concerning the role of journalism within society, commercial pressures, and the newsworthiness of miscarriages as a topic. Ultimately, journalists become involved in cases for moral and commercial reasons. The latter, however greatly influences decisions upon the ‘type’ of prisoner that can be helped and results in very few cases being taken up by journalists. The media’s focus upon a very narrow range of cases is not only arguably a miscarriage of justice in itself, it also serves to sustain a highly selective and misleading representation of miscarriages for the public, (regarding their forms, scale, features of those most likely to become victims, and the measures which might best be taken to reduce them).

Regarding those cases which are taken up, there is a five-stage process which journalists enter into, (i.e. a model of journalistic involvement in miscarriages) which includes what journalists do and how they do it (objective three). During this process, there are obstacles which journalists face, and which for most, determine whether or not they can embark upon an investigation into a case. Evidential and resource constraints are particularly problematic and some of these obstacles change over time. For example, commercial pressures have become more of an obstacle to journalistic involvement in miscarriages today, than they were during the 1980s (an issue returned to shortly). Ironically, partly as a result of the impact upon the media of these commercial pressures, the Leveson inquiry is now sitting, an inquiry which may in turn, result in tougher (particularly legal) obstacles being introduced which may further constrain investigative journalism in this area in the future.

The work of journalists conducting investigations into miscarriages seems to be similar to that of other investigative journalists and investigations into miscarriages, in the main, require similar attributes to other journalistic investigations in order to be successful (objective four). However, some attributes, including ‘intellectual drive’ and ‘flair’, may be particularly important in order to achieve journalistic success in investigating miscarriages of justice specifically.
The rather illusive attribute ‘flair’, a quality which cannot be learnt/taught, is particularly interesting as it is also highlighted as being important in literature surrounding the attributes important for success in criminal investigations (Innes, 2003). Interestingly, reference to journalism and criminal investigation literature demonstrates that there are a number of similarities between the attributes required in order to be a successful investigative journalist and those required to be a successful criminal investigator; and this research generally supported such literature, despite journalists and police officers primarily differing in terms of their identification of the most and least important attributes for success (objective five). This is with the exception of ‘formal education’ which journalists and police officers mutually identified as being one of the least important attributes for success as an investigator. Interestingly, one’s level of formal education is often viewed as an indicator of one’s level of intelligence. However, this attribute has little relation to common-sense (Sternberg et al, 1995), something which the investigators in this study, particularly the journalists, prized for investigative success.

The findings regarding formal education as being one of the least important attributes for success, combined with the fact that as a whole, the groups placed higher importance on mental abilities and personal characteristics, than practical skills and abilities, suggests that in order to be successful investigator (no matter the profession) qualities residing ‘within the person’ are more important than those from ‘within the profession’. Such findings are also consistent with fictional detective stories, particularly the ‘Whodunit?’, wherein the amateur detective solves the murder before the professional police (Cawelti, 1976) an issue returned to shortly.

In terms of their storytelling, this research determined that journalists’ aims in telling stories about miscarriages (objective six) are multiple, but can depend upon what stage of the five-stage model of journalistic involvement, they are at. Their aims include those discovered in analyses of investigative journalism in other genres, namely: attempting to place a case on a series of agendas, publicity, solidarity, and accountability (Protess et al, 1991; Ettema & Glasser,1998). However, in relation to the latter, whilst these miscarriages narratives insist that something must be done to rectify what appears to be an injustice, unlike other investigative stories, they do not clearly place blame in the cases discussed, and therefore do not aim to blatantly ‘call wrongdoers to account’ (Ettema & Glasser, 1998). This may be partly because the ‘wrongdoer’ in relation to these cases,
unlike in any other investigative expose, is generally, and quite bizarrely, the entity also trusted to rectify the injustice exposed, namely the CJS.

With respect to how miscarriages of justice stories are told (objective six), this research determined that these stories, like other investigative stories are morality tales (Ettema & Glasser, 1998). However, unlike other investigative stories, miscarriages stories focus upon particular *cases* of individual harm rather than *classes* of injustice. This is a focus which may actually do a disservice to the area of miscarriages of justice as a whole, as it arguably portrays miscarriages as rare occurrences or ‘one-offs’, rather than reflecting the reality of them occurring “every day, of every week, of every month, of every year” (Naughton, 2002, n.p.).

The research also demonstrated that the structure of journalists’ stories about miscarriages is similar to that of the fictional detective story, particularly the ‘Whodunit?’ containing the wrong person convention. However, they differ in terms of their endings as rather than providing a solution and explanation, stories about miscarriages leave the audience with ‘reasonable doubt’ regarding the safety of the conviction.

There are also differences between TV narratives about miscarriages, which are told by journalists who have investigated the cases in question, (hence the ‘investigator’ within them *is* the journalist) and newspaper narratives about miscarriages, wherein the ‘investigator’ within them is often an entity other than the journalist producing the narrative, (the latter more often acting as ‘informer’). This adds weight to this study’s findings that newspaper journalists find it more difficult than TV journalists to investigate miscarriages. It also arguably suggests that, in terms of containing a clearly defined ‘detective’ (i.e. the journalist investigating the case), TV stories about miscarriages should be assured of enduring public popularity, despite, as this research found, media executives’ views that they are no longer fashionable. This is because the fictional detective story remains one of the most popular genres with the public across many cultural mediums (Davies, 2007), partly because “…the public is…always interested in the moral issue of justice [which all detective stories centre around]” (Hill et al, 1985, p. 122).

Journalistic involvement in miscarriages of justice has changed over time (objective seven), from the 1960s when there was little media involvement in this area, to the late
1980s/early 1990s which saw massive media interest in miscarriages, due primarily to their increased newsworthiness. From the mid-90s however, journalists working within this area gradually began to feel the impact of a number of changes occurring internal and external to the profession, including, most importantly, commercial pressures which meant that opportunities to continue such journalism gradually diminished. The latter may also have affected the journalist’s role within society, effectively making him/her primarily a servant of the powerful/profiteers, and meaning that s/he is nowadays less able to serve the public in terms of conducting investigations into miscarriages.

However, whilst commercial pressures are only likely to worsen in the future, there is arguably hope for journalists working within this area and for the wrongly convicted. This has come in the form the Internet, (which can act as a major source of knowledge, contacts, support, and expertise for journalists investigating miscarriages and for campaigning families who wish to garner support for their cause). It has also come in the form of other investigators, (such as those involved in the growing number of innocence projects in the UK) who may form strong collaborations with journalists working on miscarriages. These aids and allies present major opportunities then, in terms of aiding journalistic investigations into miscarriages and promoting citizen involvement in this area now and in the future.

Lastly, and perhaps most perversely, hope for journalists working within this area and for the wrongly convicted, has come in the fact that major questions are now being raised, by influential social commentators and indeed by journalists themselves, surrounding whether the formal remedy in place to deal with miscarriages, namely the CCRC, is willing/able to do what it is supposed to do (Woffinden, 2010). This very fact, may mean that miscarriages of justice, as a topic, may in the near future, become very newsworthy once again, thereby opening the ‘media-gates’ to a raft of new stories about, and investigations into, alleged wrongful convictions. It is also suggested that due to their individual role conceptions, some journalists will always remain ‘crusaders’ in the name of the public’s ‘right to know’, viewing it as their professional duty to investigate and expose miscarriages of justice. This factor alone will arguably mean that media involvement in this area will never cease.
**Recommendations**

The recommendations which can be made as a result of this research are, in some respects, limited. This is because a key finding suggests that greater freedom, particularly from rules and regulations, would better serve criminal justice professionals in their search for the truth in criminal cases. To suggest however, that, for example, the police investigation should operate under fewer rules and regulations (many of which exist as a direct result of (media) revelations of police errors/malpractice in miscarriages of justice cases in the past), would be a backwards step.

