



Happer, C., McGuinness, P., McNeill, F. and Tiripelli, G. (2018) Punishment, legitimacy and taste: The role and limits of mainstream and social media in constructing attitudes towards community sanctions. *Crime, Media, Culture*, (doi:[10.1177/1741659018773848](https://doi.org/10.1177/1741659018773848)) (Early Online Publication)

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# **Punishment, Legitimacy and Taste: the role and limits of mainstream and social media in constructing attitudes towards community sanctions**

*Catherine Happer, Paul McGuinness, Fergus McNeill and Giuliana Tiripelli<sup>1</sup>*

## **Abstract**

Although criminologists have studied public attitudes to community sanctions, and there has also been some attention to media representations of them, there has been no serious examination of the relationships *between* media and public understandings. This article presents an interdisciplinary analysis (drawing on sociology, media and communications and organisational studies) of the potential influence of media consumption practices on penal tastes among diverse participant groups. We aim to develop a clearer understanding of how these processes shape the public legitimacy of community sanctions. In particular, we report on original research employing innovative methodologies to explore the dynamic set of practices deployed by audiences in the process of making meaningful the media landscape on punishment and community sanctions. Our findings offer some confirmation of the primacy of the prison in the popular imagination; community sanctions' media profile is delimited by their perceived banality, in turn leading to confusion surrounding their purpose and potential. However, this study suggests that the legitimacy problem for community sanctions may be far more complex than 'newsworthiness'. Community sanctions, we argue, may be subject to appraisal in line with penal 'tastes' in which the function of moral censure is of central significance. However, we also uncover some evidence about how traditional markers of taste are disrupted by processes of media convergence (of appropriation, circulation, response) in ways which can operate to limit deliberation even amongst more liberal audience groups, and conversely open it up amongst those who are more punitive.

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**Key Words:** Punishment, legitimacy, community sanctions, payback, unpaid work, media, Bourdieu

## Introduction

Historians, legal scholars and social scientists who have studied late-modern punishment have tended to be pre-occupied with the phenomenon of mass incarceration, not least because of its attendant human, social and financial costs. More recently, a number of scholars have begun to identify and analyse the rise of ‘mass supervision’ (McNeill, 2013; Phelps, 2013), a term which refers not just to the very large numbers of people subject to supervision in the community, but to supervision’s global spread and to its intensifying penal qualities. Despite this expansion, Robinson, McNeill and Maruna (2013) have argued that community sanctions<sup>2</sup> (or punishment in the community) have faced perennial legitimacy struggles throughout their history; never securing the ‘taken-for-granted’ position of the prison in the public imagination. Rather, their position is left insecure, hanging by the thread of arguments about their utility and cost-effectiveness. One reason for this insecurity is that it is not clear what community sanctions communicate (or fail to communicate), for whose benefit and to whom (McNeill and Dawson, 2014).

This lack of clarity – indeed, the relative *invisibility* of community sanctions in the public sphere (Fitzgibbon, Graebisch and McNeill, 2017; Robinson, 2016) – is problematic not least because it contributes to the centrality of the prison in media reporting of crime and punishment; a centrality that some argue has consolidated punitive attitudes in the public (Mason, 2006; Mathiesen, 2006; Cheliotis 2010).

Media reporting of community sanctions is more limited. Research that has investigated the nature of such coverage (e.g. Carr and Maguire, 2013) indicates a mostly neutral though increasingly negative tone, and a tendency to characterise non-custodial sentences as inherently inferior to the prison (Hayes, 2013). There is also evidence that levels of public understanding of the ‘brand’ of community

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<sup>2</sup> In this paper, we use the term ‘community sanctions’ to refer to sentences passed by courts that involve supervision of ‘offenders’ in the community. This includes probation-type sentences as well as sentences involving unpaid work or electronically monitored curfews. We exclude consideration of post-release supervision (under parole or other release licenses).

sanctions, as well as confidence in their effectiveness, is very low (Maruna and King, 2008). Though some studies suggest that shifts in attitude can be supported through deliberative processes and by invoking ‘redemption’ narratives (Hough and Park, 2002; Maruna and King, 2008), community sanctions appear to suffer from underlying cognitive and emotive barriers to public legitimacy. However, research has not explored in depth the processes by which contemporary media shape public understanding and attitudes towards community sanctions, and the degree to which media reporting may promote or undermine the legitimacy of community sanctions as serious, fair or effective responses to crime.

It is these communication processes that our research sought to examine. Such processes are increasingly complex when contextualised in a dynamic digital media landscape in which audiences are constructed not just as consumers but also as circulators and producers of content (Jenkins, 2006; Jenkins et al., 2013). Our central focus therefore was not the nature of media reporting but rather the dynamic set of practices deployed by audiences in the process of making meaningful the media landscape in which community sanctions struggle for legitimacy. In particular, we wanted to explore how audience selection of, access to, evaluation of, and response to media reports function to confirm or challenge penal predispositions. Developing insights into these processes is critical, first, to understand how and why people develop attitudes and dispositions towards particular punishment practices and, second, for any attempt to develop more effective public dialogue and debate about community sanctions. This matters because the legitimacy or illegitimacy of these sanctions (and of imprisonment) has profound consequences for the development of penal systems.

This article presents an interdisciplinary analysis (drawing on sociology, media and communications and organisational studies) of the potential influence of media consumption practices on penal tastes among diverse participant groups. We aim to develop a clearer understanding of how these processes shape the public legitimacy of community sanctions. Drawing in particular on Bourdieu's classic analyses of taste and distinction, Jenkins' work on media convergence and spreadability and Suchman's notions of organisational legitimacy, we present a qualitative analysis of focus groups undertaken using an innovative, immersive methodology. Our interest

in exploring practices of media consumption and their relationship to the public legitimacy of community sanctions is driven, in part, by our interest in penal reform. Understanding how legitimacy operates within and outwith the criminal justice system is critical to the project of reform. To this end we focus on audience reception to stories in a highly fragmented media landscape and how this may or may not contribute to processes of legitimation.