As an aside, the police may, however, wish to consider whether greater priority should be placed upon developing investigators’ personal attributes such as mental abilities, rather than practical work-based skills in relation to achieving success in investigations. They may also wish to consider that some individuals may simply possess innate skills which may ultimately mean that they are more successful investigators. Arguably, within the police (and other organisations) all employees can be trained to the same level, (i.e. to meet particular competency indicators) however, some individuals may also have a natural ability which allows them to perform better at a task than their contemporaries.

Returning to, and accepting the argument that it would be undesirable to reduce the rules and regulations surrounding police investigations, it could be suggested however that change in relation to the systems in place post-conviction, would be a most positive step forward. Therefore, most of the following recommendations are made with respect to this aspect of the CJS.

**Remedying Miscarriages of Justice**

Journalists have served for over a century as unofficial counsel for the defence in criminal cases, their investigations having been prisoners’ only feasible recourse in many cases (Shapiro, 2003, p. x). This was arguably due to there initially being no appellate system in place to remedy miscarriages of justice (Sanders & Young, 2010), and later due to the inadequacy of the Home Office’s C3 department and the Court of Appeal to deal effectively with cases which came before them (Belloni & Hodgson, 2000). However, in 1997, largely as an official reaction to media exposure of a series of miscarriages in which the Court of Appeal had appeared reluctant to quash convictions, the first independent,
publically-funded body of its type in the world, the CCRC, began its work (Roberts & Weathered, 2009). In theory, this new official remedy to wrongful convictions should have marked the end of unofficial journalistic investigations in this area and there was certainly a perception amongst journalists that a solution to the problem may have been found (Woffinden, 2010). However, as this research study has demonstrated, the CCRC has proved not to be the remedy to the problem of many ‘imprisoned innocents’ (Naughton, 2009).

It must of course be noted, that the CCRC is open to a wider variety of appeals for help than are journalists, at least in theory, being prepared to take on a plethora of cases which journalists do not view as newsworthy. Indeed, due to increased commercial pressures within the media, today only the most attractive (from a journalistic viewpoint), and already high-profile cases, are ‘picked’ from the ‘pot’ of individuals requesting media help. These ‘exceptional miscarriages’ involving wrongful conviction for murder, amount to the tiniest proportion of the approximately 5,000 wrongful convictions mundanely and routinely overturned annually in England and Wales (Naughton, 2003).

However, the CCRC has its own problems, problems which chiefly concern the issue of ‘recognising wrongful convictions’. Firstly, and perhaps most worryingly, the CCRC acknowledges itself that due to the principle of ‘second-guessing’, it cannot always refer cases to appeal which after investigation seem to constitute a miscarriage of justice (CCRC, n.d.). Secondly, it does not consider many other cases worthy of further scrutiny (CCRC, n.d.). In relation to those cases that it does pursue, it is often criticised for conducting paper reviews, rather than utilising all of its powers to conduct full investigations into them (Walker & Starmer, 1999). Where investigations are conducted, those investigations are shrouded in legal rules which prevent the body from considering all of the evidence in a case, thereby effectively inhibiting it from fully assessing claims of innocence. Arguably then, some victims of injustice may never be able to overturn their convictions. Gradual recognition of this has led to criticism of the CCRC and to mounting accusation from many knowledgeable quarters, that it is ‘unfit for purpose’ (Robins, 2012).

It is crucial to note here, that it is not being suggested that individuals working at the CCRC, i.e. case-review managers are not interested in uncovering applicants’ innocence. The visible relief of Sam Hallam’s case-review manager at his recent successful appeal
clearly demonstrate that they are (Evans, 2012). Rather it is argued that the system within which these individuals work, sometimes prevents them from doing so - an issue acknowledged by the CCRC itself (CCRC, n.d).

Cynically of course, it could be argued that the CJS actually does not want the CCRC to uncover many miscarriages as perversely this may lead to a drop in public confidence in the CJS as a whole. The CCRC itself acknowledges that part of its role is to maintain public confidence in the CJS (CCRC, n.d). Perhaps this is part of the problem with the body in that it has the dual role of investigating miscarriages of justice but also maintaining public confidence in the CJS. Interestingly, over the years, some members of the senior judiciary have criticised journalistic investigations into miscarriages of justice on just this point, arguing that an “insidious by-product” of the process of media revelation of miscarriages is that it diminishes public confidence in administration of justice (Jessell, 1994, p. 49).

This situation arguably explains why despite the CCRC’s existence, those involved in miscarriages of justice, including lawyers and campaigners, claim that the media are still very much required to fill an ‘investigative gap’, at this stage in the appellate process. In those individual cases where the CCRC seems unable/unwilling to help, the journalist, with his/her resources, time, and often previous experience in this area, appears to be the only entity who can ‘step in’ and, in the process of his/her investigations, demonstrate the difference between the legal system’s and journalist’s perspectives on ‘truth’ (Eady, 2003).

However, it is argued here that journalists, are, despite their successes in this area, most inadequate ‘gap-fillers’ (partly due to the commercial reasons mentioned above), and that focus should be placed instead upon making changes to the official body which is currently being publically-funded to do a job which in many cases it i) does not or ii) cannot do, namely properly assess many claims of innocence.

In terms of what the CCRC ‘does not do’, it is recommended that the body conducts more investigations, rather than paper reviews of the convictions which come before it. Here, it is crucial to note that this research study revealed that all of the major breakthroughs in journalistic investigations (those which eventually contributed to the quashing of the
convictions concerned), came as a result of ‘going out and digging’, not as a result of ‘desk-based paper-sifting’.

In terms of what the CCRC ‘cannot do’, it is recommended that an approach to investigating claims of wrongful conviction which steps outside the strict legal confines of the appellate system (one which has as its core focus, the need to reach the truth of ‘what happened’ in these cases), is developed. The appellate system must seriously consider what journalists are able to do in this respect, that at present, the CCRC is unable to do. The journalists in this research study demonstrated that in order to conduct a full and fearless search for what happened in a case, investigators of alleged wrongful convictions, must, more than anything else, be allowed ‘investigative freedom’. This includes the freedom to search through all of the unused evidence in cases regardless of its availability (or not) at trial and the freedom to consider all available information, (which journalists use in arriving at the viewpoint that a conviction is unsafe).

It is also recommended that the public be made more aware of what the CCRC does not and cannot do, of the problems associated with this, and of what might be done to improve the situation. This is because the CCRC is, as previously mentioned, a publically-funded body, which in the current recessionary climate, should arguably be performing as the public want it to perform. However, if the public are not aware that it sometimes does not or cannot fulfil its stated aim of: “investigating cases as quickly as possible and with thoroughness” (CCRC, n.d), then how can they make such a decision?

There is growing encouragement for academics to engage with the media in order to educate the public on criminology and criminal justice matters as part of what has been termed a ‘public criminology’ (Loader & Sparks, 2010). Therefore, it is recommended that criminologists more regularly engage with the public through the media concerning the role, performance, and problems surrounding the work of the CCRC. If the body is not performing or able to perform as the public think it should, this may lead to public calls for change. After all, there is surely no greater of a waste of the criminal justice budget, than in funding an organisation which is sometimes not doing, or cannot do, what it at face value seems to do.

Evidently change is urgently needed in this area, however even if this occurs, it is recommended that this should not mean an end to journalistic involvement in miscarriages
of justice. The media will, it is suggested, always have a role to play in acting as the public’s watchdog in this area, monitoring the effectiveness of any system which is put in place to remedy miscarriages in the future. This will arguably help to ensure that, that system is continually accountable to the public, thereby reinforcing its effectiveness (Coronel, 2008, p. 14). The media should continue to fulfil this role no matter what changes occur within the CJS and no matter what obstacles, (some of which may be yet to surface in the recommendations of the forthcoming Leveson report) serve to complicate journalistic involvement, because, as history and the experiences of other societies demonstrate, if journalists fail to undertake this role, more mistakes may be made, or worse, “The system [may] become rotten” (PRODN).
REFERENCES


Rose, D. (2012, May 19). I'm not surprised the detective in the 'Body In The Bag' spy case botched it. He's the one who stole eight years of my life for a murder I couldn't have committed. *The Daily Mail*. Retrieved May 25, 2012, from


Sprack, J. (2002). Publicity surrounding the trial. In M. McConville & G. Wilson (Eds.), *The handbook of the criminal justice process* (pp. 221-236). Oxford: OUP.


### APPENDICES

| APPENDIX 1  | TABLES ANCILLARY TO THE MAIN THESIS | 328 |
| APPENDIX 2  | NOTES ANCILLARY TO THE MAIN THESIS  | 332 |
| APPENDIX 3  | FIGURES ANCILLARY TO THE MAIN THESIS | 333 |
| APPENDIX 4  | ADDITIONAL INFORMATION AND SCHEDULES CONCERNING THE DATA GATHERING PROCESS WITHIN THIS THESIS | 335 |
APPENDIX 1: TABLES ANCILLARY TO THE MAIN THESIS

Table 1.1: Studies examining the frequency of causes of miscarriages of justice (adapted from Borchard, 1932; Radin, 1964; Brandon & Davies, 1973; Huff, Rattner, & Sagarin, 1986; Bedau & Radelet, 1987; Radelet, Bedau, & Putman, 1992; Connors, Lundregan, Miller, & McEwen, 1996; CCRC, 2000; Scheck, Neufeld, & Dwyer, 2000; Saks, 2001)

<table>
<thead>
<tr>
<th>Study by:</th>
<th>Examined...</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borchard (1932)</td>
<td>...the causes of miscarriages in 62 U.S and three U.K cases from the early 20th C</td>
<td>The most common cause of miscarriage was mistaken identification (in 45% of cases), followed by relying on circumstantial evidence, perjury by witnesses, false confessions, and unreliability of expert evidence.</td>
</tr>
<tr>
<td>Radin (1964)</td>
<td>...the causes of miscarriages in 300 cases in 25 U.S States &amp; the District of Columbia</td>
<td>Causes were: ‘The police’, ‘The prosecutor’, ‘The witnesses’, &amp; ‘Hue &amp; Cry’ (police reaction to public outcry over horrific crimes). Most shocking miscarriages caused by prosecutorial abuse of power.</td>
</tr>
<tr>
<td>Brandon &amp; Davies (1973)</td>
<td>...70 cases in England &amp; Wales (where convictions had been quashed for crimes for which they were seen to be innocent) from 1950-70</td>
<td>After mistaken identification, self-incriminating confession was the most common cause of miscarriages of justice.</td>
</tr>
<tr>
<td>Huff, Rattner, &amp; Sagarin (1986)</td>
<td>...a database of 500 U.S miscarriages &amp; surveyed criminal justice officials</td>
<td>The most common cause was eyewitness identification (in 60% of cases), although most miscarriages had multiple causes.</td>
</tr>
<tr>
<td>Bedau &amp; Radelet (1987)</td>
<td>...350 U.S miscarriages</td>
<td>23% of errors were caused by police investigation (particularly false confession - in 14%/49 cases); 14% caused by the prosecution prior to/during the trial (particularly through non-disclosure - in 35 cases); &amp; in 173 cases the errors were caused by prosecution witnesses (perjury in 117 cases &amp; mistaken identification in 56 cases). Miscellaneous sources of error inc. incompetent defence (3%), misleading circumstantial evidence (9%), insufficient consideration of alibi evidence (13%), &amp; public demand/outrage (20%).</td>
</tr>
<tr>
<td>Radelet, Bedau, &amp; Putman (1992)</td>
<td>...the original 350 cases, plus another 66 cases</td>
<td>The two most common causes of miscarriages were mistaken eyewitness testimony and perjury by prosecution witnesses.</td>
</tr>
</tbody>
</table>

Studies Examining the Frequency of Causes of Miscarriages of Justice
Connors, Lundregan, Miller, & McEwen (1996) ...28 cases in which DNA proved that an innocent person had been convicted in U.S

Eyewitness identification error was a cause in almost all cases. Other errors were: reliance on erroneous or misleading forensic evidence, alleged government misconduct, including perjured testimony, intentional withholding of exculpatory evidence, intentionally erroneous laboratory tests & expert testimony.

CCRC (2000) ...its own statistics on 80 miscarriages referred to appellate court in England & Wales - catalogued their causes

The causes of miscarriages (some being multiple) were police/prosecution failings (in 27 cases); scientific evidence (26); non-disclosure (23); new evidence (23); defective summing-up (11); defective legal arguments (10); false confessions (6); and defence lawyer failings (in 6 cases).

Scheck, Neufeld, & Dwyer (2000) ...62 DNA-based exonerations in the U.S

Most common cause was mistaken eyewitness identification (in 84% of cases). Followed by: police misconduct (50%); prosecutorial misconduct (in 42%); inadequate representation by defense counsel (in 27%); false confession (in 24%); jailhouse informants (21%).

Saks, Constantine, Dolezal, Garcia, Titus, Horton, Leavell, Munz, Rivera, Stewart, Stumpf & VanderHaar (2001) ...the 62 cases in above study, plus 19 cases of DNA exoneration in the U.S

Mistaken eyewitness identification was most common cause (in 60 of the 81 cases); erroneous forensic science (in 53 of the cases); prosecutorial misconduct (in 32); police misconduct (in 26); fraudulent or tainted evidence (in 25); bad lawyering (in 23); false confessions (in 15); reliance on informant testimony (in 14); and false witness testimony (in 14).

Although the studies in Table 1.1 found that most miscarriages of justice have multiple causes, they also revealed that the error which appears most frequently is mistaken eyewitness identification. Research post-2001 on the frequency of causes is minimal, however such assertions are further supported by revelations that the exoneration (due to new analysis of DNA evidence) of 215 people wrongfully convicted in America, revealed mistaken eyewitness identification as a cause in 75% of cases (Innocence Project, 2009).