### **Media engagement as social and cultural practice**

Whether and how media shape social attitudes is a question that has been much contested, with pre-digital media theorists tending to fall on a spectrum from arguments about media hegemony at one end (Glasgow University Media Group, 1982; Herman and Chomsky, 1994; Philo, 1990) to audience agency and empowerment at the other (Morley, 1980; Ang, 1991). Similarly, in respect of the digital media landscape, some perspectives conceptualise social media (Facebook, Twitter, YouTube, and so on) as a new public sphere, in the Habermasian sense, emphasising their transformative qualities and potential to enhance democracy (Papacharissi, 2009). Other, neo-Marxist approaches conceive of social media as generating data with circulation value which benefits private power (Dean, 2005; Fuchs, 2014). From both perspectives, despite diverging conclusions over where power lies, significant questions arise over when and why particular forms of media content – or user-circulated content - become ‘spreadable’ (Jenkins et al., 2013), disseminating across users’ social networks.

Jenkins’ theory of ‘convergence culture’ is centrally concerned with the phenomenon and effects of such ‘spreadable media’ (Jenkins 1991, 2006; Jenkins et al. 2013). The context is one of technological convergence in which all media content is digitised and the distinctions between old and new media are dissolved as content now flows across platforms that, increasingly, are owned by a small number of global corporations. Jenkins’ work however focuses specifically on audiences’ behaviour, including examining the motivations behind their migration to particular types of content and the ways in which they construct meaning around consumption, circulation and production practices. Through these practices, Jenkins argues, audiences engage in a struggle with media corporations to shape a digital cultural

landscape that is reworked as content is originated, spread and reimagined. The construction of convergence culture is therefore conceived of as a sociological process, facilitated by technological advances rather than driven by them, in which audience engagement is embedded in and reflective of current social, cultural and economic practices and structures. As Jenkins et al. note:

'[P]eople make a series of socially embedded decisions when they choose to spread any media text: Is the content worth engaging with? Is it worth sharing with others? Might it be of interest to specific people? Does it communicate something about me or my relationship with those people?' (Jenkins et al., 2013: 13)

If choosing to spread media is, in some sense, a performance of identity, Bourdieu's (1984) analysis of taste offers us one way to conceptualise audience identifications with particular news stories. Through such communications, we extend our connections and grow our social capital by demonstrating knowledge and appreciation of particular media, a performative and expressive practice that contributes to a social media discourse that has legitimating or de-legitimating effects. On the other hand, traditional routes to acquiring and demonstrating taste (and cultural capital) have been disrupted in the wake of technologies that have ushered in convergence culture. Therefore, the class dimensions of both punishment and its reporting in the media have been complicated.

In art, the subject of Bourdieu's analysis, 'pure' taste denotes high class; a status associated with works of art that promote experimentation with the *form* of communication over the *functions* it represents (Bourdieu, 1984). Seemingly 'natural' tastes conceal the ways in which access to and familiarity with different forms of art (high and low class) are structurally shaped and skewed. Only some people have the capital required to develop a 'pure' taste for high class art; that which experiments with form.

Applying this kind of high and low class distinction to the consumption of news media is not straightforward. There has been much discussion of the 'tabloidisation' of journalism in recent years, which relates variously to the growth of 'infotainment', the

reduction in investigative journalism and the increased personalisation of stories, though there is very little consensus on the nature and implications of this (Bird, 2009; Zelizer, 2009). Certainly the interactive dynamics of tabloidisation and digitisation promote an ever more sensationalised, and adversarial form of crime reporting (Greer and McLaughlin 2017). However in the UK context there continues to be a clear differences in the reporting of crime across the tabloids and the broadsheets – with the former tending to focus on stories about ‘good’ and ‘bad’ characters, on the emotive details of the crime rather than consequences (Rogers 2004). This is contrasted with the consideration and critical distance of the broadsheets that represent the ‘quality’ press, even though as Roberts et al. (2003) note it is an ongoing challenge to keep broadsheet journalists ‘on-message’.

Bourdieu’s discussion of taste and of the distinction between form and function may also be analogous to the modes of punishment under study and represented in media. The ‘vulgar’ prison may function to reduce punished persons to mere ‘offenders’ and to communicate punishment as ‘their’ removal from ‘us’. In contrast, community sentences experiment with forms that disrupt the penal function of censure, by relying on more expansive characterizations of people who have offended but who may be construed as redeemable, who may be able to ‘pay back’, and/or whose offending may be driven by ‘criminogenic needs’ (like, for example, substance use problems) that must be addressed. However, there has been little research on the ways in which taste-making may operate in interaction with the communication processes inherent to a convergence culture to shape responses; and we are aware of little or no empirical work in this vein on punishment (though see Loader, 2009, for an important theoretical contribution).

Media and cultural theorists, including Jenkins, have traditionally been less concerned with the ideological work done at the point of reception (as in the work of Hall, 1980; Thompson, 1990) and with the ways in which ideas and beliefs are shaped. Notably however, the first question asked of ‘spreadable media’ relates to engagement with content (Jenkins et al., 2013). This suggests a continued need for some attention to the nature of messaging, the socio-political processes which produce it and the context within which it is received. In other words, this requires making connections between how community sanctions are represented in the

media and how broader ideologies, such as neoliberalism, may shape responses to these representations (Philo et al., 2015). In recent work, Jenkins has been increasingly sensitive to the issue of corporate power in a converged media environment, noting that the increased concentration of ownership leads to an inevitable narrowing of perspectives on, for example, the potential solutions to collective problems (Berry, 2012). Audience practices around spreadable media may then be capitalised on to promote this narrowing (Jenkins et al., 2013; also Youngs, 2013).