Table 1.2: A four-step method for investigating murder which protects an investigator from pursuing false leads (adapted from Cashore, 2003)

<table>
<thead>
<tr>
<th>Cashore’s Four-Step Method for Investigating Murder</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Step 1: Back away from your hunch</strong></td>
</tr>
<tr>
<td><strong>Step 2: Pursue information, not individual</strong></td>
</tr>
</tbody>
</table>
suspects must also ensure that an ‘intuitive belief’ in innocence does not control pursuit of information

Step 3: Put the facts in order
Constructing timelines & fitting apparently disconnected facts into them so that eventually the story reveals itself on its own and sometimes reveals the impossibility of an individual having committed a crime

Step 4 - Speak to everyone
Behaviour may seem suspicious until the investigator has talked to people actually there (who may be able to quell such suspicions)

Table 1.3: An Over-Arching Framework of News Values (adapted from Galtung & Ruge 1965; Chibnall, 1977; Jewkes, 2010)

<table>
<thead>
<tr>
<th>News Value Galtung &amp; Ruge</th>
<th>Explanation Galtung &amp; Ruge</th>
<th>News Value Chibnall</th>
<th>Explanation Chibnall</th>
<th>News Value Jewkes</th>
<th>Explanation Jewkes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Threshold (Importance)</td>
<td>reach a level of perceived importance to be seen as newsworthy</td>
<td>Threshold</td>
<td>See Galtung &amp; Ruge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unambiguity</td>
<td>be clear, uncomplicated</td>
<td>Simplification</td>
<td>be reduced to a minimal no. of themes &amp; ‘shades of grey’ removed</td>
<td>Simplification</td>
<td>See Chibnall</td>
</tr>
<tr>
<td>Personification (individual focus)</td>
<td>have a person to symbolise them - provides a hook to hang a story on</td>
<td>Personalisation</td>
<td>present crimes in terms of actions of/effects upon individuals</td>
<td>Individualism</td>
<td>See Galtung &amp; Ruge; Chibnall</td>
</tr>
<tr>
<td>Unexpectedness</td>
<td>be unexpected, new, novel, rare</td>
<td>Immediacy</td>
<td>be about crimes which have just occurred</td>
<td>Predictability</td>
<td>Decision on how to report a crime made before arrival at scene</td>
</tr>
<tr>
<td>Frequency (timescale)</td>
<td>‘fit’ within the news cycle</td>
<td>Dramatisation</td>
<td>be dramatised to grasp audience</td>
<td>Sex</td>
<td>Sex is now presented graphically</td>
</tr>
<tr>
<td>Consonance</td>
<td>fit with existing knowledge/expectations</td>
<td>Structured access</td>
<td>be firmly grounded in authoritative definitions of officials</td>
<td>Celebrity</td>
<td>All related to celebrity deviance &amp; victimisation, newsworthy</td>
</tr>
<tr>
<td>Composition</td>
<td>Conventionalism</td>
<td>Violence</td>
<td></td>
<td></td>
<td></td>
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<td>-------------</td>
<td>-----------------</td>
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</tr>
<tr>
<td>be balanced, e.g. round off the news with a human interest story</td>
<td>be cast as well-known scenarios &amp; within pre-existing structures</td>
<td>Any violent crime may be news-worthy. Risks of becoming a victim exaggerated</td>
<td></td>
<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Negativity</th>
<th>Titillation</th>
<th>Spectacle &amp; graphic imagery</th>
</tr>
</thead>
<tbody>
<tr>
<td>be negative (bad news is good news)</td>
<td>titillate audiences. Tragic events may still be judged on entertainment value</td>
<td>Events with a strong visual impact are news-worthy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Continuity</th>
<th>Novelty</th>
<th>Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>have sustainability – old tales given new life if they reinforce meaning of new stories</td>
<td>be kept ‘alive’ by using fresh angles</td>
<td>Crime involving child victims/perpetrators is news-worthy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Meaningfulness</th>
<th>Proximity Geographical and Cultural</th>
</tr>
</thead>
<tbody>
<tr>
<td>be relevant to audiences</td>
<td>See Galtung &amp; Ruge – the nearer/more relevant crime to audience, more likely reported</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Elite-centricity (Elite nations &amp; Elite people)</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Events which directly affect audiences/Elite people given priority</td>
<td>Populist punitive-ness now dominates stressing repression, intolerance, retribution</td>
</tr>
</tbody>
</table>
APPENDIX 2: NOTES ANCILLARY TO THE MAIN THESIS

Note 2.1:
Up until 1996, the Home Office had often refused prisoners permission to ask journalists to visit them to discuss their cases and journalists were asked to make a declaration that they would not publish information gained. However two prisoners, O’Brien and Simms legally challenged this decision, arguing that it was their right to be visited by, and to talk to, journalists investigating their cases (Walker & Wood, 1999). In a 1996 High Court judgement, Justice Latham, having read evidence provided by investigative journalist Bob Woffinden which detailed over sixty cases where journalists had played key roles in identifying miscarriages of justice which led to the quashing of the convictions, recognised the value of investigative journalism to miscarriages of justice cases and ruled that the Prison Service may not refuse permission for prisoners protesting their innocence, to talk to journalists in person about their case (Walker & Wood, 1999, p. 224).

Note 2.2:
Relating to Table 4.1: Personal qualities, abilities, knowledge, and skills identified by media literature as being important in order to be a successful investigative journalist – adapted from the following extensive list of contributors:

Figure 3.1: The periodic media construction of crises of confidence in the CJS in response to high-profile miscarriages of justice (adapted from Nobles & Schiff, 2000)

Normally media represent moj cases as exceptional but during the crisis these cases get caught up in the outer wheel, making it seem that there are more moj - this fuels the meta-narrative of 'crisis' = a media induced self-fulfilling prophecy.

1. High profile cases of alleged moj published

2. Growing media demand for these convictions to be quashed

3. Legal system unable to satisfy media demands due to closed system of communication

4. Meta-narrative of crisis begins - General media perception of systemic/ widespread failure

5. Reduced tolerance of appellate system and judiciary's deference to it

6. Quashing of high profile convictions. Announcements of review/reform

7. Meta-narrative of crisis recedes until such reforms appear again unable to respond to high profile cases
Figure 3.2: A media constructed crisis around miscarriages of justice 1989-1992 (adapted from Nobles & Schiff, 2000)

1. PRE-CRISIS
Mid 1980s: 'The Irish cases' are the subject of journalistic investigations & stories

2. Early 1987: Group of respected authorities meet Home Secretary about the Irish cases

3. Mid 1987: B6 appeal rejected – reported as evidence of the need for individual CJ reforms but no obvious link to serious CJ deficiencies


5. Mojs now invested with a common meaning
Criticism of appellate system and of judiciary's failure to respond to other obvious mojs

6. Announcement of review/reform in the shape of the RCCJ, RCCJ reports, CCRC

7. Meta-narrative of crisis recedes until such reforms appear again unable to respond to high profile cases of 'media-declared' innocence

Other cases of moj are tied to central narrative of crisis – moj cases represented as pervasive, self-fulfilling prophecy – fuels meta-narrative of 'crisis'
Table 4.1: Criteria of a successful interviewer (adapted from Kvale, 1996)

<table>
<thead>
<tr>
<th>Criterion</th>
<th>Explanation – The researcher must...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance</td>
<td>not talk too much as this may make the interviewee passive, or too little as the interviewee may feel s/he is not talking along the right lines.</td>
</tr>
<tr>
<td>Knowledgeable</td>
<td>be thoroughly familiar with the focus of the interview.</td>
</tr>
<tr>
<td>Structuring</td>
<td>give purpose for interview &amp; end it appropriately asking if the interviewee has questions.</td>
</tr>
<tr>
<td>Clear</td>
<td>ask simple, easy, short questions with no jargon.</td>
</tr>
<tr>
<td>Gentle</td>
<td>let the interviewee finish; give them time to think; tolerate pauses.</td>
</tr>
<tr>
<td>Sensitive</td>
<td>listen attentively to what is said; be empathetic in dealing with the interviewee.</td>
</tr>
<tr>
<td>Open</td>
<td>respond to what is important to interviewees &amp; is flexible.</td>
</tr>
<tr>
<td>Steering</td>
<td>know what he/she wants to find out.</td>
</tr>
<tr>
<td>Critical</td>
<td>be prepared to challenge what is said, e.g. when dealing with inconsistencies in interviewees’ replies.</td>
</tr>
<tr>
<td>Remembering</td>
<td>relate what is said to what has previously been said.</td>
</tr>
<tr>
<td>Interpreting</td>
<td>clarify meanings of interviewees’ statements, but without imposing meaning on them.</td>
</tr>
</tbody>
</table>

Table 4.2: Seven stages of an interview investigation (adapted from Kvale, 1996)

<table>
<thead>
<tr>
<th>Stage</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>STAGE 1. Thematizing:</td>
<td>Formulate the purpose of the investigation &amp; describe the concept of the topic to be investigated before interviews start.</td>
</tr>
<tr>
<td>STAGE 2. Designing:</td>
<td>Plan the design of the study, taking into consideration all seven stages before the interview starts.</td>
</tr>
</tbody>
</table>
STAGE 3. Interviewing: Conduct the interviews based on an interview guide & with a reflective approach to the knowledge sought.