In the ideological struggle between users and corporations, mainstream media content may be promoted in unauthorised ways but evidence suggests it does not tend to be displaced. Research in fact shows that mainstream content is the 'lifeblood' of social media conversations, and feeds the majority of circulation (Newman, 2011; Wellesley et al., 2015). In varying ways and in different forms, mainstream content still reaches mass audiences and is subject to processes of evaluation in relation to, for example, the credibility of sources (Briant et al., 2011; Davis 2006; Philo and Berry, 2011). Such media evaluation was a key focus of this research. However, crucially, evaluation is just one in a range of practices deployed by audiences which determine the delivery of specific content, and the nature of circulation and endorsement. In other words, content (e.g. more sympathetic 'redemption' narratives) can only play a role in the shaping of attitudes and beliefs if a) it succeeds in finding an audience and b) that audience is predisposed to engage with it in some meaningful way. A crucial issue here is the cultural context within which messages are received.

In this paper therefore, we discuss our first attempt to explore how audiences select, engage with and evaluate media content about community sanctions. Using exploratory methods to develop theories about these processes is significant because these practices may well be crucial in the struggle for penal legitimacy discussed above, and therefore to the future of punishment.

### **Methodological approach**

We see media engagement as a social practice, embedded in cultures and structures, but also having its own societal impacts – for example, by challenging or reinforcing particular perspectives across different publics. The focus of our research was therefore three-fold: we wanted to explore (1) what audiences do with media (appropriation, circulation and response), (2) why they do it (motivations, informational triggers and interpretations) and (3) any potential outcomes (shifts in attitudinal positions and beliefs). Qualitative methods, in the form of focus groups, which explore the way in which social actors make meaning and develop interpretations and understandings, were chosen as the main method. In this study, we aimed to develop theories, not to test them.

In so doing, we were responsive to critiques of studies of digital behaviour that rely on focus groups and interviews, both of which are subject to variations of memory and subjectivity (Savage and Burrows, 2007; Burrows and Savage, 2014). Hence, drawing on methodologies developed by the Glasgow University Media Group (Philo and Happer, 2013), our focus group process included immersing participants in a multi-media environment constructed around news reporting on community sanctions. This immediate environment facilitated exploration of their selection and evaluation of content. Its artificiality lay in the imposition of very narrow parameters within which the choice of materials had to be made, and in relying on how participants *considered* they would respond (e.g. by sharing or posting) rather than observing or studying actual responses. However, our approach did allow both for spontaneous discussion around these processes, and for a follow-up examination aimed at identifying those triggers for shifts in existing belief structures.

### *Sampling*

We did not aim to collect data from a representative sample to generate findings which could be statistically generalised to whole populations. Rather, as befits our exploratory and qualitative approach, we held four focus groups reaching a total sample of 27 people, 15 males and 12 females, all local to the Glasgow area. The groups were ‘naturally occurring’; they were groups of people who would normally congregate and speak to one another in the regular course of their lives, and these were drawn from different occupational groups. Whilst the conditions within which

such discussions took place were constructed by us, the advantage of this method of recruitment, as Kitzinger notes:

'is that friends and colleagues can relate each other's comments to incidents in their shared daily lives. They may challenge each other on contradictions between what they profess to believe and what they actually believe' (Kitzinger, 1995: 300).

We aimed for groups in which we might also expect some level of cultural cohesion and which represented as broad a range of social and economic groups as possible within this small sample.

Savage et al (2013) develop a new model, which incorporates social, cultural and economic capital to delineate a seven-tier class structure. With this in mind, we included groups which are clearly differentiated in relation to their possession of such forms of capital. We included representatives of the traditional working class, a group of cleaners and one of janitors, who may be expected to have limited access to all three forms of capital. We also included a group of web designers, and a group of students, who may, in particular, have greater access to cultural capital (which may have been converted into economic capital in the case of the former). Whilst we were particularly interested in the impact of these differences on responses and uses of media, it is important to note that:

'we are not claiming that those without cultural capital in our senses are in some ways uncultured, we are only claiming that there are some practices which are systematically associated with the advantaged which might allow them to be construed as cultural capital' (Savage et. al, 2015: 1019).

These groups were also differentiated by age. Savage et al. (2015) lament the independence of class and age in British analyses 'despite the fact that class motifs – from yuppie to chav – typically depend on idioms of age' (Savage et. al, 2015: 1019) and age groups also have differing relations with technology. Age does not bar access to new technologies but it may affect how they are utilised. Both groups were

mixed in relation to gender; we did not note any obviously gendered patterns in the responses. All groups were audio-recorded and transcribed for analysis.

### *Approach*

The approach involved three stages. The first was to examine the nature and sources of beliefs and opinions in relation to crime and punishment and, in particular, community sanctions, including the reasons for imposing different sanctions on people who commit crimes and levels of interest in these sanctions<sup>3</sup>. This also included attention to the degree to which participants accessed, selected, shared and evaluated information on this subject and the credibility attributed to key sources, such as journalists and representatives from the criminal justice system. Participants were also asked to gauge the level of priority they give to community sanctions, in comparison with prison, as a measure to be implemented where possible.