STAGE 4. Transcribing: Prepare the interview material for analysis, which commonly includes a transcription from oral speech to written text.

STAGE 5. Analyzing: Decide, on the basis of the purpose & topic of the investigation, & on the nature of the interview material, which methods of analysis are appropriate.

STAGE 6. Verifying: Ascertain the generalisability, reliability, & validity of the interview findings. Reliability refers to how consistent the results are, & validity means whether an interview study investigates what is intended to be investigated.

STAGE 7. Reporting: Communicate the findings of the study & the methods applied in a form that lives up to scientific criteria, takes the ethical aspects of the investigation into consideration, & that results in a readable product.

Table 4.3: List of 27 attributes which literature on police investigation identifies as being important attributes of a successful police investigator. This list formed the basis of the questionnaire delivered to N=30 journalists and N=70 police officers in phase 3 of the study (also see sample questionnaire below)

27 attributes for the phase 3 questionnaire

Initiative
Integrity
Commitment to the case
Creative
Decision-making ability
Formal education
Previous experience
Approachable personality
Ability to work well as part of a team
Good communication skills
Intelligence
Good skills of judgement
Legal knowledge
Stable disposition
Good listening skills
Persistence
Strategic awareness
Motivated
Good reasoning ability
Nose for the job
Objectivity
Previous training
Ability to plan
Empathy
Independence of thought
Tenacity
Street-intelligence

The journalists (N=30) were administered questionnaire (A) asking them to identify how important certain attributes (skills, abilities, and characteristics) are to the work of members of the media involved in investigating a miscarriage of justice case.

The student, serving or retired police investigators (N=70) were administered questionnaire (B) asking them to identify how important certain attributes (skills, abilities, and characteristics) are to the work of a police investigator.
Questionnaire 1
I am a researcher with Canterbury Christ Church University. I am presently conducting research to determine how important the following attributes (skills, abilities, and characteristics) are, in order to be a successful investigator. Please indicate how important you believe the following attributes to be in order to successfully conduct journalistic investigations into miscarriages of justice.

One (1) is NOT VERY important. Five (5) is VERY important.

<table>
<thead>
<tr>
<th>Attribute</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiative</td>
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<tr>
<td>Integrity</td>
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<td>Commitment to the case</td>
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<td>Good skills of judgement</td>
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<td>Legal Knowledge</td>
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<td>Stable Disposition</td>
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<td>Good reasoning ability</td>
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<td>Nose for the job</td>
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<td>Objectivity</td>
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<td>Street-intelligence</td>
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</table>

Are there any skills, abilities, or characteristics missing from this list? If so, please state ……………………………………………………………………………………………………………
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…………………………………………………………………………………………………………
Thank-you for completing this questionnaire
Questionnaire 2
I am a researcher with Canterbury Christ Church University. I am presently conducting research to determine how important the following attributes (skills, abilities, and characteristics) are, in order to be a successful investigator. Please indicate how important you believe the following attributes to be in order to successfully conduct criminal investigations.

One (1) is NOT VERY important. Five (5) is VERY important.

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<tr>
<th>Attribute</th>
<th>1</th>
<th>2</th>
<th>3</th>
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<tbody>
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</tbody>
</table>

Are there any skills, abilities, or characteristics missing from this list? If so, please state  ........................................................................................................................................................................................
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Thank-you for completing this questionnaire
Schedule 1: Phase 1 semi-structured interview schedule

Q1) Could you outline the history of your involvement in the area of miscarriages of justice?

Q2) What miscarriages of justice cases and campaigns have you been involved with?

Q3) How and why did you get involved in the case/s/campaigns that you mention?

Q4) Could you tell me something about the actions and activities of this/these campaign/s?

Q5) What do you feel were the critical success factors in the successful campaigns against miscarriages of justice that you have been involved in?

Q6) Was there any media involvement in the campaigns you mention? If so, what form did that involvement take?

Q7) How important do you feel that media involvement was in achieving success in the campaign/s you mention?

Q8) Do you think that journalistic involvement in miscarriages of justice cases and campaigns has changed over time and if so, how? Why do you think this might be?

Q9) What do you think the future looks like in terms of journalistic involvement in miscarriages of justice cases and campaigns? Do you see journalists becoming more or less involved?

N.B: Questions 6 to 9 were most relevant to this particular thesis.

Schedule 2: Phase 2 semi-structured interview schedule

Q1) How did you come to be interested and involved in the area of miscarriages of justice?

Q2) What miscarriages of justice cases you have been involved with?

Q3) How and why did you get involved in the case/s that you mention?

Q4) Why you think some journalists don’t get involved in miscarriages of justice cases? What are the factors that prohibit/inhibit involvement?

Q5) What form did your involvement take, in the case/s you mention? (i.e. Please tell me about everything that you did in this case/these cases in terms of publicity, research, investigations, etc).

Q6) How did you did you go about doing these things (i.e. What methods (if any) did you use?) and what were your aims in doing them?

Q7) What skills do you think a journalist needs in order to be successful in investigating a miscarriages of justice case?

Q8) I am particularly interested in the differences and similarities between journalistic investigations into such cases and police (criminal) investigations. Could you comment on this issue?

Q9) Do you think that journalistic involvement in miscarriages of justice cases and campaigns has changed over time and if so, how? Why do you think this might be?

Q10) What do you think the future looks like in terms of journalistic involvement in miscarriages of justice cases and campaigns? Do you see journalists becoming more or less involved?
### Table 4.4: 15 television programmes from 1966-2007 subjected to analysis in phase 4 of the research