The second stage involved immersing research participants in the constructed news environment to illuminate their processes of navigation, selection and meaning making. This environment was composed of a range of existing reports on community sanctions and related criminal justice coverage across print, and video and text-based content online. We selected the reports based on a preparatory analysis of content that was aimed at identifying the dominant narratives and perspectives across the British media in relation to community sanctions. To do this, we searched Lexis Nexis for press coverage containing the terms ‘community service’ and ‘community payback orders’ (or CPO). This focused our attention on community sanctions involving unpaid work, although in Scotland in 2011 the CPO

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<sup>3</sup> We did this by asking participants to scribble some notes on a series of generalised questions, which they then had to interpret and discuss in the wider group, so, for example, we began with ‘what is the main reason for taking measures against people who commit crime?’. Finally, we introduced a numbered spectrum (from 1-10) which asked ‘How important do you think it is that community service is enforced where possible instead of jail, where 1 is not at all important and 10 is very important?’. This was to gauge the degree to which community service would be prioritised as a response to criminal activity. Again, participants selected one number which they were later asked to elaborate in group discussions.

replaced both probation and community service orders; it is a community sentence to which a wide range of different conditions can be applied<sup>4</sup>.

Due to the limited nature of coverage, the sample period was extended until we had a selection which was robust enough to draw conclusions from – the oldest article was from 2005. From these findings, we also highlighted a range of cases and political interventions which generated further coverage and discussion<sup>5</sup>. We then used purposive sampling, directed by the dates of these cases and political interventions, to identify a selection of UK and local TV broadcast news using locally held archives. We also used the same criteria for a complementary search of news websites. From this process, we selected a balanced, and necessarily broad, range of local and UK news items, including both those which could support or undermine explanations of community sanctions as legitimate forms of punishment. Reports related variously to the following themes:

- explanations of community sanctions as a way to ‘escape’ jail
- community sanctions as a form of punishment
- community sanctions as beneficial for the community (most often in local news)
- issues around monitoring and tagging
- celebrities serving community sentences
- expert comment, often evidence-based, including politicians
- people discussing their experiences of doing community sentences
- prison and its suitability in its application to vulnerable women.

Participants were immersed in the constructed news environment for fifteen minutes. They were invited to move freely and select, read, watch or listen, consider and to discuss their thoughts with other participants.

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<sup>4</sup> For more information on the Community Payback Order, see:  
<http://www.gov.scot/Resource/Doc/925/0110081.pdf>, accessed 8<sup>th</sup> March 2017.

<sup>5</sup> These included the key dates around the following: the case of Berlusconi, who started community service in May 2014 for tax fraud; the case of footballer Carlos Tevez who avoided community service for driving offences in July 2013; the case of Melanie Beswick, a mother who was sent back to prison for a first offence and later committed suicide; and the introduction of Community Payback Orders (CPOs) in February 2011 which introduced new legislation and publishing practice guidance in Scotland.

The final stage was to examine the impact of immersion and identify any triggers for potential shifts in attitude. Participants were asked about why they were drawn to particular stories and their evaluations of the materials with which they engaged, including their assessments of the legitimacy of sources and their likelihood of sharing and posting. We then returned to the original questions about beliefs and attitudes in relation to crime and justice and about community sanctions and their legitimacy in comparison with imprisonment. We probed the nature of and triggers for any shifts identified. Finally, participants were again asked to gauge the level of priority they give to community sanctions (in comparison with imprisonment) as a measure to be implemented where possible.

### **Stage One: Attitudes to crime, punishment and community sanctions**

The ways in which community sanctions are made meaningful are shaped by the social, political and media cultures within which participants are embedded. We found broad divisions between the groups in respect of attitudes to crime and punishment generally and community sanctions particularly. Some demonstrated a more affective response to crime reporting, and these emotions were often related to an emphasis on retributive measures<sup>6</sup> as the best means both of communicating censure and of deterring offending. Others seemed more concerned with the effectiveness of measures taken, and tended to stress the benefits of rehabilitation.

Broad associations – the generalisability of which would require further empirical research -- could also be seen between these divisions and habits around media engagement. Adapting the terminology of Robinson (2010), relating to the conflicting conceptualisations of the journalist-audience relationship, we identified two broad categories within our sample: the ‘traditionalists’ and the ‘convergers’. These all related broadly to categorisations we might expect in relation to Savage’s model of differential access to capital. The ‘traditionalists’ attributed more authority to the mainstream media (even where the information was distrusted) and, in practice, were more likely to watch scheduled broadcast news and/or to read a daily

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<sup>6</sup> This is not intended to imply that retributive perspectives on punishment are irrational.

newspaper. They also tended to be more punitive in their attitudes<sup>7</sup>. The 'convergers', reflective of Jenkins' model, were those who migrated across a wider range of media platforms and engaged in a more selective filtering of information based on a series of pre-set preferences. These groups were more likely to adopt penal dispositions that were both less emotive and less punitive.

For both groups, however, the prison, though variously understood as too lenient as punishment or as failing at rehabilitation, dominated their penal imaginations. Within-group commonalities emerged in discussions across all groups. Audience belief in the capacity of people who have offended to change their behaviour, to ultimately desist from crime, may seem fundamental to the legitimacy of community sanctions operating in the shadow of the prison. Yet, disbelief in the inability of people who have offended to change was shared *throughout* groups; a stance associated with (and perhaps contributing to) community sanctions' reputation as 'soft options'; unearned, ineffectual and ultimately, illegitimate. The following excerpts were representative of the essentialising of people who have offended across the groups:

Pablo, Web designer: But you can't change what those type of... [trails off]  
Like, so, community service are for, you know, unemployed NEDs<sup>8</sup>.

Susan, cleaner: But these people keep getting away with it because they're addicts and because, 'OK I'll go for help and that it's sorted', you know? You read it constantly.

In-group commonalities also manifested in how participants defined themselves as audience members; that is, in opposition to people serving community sentences. As putative non-offenders, participants also expressed a lack of interest in the technicalities of crime stories:

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<sup>7</sup> For example, in response to an initial question of 'What is the main reason for taking measures against people who commit crime?', half of participants in this group included the word 'punishment' in their response whereas those in the other groups offered a wider range of responses such as 'to create a stable and safe society'.

<sup>8</sup> Roughly the Scottish equivalent of 'chav'.

Bernadette, student: I wouldn't actively say to myself, gosh, I wonder what custodial sentences are based on in the UK. Unless it impacts upon you personally I don't think you would actively go looking for it, so if the media weren't there, frankly, I wouldn't know about these things.

Their disinterest was deepened by the banality of individual community sanctions stories in comparison to those associated with prison. Even when notions of 'newsworthiness' rooted in the 'audacious, violent or novel' seem to apply, for example when community sanctions stories involve notable people (Greer, 2010: 503), audiences remain to be convinced that such stories are 'read-worthy'. Rather, our respondents tended to assume that community sanctions were not worth knowing about, a technical, peripheral feature of the criminal justice system. A case in point:

Walter, janitor: [Discussing unpaid work] "Don't know what it entails, now I think. I mean beyond picking up rubbish. That's all that I would know that it entails".

One male web designer simply said: "I probably would be unlikely to ever really go look for something that didn't involve me directly". As such, reporting on community sanctions, where it was present, had not led to any substantive understanding of their purposes or practices.

The legitimacy of punishment practices was often measured by international comparisons. Whether traditionalist or converger, such comparisons were always positive. For example, traditionalists were supportive of the punitive logics (they assumed were) employed in other countries. By contrast, convergers talked up progressive responses they associated with Switzerland, Scandinavia and even the USA. These comparisons, which often verged on the apocryphal, perhaps help combat the innate banality of unpaid work (and community sanctions in general), by adding an exoticism to stories that had they been local would otherwise have been characterised as dull.

The cases of Boy George, Mark Morrison and Naomi Campbell, recurred across the groups as rare instances of high profile unpaid work stories. Why these dated examples remain emblematic of community service remains unclear. Perhaps the novelty of high profile cases has worn off; certainly more recent examples (like Chris Brown or Lindsay Lohan) did not emerge organically.

Both traditionalists and convergers revealed distrust towards media and criminal justice institutions, creating several paradoxes. Crime stories, generally, were held to be sensationalised in their reporting yet downplayed in their seriousness when they did not feature on newspapers' front pages. Distrust in media institutions also resulted in participants advocating sources of information that, for various reasons, could be considered journalistically discreditable, yet garnered credibility precisely because of their antagonistic relationship with these suspicious criminal justice institutions. Wikipedia was thus put forward as a more trustworthy source due to its assumed lack of an agenda. 'The Digger'<sup>9</sup>, a modern-day Penny Dreadful ubiquitous in Glasgow newsagents, was celebrated in both traditionalist groups, who were enthused by its naming and shaming tactics:

Bob, janitor: "Well they've done it! They should be given; people should know what they've done".

Such affective demands for public shaming stand in stark contrast to the participants' bureaucratic understandings of community sanctions.

## **Stage Two: Media engagement**

In the second stage of research, in which we immersed participants in our constructed news environment, we found media engagement decisions were, particularly for convergers, shaped by assessments relating to the style and

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<sup>9</sup> In their own words, The Digger: "report on unemployed and low income workers who come into contact with the justice system from arrest through the police, prosecution and courts. Our aim is to highlight individuals whose cases normally go unreported in the main stream Press... Justice must not only be done but be seen to be done. The Digger is the eyes and ears of the public who find this system confusing and sometimes unaccountable, see <http://www.the-digger.com/home/about>, accessed 24<sup>th</sup> October, 2017.

reputation of the reporting; traditional markers of taste in the Bourdieusian sense. In our sample, traditionalists tended to engage with the mainstream press and broadcasting, for example, watching the News at Ten. When asked whether they question the credibility of news stories, Madeline responds:

Madeline, cleaner: "No, I don't think I read it that much to get involved with it like that... See if it's something that's a headline, I'll read it and I'll go and see if it jumps out at me and I'll sit and read it. But other than that no, I'll just walk away and ignore it. I don't really sit and take it [in]. I find an awful lot of it is so depressing".

Gerry, janitor: "I think sometimes when you read media stories, you don't believe a thing they say anyway, so you read them like you would read a piece of fiction".

In this way, traditionalists rejected news stories that could have challenged their penal predispositions, through assessments of both style and comprehensibility. Convergers, in contrast, when selecting their media assessed journalistic credibility via the use-value of the information and style of interpellation a source employed:

Bernadette, student: "Well, I try not to read the Daily Mail stuff, just because it's a complete waste of time, really. I don't know if you really get much out of those. If it's sensationalist you already know that whatever information they might be presenting, they might actually be presenting completely inaccurately. Even if they cite their sources you can't really get any use out of it".

By rejecting sensationalised reporting, convergers displayed their tastes by distancing themselves from the reductively functional attitudes of tabloid readers. However, the processes of negation, of delegitimising the functional, that typify Bourdieusian understandings of taste-making were also disrupted in part thanks to, we propose, convergence culture's practices (appropriation, circulation and response) and their interaction with a culture of distrust. Whilst both groups shared a cynicism about media institutions, and some recognition of media bias, there was a tendency for traditionalists to feel the need to invest some degree of trust

somewhere. For some this was The Digger, but, in parallel to previous research (Philo and Happer, 2013), this was just as likely to be BBC reporting:

Moderator: Where would you go for trusted information on this then?