<table>
<thead>
<tr>
<th>Programme</th>
<th>Channel</th>
<th>Year of Transmission</th>
<th>Length of programme</th>
<th>Case covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Panorama ‘Hanratty’</td>
<td>BBC 1</td>
<td>1966</td>
<td>30 minutes</td>
<td>James Hanratty</td>
</tr>
<tr>
<td>2) Panorama ‘Luton Post Office Murder’</td>
<td>BBC 1</td>
<td>1975</td>
<td>60 minutes</td>
<td>David Cooper, Michael McMahon and Patrick Murphy</td>
</tr>
<tr>
<td>3) Nationwide: ‘Cause for Concern: Torso Murders’</td>
<td>BBC 1</td>
<td>1978</td>
<td>60 minutes</td>
<td>Reg Dudley and Bob Maynard</td>
</tr>
<tr>
<td>4) Rough Justice: The case of the handful of hair</td>
<td>BBC 1</td>
<td>1982</td>
<td>30 minutes</td>
<td>Jock Russell</td>
</tr>
<tr>
<td>5) World in Action: ‘Murder at the Farm’</td>
<td>ITV</td>
<td>1987</td>
<td>60 minutes</td>
<td>Bridgewater Four</td>
</tr>
<tr>
<td>6) First Tuesday ‘A case that won’t go away’</td>
<td>ITV</td>
<td>1987</td>
<td>60 minutes</td>
<td>Guildford Four</td>
</tr>
<tr>
<td>7) World in Action ‘A question of conviction’</td>
<td>ITV</td>
<td>1989</td>
<td>30 minutes</td>
<td>Birmingham Six</td>
</tr>
<tr>
<td>8) Trial and Error Live</td>
<td>Channel Four</td>
<td>1994</td>
<td>45 minutes</td>
<td>Various cases of conviction for murder</td>
</tr>
<tr>
<td>9) Wales this Week ‘Jonathan Jones’</td>
<td>ITV</td>
<td>1995</td>
<td>30 minutes</td>
<td>Jonathan Jones</td>
</tr>
<tr>
<td>10) Week in: Week out ‘A night to remember’</td>
<td>BBC 1</td>
<td>1996</td>
<td>30 minutes</td>
<td>Cardiff Newsagent Three</td>
</tr>
<tr>
<td>11) Home Ground ‘Murder in the graveyard’</td>
<td>BBC 2</td>
<td>1999</td>
<td>30 minutes</td>
<td>Stephen Downing</td>
</tr>
<tr>
<td>12) Wales this Week: ‘Attwooll and Roden’</td>
<td>ITV</td>
<td>2000</td>
<td>30 minutes</td>
<td>Michael Attwooll and John Roden</td>
</tr>
<tr>
<td>13) Real Story: ‘Angela’s Hope’</td>
<td>BBC 1</td>
<td>2003</td>
<td>30 minutes</td>
<td>Angela Cannings</td>
</tr>
<tr>
<td>14) Rough Justice:</td>
<td>BBC 1</td>
<td>2005</td>
<td>60 minutes</td>
<td>Barry White and</td>
</tr>
</tbody>
</table>
‘Murder without a trace’

15) Tonight ‘A question of murder’

<table>
<thead>
<tr>
<th>Article title</th>
<th>Newspaper</th>
<th>Date of print</th>
<th>Word count</th>
<th>Case/s covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The Evans Inquiry: Guilty or Innocent?</td>
<td>The Daily Express</td>
<td>23 November 1965</td>
<td>1670 words</td>
<td>Timothy Evans</td>
</tr>
<tr>
<td>2) Murder appeal in doubt as limit is set on new witnesses</td>
<td>The Guardian</td>
<td>17 January 1973</td>
<td>795 words</td>
<td>Patrick Murphy</td>
</tr>
<tr>
<td>3) Medical clues from corpse studied in appeal court</td>
<td>The Times</td>
<td>07 October 1975</td>
<td>400 words</td>
<td>Colin Lattiimore, Ronald Leighton and Ahmet Salih</td>
</tr>
<tr>
<td>4) Father and Son serving life said to be innocent</td>
<td>The Times</td>
<td>14 April 1982</td>
<td>907 words</td>
<td>Michael and Patrick McDonagh</td>
</tr>
<tr>
<td>5) The riddle of the cardboard frame-up</td>
<td>The Mirror</td>
<td>16 February 1984</td>
<td>860 words</td>
<td>Bridgewater Four</td>
</tr>
<tr>
<td>6) Six not guilty, says arresting officer</td>
<td>The Sunday correspondent</td>
<td>29 October 1989</td>
<td>538 words</td>
<td>Birmingham Six</td>
</tr>
<tr>
<td>7) ‘Torso in tank’ appeal date fixed</td>
<td>The Hull and Yorkshire Daily Mail</td>
<td>14 September 1985</td>
<td>293 words</td>
<td>Ernest Clarke</td>
</tr>
<tr>
<td>8) Victim’s dying words could end innocent man’s jail hell</td>
<td>News of the World</td>
<td>21 September 1997</td>
<td>931 words</td>
<td>Frank Johnson</td>
</tr>
<tr>
<td>9) Bentley was hanged after a grossly unfair trial</td>
<td>The Daily Telegraph</td>
<td>07 November 1997</td>
<td>534 words</td>
<td>Derek Bentley</td>
</tr>
<tr>
<td>11) I’ll fight until she is cleared</td>
<td>The Sun</td>
<td>27 November 1999</td>
<td>372 words</td>
<td>Sally Clark</td>
</tr>
</tbody>
</table>
Table 4.6: Three primary levels of qualitative coding (adapted from Hahn, 2008)

<table>
<thead>
<tr>
<th>Level (from least to most sophisticated)</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1 Open Coding</td>
<td>Overall features of the phenomenon under study are identified, labelled, categorised and related together in an outline form. Data is broken down and conceptualised by taking apart an observation and giving each separate idea/incident a name or conceptual label that represents a phenomenon;</td>
</tr>
<tr>
<td>Level 2 Axial or Thematic Coding</td>
<td>Previous coding is studied to develop highly refined themes. Whereas open coding fractures the data allowing identification of some categories, their properties and dimensions; axial coding puts these data back together, regrouping and linking categories to each other in new ways. Concepts become characteristic components of a category, i.e. subcategories. If a concept seems not to pertain to an already identified category, it is left aside and might become the entry to a new category as data analysis continues</td>
</tr>
<tr>
<td>Level 4 Theoretical Concepts</td>
<td>Theoretical concepts emerge from the themes developed = grounded theory</td>
</tr>
</tbody>
</table>

Table 4.7: Propp’s (1968) 31 functions of the fairy-tale (adapted from Lacey, 2000)

<table>
<thead>
<tr>
<th>Function</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial situation</td>
<td>Members of family are introduced; hero is introduced</td>
</tr>
<tr>
<td>1. Absentation</td>
<td>One of the members of the family absents himself or herself</td>
</tr>
<tr>
<td>2. interdiction</td>
<td>Interdiction addressed to hero (can be reversed)</td>
</tr>
<tr>
<td>3. Violation</td>
<td>Interdiction is violated</td>
</tr>
<tr>
<td>4. reconnaissance</td>
<td>Villain makes attempt to get information</td>
</tr>
</tbody>
</table>
5. Delivery  Villain gets information about victim
6. Trickery  Villain tries to deceive victim
7. complicity  Victim is deceived
8. Villainy  Villain causes harm to a member of the family; or
   Lack  Member of the family lacks something; desires something
9. mediation  Misfortune made known; hero is dispatched
10. counteraction  Hero (seeker) agrees to counteraction
11. departure  Hero leaves home
12. 1st donor function  Hero tested, receives magical agent or helper
13. hero’s reaction  Hero reacts to agent or donor
14. receipt of agent  Hero acquires use of magical agent
15. spatial change  Hero led to object of search
16. struggle  Hero and villain join in direct combat
17. branding  Hero is branded
18. Victory  Villain is defeated
19. liquidation  Initial misfortune or lack is liquidated
20. Return  Hero returns
21. pursuit, chase  Hero is pursued
22. Rescue  Hero is rescued from pursuit
23. unrecognised arrival  Hero, unrecognised, arrives home or elsewhere
24. unfounded claims  False hero presents unfounded claims
25. difficult task  Difficult task is proposed to hero
26. solution  Task is resolved
27. recognition  Hero is recognised
28. exposure  False hero or villain is exposed
29. transfiguration  Hero is given a new appearance
30. punishment  Villain is pursued
31. wedding  Hero is married, ascends the throne

N.B: Few stories contain all 31 functions, but where they do, they will occur in the sequence
detailed above.