Jane, cleaner: Possibly the BBC newses, we use them a lot. And some newspapers: I like the Daily Record, but no, I don't believe they're always a hundred per cent accurate or anything like that. And I like to read that wee Digger...

Convergers were considerably more self-aware of their sense-making strategies and were more likely to create a composite picture of a news story or topic drawing on a range of media resources. In this, the students proved most methodical, engaging with news in a way which was almost auto-didactical, focused on the refinement of their understanding (and elimination of bias):

Jake, student: "To be honest with you I wouldn't really, in a singular sort of way, really trust anyone specifically... you would kind of make a collage and put it together"

Bernadette, student: "You know there's an agenda. I mean, I would trust The Guardian, because I read The Guardian... I trust it to pander to my predisposition. But I like to think I'm smart enough and objective enough to, well, that's that side of the story and then I shall go and see what the other side is".

Traditionalists, too, admitted to discounting certain sources because the topic material, regardless of the substance of the reporting, was uninteresting to them:

Jane, cleaner: "A lot of these papers they're all financial things, about the financial world and money stuff, I'm not really used to it, [more used to] reading murders and stuff, kind of thing".

These filtering or selection processes, ranging from traditionalists negating stories in the mainstream to convergers curating their own streams, may also reflect developments in the sociology of taste that have seen cultural omnivorousness replace cultural snobbery as an indicator of class dominance (Peterson and Kern, 1996; Turner and Edmunds, 2002).

Thus, while our traditionalists largely upheld the punitive discourses of tabloid media by excluding certain news stories, just as ‘snobs’ might exclude low-brow culture, our convergers prided themselves on their omnivorous inclusion of critical sources, informing their media savvy views on criminal justice reporting. For convergers, cultural omnivorousness was about establishing legitimacy not objectivity and these are not synonymous. Convergers fully understood when they were being pandered to. Even when recognising biases in the media they preferred, this did not undermine belief that these sources were more useful, and more representative of reality.

So, while our study hints at the emancipatory potential inherent in new media which might improve public understanding of community sanctions, that potential may be thwarted by these very processes of media consumption. Both groups, in effect, created echo chambers that reduced engagement with stories that challenged their predispositions. For example, one counter-intuitive example concerned convergers reacting negatively to an online video report of a woman who had committed suicide in prison, believing the report to be overly emotive and deliberatively manipulative. Contradicting their earlier calls for media to provide more contextualisation of criminal justice reporting, one converger commented:

Bernadette, student: “I know that they’re looking for a response from me, I will just out of pure contrariness go: “Fuck her: She deserved it” ... Even when you’re crying you’re aware of the fact that this isn’t a real emotion”.

Their aversion to overt emotion – or to perceived emotional manipulation -- saw such narrative-rich reporting disparaged and purged from their personal media diets. In this way, despite, and perhaps because of, being afforded the cultural and economic capital of their media ‘savviness’, they constructed personalised media ecologies

which reinforced rather than challenged existing views.

### **Stage Three: Media impact**

In the final stage, we explored the way in which the engagement practices we identified may potentially impact on attitudes, perceptions and beliefs regarding community sanctions amongst our participants. Most participants claimed to be unmoved by the news stories we had selected. In stage one, many participants expressed their lack of interest in or knowledge about community sanctions, perhaps presuming we were expecting precise articulations of their experiences with such stories. By stage three participants were more assertive, justifying their disinterest in light of the information environment's lack of impact.

Participants explained that *how* they identified with a news outlet influenced *whether* they proceeded deliberatively or not with its content. This may have impacted on the degree to which they engaged with our community sanctions stories.

Evan, web designer: “I think you gravitate to your pre-existing beliefs. If you believe something, you’ll read a paper that supports that [...] certain kinds of papers have certain kinds of opinions that tend to align with the whole right wing/left wing kind of thing. So, I think that’s probably the most important factor that dictates what your feeling’s going to be on crime just in general”.

Audiences alienated by broadsheet newspapers, and their tendency to address broader social issues rather than stories which resonated personally, are perhaps less likely to engage with pro-community sanctions reporting given how such stories may require time and space to allow for narrative development:

Bob, janitor: “You make your own opinion or whatever off a headline really, and maybe that first paragraph or second paragraph, and then that’s you, bang, you just move on. There are certain stories I won’t read.”

But there were indications that, in convergence culture, the social capital accrued by the source (e.g. friend, follower or expert) influenced levels of engagement and whether participants would spread the media. A converger elaborated:

Dan, web designer: “If you have a connection to a person who has an opinion and respect them in some field or other, it’s more likely that you will then read an opinion they find of interest and then change your own opinion, so social media in that respect has been quite a powerful game changer.”

The spreadability enabled by social media increases the potency of personal connections and trusted recommendations when navigating the sheer scale of the new media environment. Yet by creating their own personal media ecologies for the express purposes of maintaining a critical distance from mainstream media agendas, convergers were just as unlikely as traditionalists to encounter a media *challenge* to their worldview.

Indeed, the critical distance convergers craved is inherently undermined by news stories that seek to convey compassion towards people who have offended; developing such narratives, exploring nuanced experiences and charting personal development is a threat to their detachment. Ironically perhaps, given their self-reported habit of disengaging from stories sympathetic to people who have offended, traditionalists were much *more* sympathetic to the human struggles revealed within the information environment, for example, criticising the prevalence of mental health problems within the criminal justice system and in society more broadly. Confronted with unfamiliar media sources (albeit in a format they recognised), responses reflected Hough and Park’s (2002) study in which initially punitive attitudes gave way to more deliberative discussions. One traditionalist responded:

Gerry, janitor: “The one in the video was just another highlighted case, if it was... fictitious or not, [the case] of a woman who was at the other end of the spectrum, who cried out for help, they recognised she needed help but put her back in prison without any.”

However, the everyday media engagements of traditionalists rarely tap into these

sympathies precisely because they opt out of stories and sources that might challenge their penal predispositions:

Jane, cleaner: “You’re asking specific things, so you’re asking us to think more! If you’re reading the paper, there’s that poor soul got stabbed, then you’re on to next page, because its day and daily, like”.

Despite being (inevitably) likened to ‘holiday camps’, most groups expressed shock at stories reporting some people who have offended preferring prison to community sanctions. The lived experience of those punished was not sufficient evidence to challenge predispositions towards the pains of imprisonment. The dissonance between their expectations of a prison sentence and its reported reality, created a problem of legitimacy for sentencing:

Fiona, cleaner: “Aye, it’s not so much a longer sentence, it’s a tougher sentence. They’re in there and they’ve got their computers, aye, they’ve got their tellies, they’ve got matching curtains and bed mats. Some of them, I’ve been in Greenock prison; it’s like a fucking hotel!”

Michael, janitor: “Because the majority of sentences are a half, or two-thirds that they do... when the judge gives you six years... he shouldn’t be expecting you to come out in three.”

The dominant understanding of community sanctions (certainly when cast as punishment) was as unpaid work. In comparison to imprisonment, unpaid work was a great deal more contentious across groups. At its simplest, distaste for unpaid work as a mode of punishment was grounded in the perception that such ‘job opportunities’ should be reserved for more deserving non-offenders:

Gerry, janitor: “Like painting the railings in school: there’s millions of young people unemployed who would love to do that, but they’re never given the chance... The unemployment in young people is one of the biggest issues in today’s society and if community service takes away from that, community service is wrong.”

Menial tasks like removing graffiti, were deemed suitable for the purposes of community sanctioning. Work associated with trades (even gardening) was considered unacceptable. However, the line separating ‘dirty jobs’ from ‘respectable work’ was vague, even within groups:

Bernadette, student: “But the truth of the matter is in society we look down on dustbin collectors, we look down on street cleaners, we regard that as an unskilled [job].”

The students became somewhat animated in drawing such a line. When it was suggested that picking up litter was a demeaning exercise, an exchange climaxed with:

Jake, student: “How do you not appreciate somebody that takes your crap away from you?”

Bernadette, student: “Oh, go back to your Scandi-paradise, would you? It’s not like that over here, love!”

Such an exchange evokes research into dirty work and tainted professions (Douglas, 1966; Willis, 1977) with tensions emerging from morally positive identities derived from socially stigmatised actions, ‘that dirty work frequently is not viewed by societies as unimportant or trivial. The stigma comes from the view of the work as distasteful if not disgusting, as necessary but polluting’ (Ashforth and Kreiner, 1999: 416). Janitors particularly resisted the idea that jobs that resemble their own occupation could double as a form of punishment, with the knock-on effect of reserving ignoble, borderline useless tasks for the purposes of punishing in the community. The usefulness of community sanctions actually delegitimated their practice for this group.

Behind these assessments of ‘dirty enough work’ perhaps lie attitudes about ‘bad enough’ people. For example, even after being exposed to pro-community sanctioning materials, and even after expressing sympathy for the imprisoned woman who had killed herself, people who had offended were ‘othered’ through

suggestions that the best intentions of community sanctions were wasted on such patently ill-disciplined and undeserving people:

Fred, janitor: “An old woman shouldn’t be wanting them in their house, because they’ll just rob you anyway, that’s the type of people are getting community service, they don’t deserve it.”

Despite being a converger critical of imprisonment, one participant related a story about unpaid work n told by his father, who had supervised an unpaid work detail; he claimed that ‘their heart wasn’t in it, they didn’t want to be there and do things and make up for their crimes’ and that they lacked ‘pride’ in the work. A traditionalist similarly commented on having observed unpaid work in her/his community: ‘They don’t care! They’re there for a laugh, they’re no really learning anything, you can tell instantly’.

For some, technology was a means to reduce human error, perhaps even softness, o better ensuring the punitive of the sanction. This was most explicit in discussions around electronic monitoring, where stories of ‘offenders’ removing tags were traded; on more than one occasion developing into calls for micro-chipping: “well you can do it with dogs and you can do it with cats”, said one traditionalist. One participant advocated for the responsibilising effects of tagging, making the comparison to his obligations under a Scottish Trust Deed, a legally binding arrangement between an individual and their creditors with the aim of managing debt repayment:

Pablo: “So, my expenses, everything was monitored for three years, so I learn to live without credit, I pay off all my debt over those three years and now I’m all the things that I did before, it’s no longer that with me now... it’s like punishment for my own stupidity”.

The importance to participants of *disciplining* ‘offenders’ was evident in these discussions; the punitive ‘tightness’ (Crewe, 2011) offered by a technology seen as omnipresent and objective is preferable to trusting the observations of untrustworthy penal subjects by fallible human supervisors. The appetite for micro-chipping suggests a taste for penal tightness as a source of legitimacy:

'...as both firm and soft, oppressive yet also somehow light. It does not so much weigh down on prisoners and suppress them as wrap them up, smother them and incite them to conduct themselves in particular ways' (Crewe, 2011: 522).