Propp also contends that there are seven ‘spheres of action’ or characters in narrative, each of
which has a specific role in the development of the narrative. These are the villain, donor, helper,
princess (and father), dispatcher, hero (seeker or victim) and false hero (Lacey, 2000, p. 51). The
villain (creates the narrative complication); the donor (gives the hero something which helps in the
restoring of equilibrium); the helper (aids the hero in restoring the equilibrium); the princess (is
most threatened by the villain and has to be saved, by the hero) and the father (usually gives the
princess away to the hero at the narrative’s conclusion); the dispatcher (sends the hero on their
task); the hero (the agent who restores the narrative equilibrium, often embarking on a quest or
search). Propp distinguishes between the ‘victim hero’ who is the centre of the villain’s attentions,
and the ‘seeker hero’ who aids others who are the villain’s victims), and lastly, the false hero
(appears to be good, but is revealed at the narrative’s end to be bad). Characters can fulfil more
than one sphere of action and spheres of action can be made up of more than one character, such as
a princess can also be a helper (Lacey, 2000, p. 51).

**Table 4.8: The strengths and weaknesses of Propp’s approach to narrative**

<table>
<thead>
<tr>
<th>Propp’s Approach to Narrative</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Strengths</strong></td>
</tr>
<tr>
<td>Whilst not all stories contain all of Propp's narratemes, it is surprising to find stories that contain none (Berger, 1997).</td>
</tr>
</tbody>
</table>
Is useful as it avoids treating characters as if they are individuals and reminds us they are merely constructs. Some characters are indeed there just to progress the narrative (Lacey, 2000).

Many modern books and movies fit nicely into Propp’s categories: “[Many] of the functions that Propp found can...be found in contemporary spy stories, science fiction, soap operas...and the like...[his] functions can be adapted in such a way that every story could be identified within a “Propp Structure” (Berger, 1992, p. 21).

Propp’s theories are only useful in suggesting similarities between narratives rather than giving particular insights into individual texts (Lacey, 2000).

Propp’s narrative structure, based as it is upon fairytales with its strict order of characters and events, is too restrictive and does not make much sense to be directly applied to modern narratives (Lacey, 2000). It applies to other similar narratives based around ‘quests’ but is not applicable to modern narratives.

Those who believe that Propp’s approach can be applied to modern narratives argue that we should apply the functions and events randomly as we meet new narratives. e.g. the hero may kill the villain earlier than Propp expects.

Characters in different stories have narrative functions but not as described by Propp. Thus, the notion that characters have a narrative function is the useful bit of his approach (Lacey, 2000).

Some also claim there are many more modern character types than Propp suggests and that we should feel free to identify them (Berger, 1997).

Other scholars argue that whilst Propp’s structure can be applied to some modern texts, it cannot account for all narratives. In relation to film texts for example, Bordwell (1988, p. 16) states that “Proppian analyses have failed through distortion, omission, unconstrained associations and theoretical inadequacy. There is...no sound reason to conclude that films share an underlying structure with folktales”.

Such criticism arguably ignores the fact that the function (rather than the gender) of characters is the basis of the theory. Thus, the hero could be a woman and the reward, a man.

Propp’s theory of narrative has been criticised in terms of it being based on a male orientated (reflecting early folk tales) environment,

Note 4.1: The Coding process

Coding is the process which permits systematic analysis of a mass of qualitative data, thereby providing documented and well-organised answers to research questions (Corbin & Strauss, 2008). Coding moves in a stepwise fashion progressively from unsorted data to the development of more refined categories, themes, and concepts (Noaks & Wincup, 2004). Data is broken down, conceptualised, and put back together in new ways (Hahn, 2008). There are three primary levels of coding for dealing with large quantities of raw qualitative data (see Table 4.6). These were utilised in the analysis of the interview data in this research study.

Note 4.2: Further information upon, and justification for, the selection of TV programmes and newspaper articles chosen as items for the sample for analysis in phase 4 of the research
Selecting the TV programmes

The researcher aimed to select a balanced sample of TV programmes for analysis. However, upon cursory research, it was discovered that only one programme was made concerning a possible miscarriage of justice in relation to murder, during the 1960s. This ‘Panorama’ programme was the first TV programme ever made on this topic (Tickell & Maguire, 1993, n.p) and concerned the case of James Hanratty (Panorama, 1966). A copy of this programme was obtained for the sample for analysis from a BBC TV producer. During the 1970s, only three programmes on miscarriages of justice cases were made. The researcher obtained two of these. The third was a ‘This Week’ (1974) programme broadcast on ITV, which questioned the convictions of three boys in relation to the murder of Maxwell Confait. Upon corresponding with ITV, the researcher found that they did not retain a copy of this programme. Therefore, only two programmes from the 1970s were included in the final sample.

During the 1980s individual programmes on miscarriages continued to be produced. Although no regional programmes had as yet been produced on the topic (Tickell & Maguire, 1993, n.p), national TV output included six programmes and a drama-documentary on the Birmingham Six case, one programme on the Bridgewater Four case produced by ITVs ‘World in Action’, and three programmes on the Guildford Four case produced by ‘First Tuesday’. This decade also saw the birth of the TV series ‘Rough Justice’ which dedicated itself to the investigation of miscarriages, initially producing programmes in ‘batches of three’ (each addressing a separate case) and continuing, albeit irregularly, up until its decommission in 2007 (O’Hagan, 2011). ‘Rough Justice’ programmes from the 1980s, 90s, and 2000s were obtained from the programme’s producer and the first, (made in 1982) and one of the last programmes made (in 2005) were chosen as items for the sample for analysis.

During the 1990s a new TV series dedicated to investigating miscarriages, namely ‘Trial and Error’ was produced (O’Hagan, 2011). Copies of the series’ programmes were obtained from its presenter (interviewed in phase 2 of the research), and one programme (made in 2004) formed part of the final sample for analysis. The 1990s also saw regional TV companies beginning to produce programmes on miscarriages cases. Three such programmes (one produced in England and two produced in Wales) were chosen for analysis. In the 2000s, TV series such as ‘Real Story’ and ‘Tonight’ began to occasionally cover miscarriages of justice cases. A sample of each programme dealing with a separate case was chosen to be part of the final sample, together with a regional ‘Wales this Week’ programme.

Selecting the newspaper articles

In relation to the selection of newspaper articles for the sample, upon cursory research it was discovered that just as with the TV programmes, very few (N=10) newspaper articles were written concerning miscarriages of justice involving murder during the 1960s. These articles were, in the main, very short and merely informed the reader of a forthcoming event in connection with a case (such as an appeal or inquiry). Therefore, only one newspaper article from the 1960s was included in the sample for analysis. The researcher chose the longest article written, questioning the conviction of Timothy Evans. The selection of one newspaper article from the decade meant that the sample achieved balance, (in that it included one programme and one newspaper article from the 1960s).

In relation to newspaper articles from the 1970s which addressed different cases where a murder conviction was being questioned, 21 stories were found, covering three cases. These primarily informed readers of forthcoming appeals. Two articles from the 1970s, which were more substantial analyses of cases were selected by the researcher. This again meant that some balance across the selection of TV programmes and newspaper articles was achieved in that two programmes and two articles were chosen from this decade.

As with the choice of TV programmes for the sample, the choice of newspaper articles increased from the 1980s onwards, resulting in a wider pool of articles from which to choose the remainder
of the sample (1980s, 1990s, and 2000s). Although the researcher encountered difficulties in accessing local newspaper articles pre-1980s as local newspapers did not allow access to their archives/or maintain archives before this time, five relevant pieces from the 1980s onwards were found and these were included in the sample.

Note 4.3: Narrative analysis: origins and background

Scholarly interest in analysing narrative emerged from several contemporary movements including the ‘narrative turn’ in the human sciences away from positivist modes of inquiry (Langellier, 1999). However, it was Labov and Waletzky's work (1967) which first drew scholars to the systematic study of storytelling as this first treated stories as communication events in their own right. The study of narrative does not fit neatly within the boundaries of any single scholarly field. Rather, it has penetrated (and thus narrative analysis is a research method used in) many disciplines including psychology, history, and education (see van Dijk, 1983). Narrative analysis is however, a method often neglected by the social science field and is new to criminal justice research (Riessman, 2008, p. 4). Thus, it was felt that this thesis might achieve some originality in adopting this particular research method.

Note 4.4: The work of Labov

Labov’s approach was based on analysis of a small number of personal oral narratives (Reah, 1998) in order to discover the basic components of their structure. From this study, Labov developed a theory of the rules of narrative structure (Labov & Waletzky, 1967) summarised here: 1) the Abstract; 2) the Orientation; 3) the Complicating Action; 4) the Evaluation; 5) the Resolution; and 6) a coda or ending (Bell, 1991: 148) and further explained below. Not all stories contain all elements, and they can occur in varying sequences (Labov & Waletzky, 1967).

Labov’s work inspired many others. Indeed, structuralist approaches to the study of narrative flourished in many disciplines (see, in particular, the work of Bell (1991) who demonstrated how Labov’s structure could, with some adjustments, be applied to news).

According to Labov, the essential components of narrative structure are: 1) the Abstract (summary and/or point of the story A story-teller uses it at the outset to pre-empt the questions, what is this about, why is this story being told?); 2) the Orientation (sets the scene: the who, when, where, and initial situation or activity of the story, i.e. time, place, characters and situation); 3) the Complicating Action (the central part of the story proper, answering the question, ‘What happened (then)?’...the event sequence, or plot, usually with a crisis and turning point); 4) the Evaluation (addresses the question, so what? A directionless sequence of clauses is not a narrative. Narrative has point, and it is narrators’ prime intention to justify the value of the story they are telling, to demonstrate why these events are reportable where the narrator steps back from the action to comment on meaning and communicate emotion – the “soul” of the narrative); 5) the Resolution (is what finally happened to conclude the sequence of events - the outcome of the plot); and 6) a Coda (ending the story and bringing action back to the present) (Bell, 1991, p. 148).

Note 4.5: The work of Vladimir Propp

One of the most famous formalists, scholar Vladimir Propp (1895-1970), applied formalist methodology to analyse the structure of Russian folktales. In 1968, Propp wrote his Morphology of the Folktale in which he presented the results of his analysis, suggesting that all folktales are linked by a common structure and themes and that the characters, their actions, and the consequences of their actions, served to progress the narratives (Propp, 1968, p. 31)39. According

39 Propp (1968, p. 31) deconstructed the stories into morphemes, and identified 31 narratemes (narrative units constituting character functions) that he claimed, comprised the structure of the stories (Lacey, 2000, p. 46). These included elements such as ‘a difficult task is proposed to the hero’ and ‘the villain is punished’ and were distributed amongst seven spheres of action such as villain, donor, and helper. Not all tales include all 31 functions, but the ones that do appear always appear in the given order.
to Propp then, characters in folktales have a narrative function (they provide a structure for the text), i.e. folktales are structured not by the nature of the characters, but by the functions they play (Berger, 1997, p. 28). Interestingly however, Propp also believed that *any* story can be deconstructed to an underlying structure where key types of characters play particular roles within the story’s overall structure (Berger, 1997). The suggestion here then is that the folktale narrative form is central to all story-telling and can thus be useful in understanding any story.

Propp’s approach has been both lauded and criticised and there has been great debate concerning whether it is applicable to modern narratives (see Lacey, 2000; Riessman, 2008). Certainly, Olesk’s (2009) application of Propp’s model in his narrative analysis of news stories was partially successful, (in finding that some were indeed similar to folktales in terms of characters setting off on quests, overcoming obstacles, and achieving aims). Whether this model is applicable or not, the notion that characters have a narrative function is arguably a very useful aspect of Propp’s approach (Berger, 1997) and such ideas have been drawn upon by numerous scholars (see for example Levi-Strauss, 1967).

**Note 4.6: The work of Tsvetan Todorov**

Structuralist Tsvetan Todorov (1969) also had similar ideas around narrative to those of Propp. In his seminal text ‘Structural analysis of narrative’, Todorov (1969) argues that the basis of conventional narrative structure is that stories have within them some form of logical change or transformation and that narratives work by generating a dynamic of equilibrium and disequilibrium (Lacey, 2000, p. 27). Todorov subsequently developed this model further (Todorov, 1975), thereby providing a more detailed description of narrative structure (see Figure 4.1). Todorov also suggested that *all* narrative texts deal with at least one of the following abstracts: The Quest; Redemption; Journey to another world; the beast transformed by love; the solving of riddles; the ‘biter-bit’ (the worms turns story); the stranger saviour; and the rise and fall. These are abstracts and so offer a very general description of narrative content (Lacey, 2000).

**Figure 4.1: Tsvetan Todorov’s (1969) model of basic narrative structure (adapted from Lacey, 2000; O’Sullivan, et al, 2003)**

1. **Initial situation** (a secure & harmonious state). Then a problem disrupts this situation

2. Recognition that there has been **disruption** (disequilibrium) & an attempt to repair the disruption

3. **Resolution of the problem**, allowing reinstatement of the initial situation, *with some slight changes*.

4. An attempt to repair the disruption;

5. Re-instatement of the equilibrium (Resolution of the situation; A new equilibrium is established)

*N.B: The typical ‘happy ending’ requires the restoration of the balance or a new equilibrium depicted at the beginning. Problems are solved so that order can be restored.*
Note 4.7: A brief plot summary of ‘The Murders in the Rue Morgue’ (1840):

Poe’s ‘The Murders in the Rue Morgue’ is set in Paris, in 1840, and is the story of an investigation conducted by an amateur detective named C. Auguste Dupin. The story surrounds the brutal murder of Madame L'Espanaye and her daughter in an apartment in a fictional street in Paris (The Rue Morgue). At the outset of the story, newspaper accounts of the murder reveal that Madame L'Espanaye’s body has been found with the throat so badly cut that her head is barely attached. They also reveal that her daughter was strangled to death and stuffed into a chimney. Dupin learns about these murders through reading these newspaper accounts. He also learns that a man named Adolphe Le Bon has been imprisoned for the murders despite a lack of evidence pointing to his guilt. This spurs Dupin on to investigate the case. Dupin’s interviews with witnesses reveal that although they heard the murderer speak, they could not understand the language. Dupin assumes that the witnesses did not hear a human voice but rather that of an animal. He visits the scene of crime and finds a hair which he concludes is not human. He then advertises in the newspaper asking if anyone has lost an orang-utan. A sailor comes forward to explain that he had a wild orang-utan which ran away with his razor and escaped by scaling a wall and climbing up through a window into Madame L’Espanaye’s apartment. Here it tried to shave Madame L’Espanaye and killed her. It then strangled the daughter and hid her body up the chimney. The sailor, aware of the murder, panicked and fled. Dupin gives a report detailing this set of circumstances to the police and Le Bon is released. Dupin stresses that the police may have ingenuity, but they lack the analytical skill and imagination to do what he did. The sailor, meanwhile, catches the orang-utan and sells it (Collins, 2004).