The Scottish Trust Deed participant's experience is noteworthy here: such responsibilising technologies are practiced outwith the criminal justice system, so why spare 'offenders'? Audiences have first-hand experience of work; broadly speaking, they do not usually have the same level of experience with imprisonment. As such, it is more complex an undertaking to reframe the punishment credentials of unpaid work via news stories than it is prison.

Whilst unpaid work as punishment discomfited all groups, the most pronounced link between penal dispositions and fear of crime came from traditionalists, who extolled the virtues of the local over the global. They bemoaned the new media environment's lack of a local focus, perhaps helping to explain The Digger's prominence, corresponding with Buchanan's techniques of 'placing the local', wherein newspapers tied to specific geographic spaces generate a 'sense of place' among readers (Buchanan, 2009: 71):

Julia, cleaner: "You'd get a wee bit of something but my man is well into world news and radios never off world news, can tell everything that's happening in Pakistan or Japan or whatever, doesnae interest me in the least".

Fiona, cleaner: "Naw, you just want to know what's going on round about you".

The legitimacy of the local was most apparent in one participant, who, despite her own son's positive experience of unpaid work, remained unconvinced of its legitimacy as a punishment. In this instance, the local did not extend beyond her own household:

Fiona, cleaner: “My son’s done community service, and it was a deterrent to him, because he was out painting bus stops and everything in the dead of winter... you’re not getting paid for it or anything, so it kind of curtails... They never had the right clothing or anything in this. He says: ‘Well, what you wanting? It’s no your comfort; it’s a fucking punishment!’ And he’s never been in bother, ever, since”.

Yet, in concluding, she repudiated the broader legitimacy of unpaid work in general, remarking that “It’s only worked for [‘Patrick’]”. Her negative, mediated experience of community service was more powerful than her positive, lived experience.

### **Discussion: Penal Tastes and Legitimacy**

For Bourdieu, ‘pure’ taste denotes high class, with more legitimate works of art experimenting with form over functional representations, implying ‘a break with the ordinary attitude towards the world’ (Bourdieu, 1996: 4). The ‘popular aesthetic’ of the lower classes affirms a continuity between art and life, prizing function over form.

However, punishment seems to confound traditional conceptions of taste: it is neither high class to abstain from traditional, punitive functions, nor low class to privilege them. The notion of ‘populist punitiveness’ (Bottoms, 1995) presents penal politics as being increasingly sensitive to and manipulative of penal sensibilities, rather than being responsive to the views and dispositions of penal-professionals ‘elites’ (see also Loader, 2009). Attempts to challenge the prison’s dominance, including through promoting community sanctions, rely on a ‘purer’ aesthetic, detached somewhat from popular understandings of punishment’s central functions. It is in this context that the durability of moral censure as a penal function may temper the legitimacy of new penal forms. If those forms sacrifice censure in favour of humanising ‘offenders’ (to promote their reintegration back into the community), they may offend established penal tastes.

The centrality of moral censure has been explored recently by Robinson et al. (2013) regarding probation. They point to Suchman’s (1995) differentiation of three varieties of organizational legitimacy: pragmatic, moral and cognitive. Pragmatic legitimacy is premised upon meeting an audience’s self-interest. Moral legitimacy relates to doing

‘the right thing’, in terms of processes and outputs reflecting societal values (Suchman, 1995: 579). Cognitive legitimacy incorporates both comprehensibility and meaningfulness, such that ‘alternatives become unthinkable’ (Suchman, 1995: 583). Robinson et al. (2013) conclude that, despite evolving rehabilitative, reparative, punitive and managerial adaptations, probation has struggled to secure moral legitimacy, far less cognitive legitimacy. Although, in some jurisdictions attempts have been made to ‘toughen up’ community sanctions to offer more ‘punitive bite’, probation’s pragmatic legitimacy has become more firmly rooted in the promise of public protection through reduced reoffending (McCulloch and McNeill, 2007). Yet, our exploratory study suggests that moral censure remains a key feature of late modern penal tastes and community sanctions – even when cast in the language of ‘payback’ – do not seem to satisfy that appetite: this was consistent between both our convergers and traditionalists. More generally, it may be that the cognitive legitimacy of sanctions depends more on their communicative power than on their pragmatic utility.

Returning to our findings from Stage Two, the concepts of taste and censure helps us to understand the similarities between traditionalists and convergers, despite their quite different media engagement processes. Traditionalists tend to opt out of news stories by intuitively assessing whether the function of moral censure was being adequately addressed in the headline or first paragraph; they did this by scanning the language and tone of the reporting. Convergers have over time cultivated social networks and developed consumer practices that guide them towards news sources with reputations for journalistic integrity and critical distance in their reporting. Such reporting does not usually promote the function of moral censure and this has two main effects. Whilst critical distance tended to render the prison problematic and to reduce the tendency to ‘other’ people who had offended, it also prevented the communication of community sanctions as a form of moral censure. Even when they hoped for positive, reintegrative outcomes, convergers still required moral censure for punishment practices to be deemed legitimate. Hence, their media engagement tastes (for critical distance and journalistic integrity) were at odds with their penal appetite (for censure) in this respect. These different processes resulted in *both* traditionalists *and* convergers disengaging from pro-community sanctioning stories but for different reasons. Traditionalists required punishment to respect the penal

*function* of moral censure; convergers suspected new stories whose *form* reduced critical distance.

Unavoidably, our information environment provided only an artificial version of how most people engage with news stories. Yet, it wasn't this methodological compromise that drew criticism from participants; it was what they described as the 'unnaturalness' of being confronted with opposing views that provoked frustration and justified their disengagement:

Ted, web designer: "it was unnatural to see that many side by side".

Fred, janitor: "See these stories you gave us, you don't get that publicised... if you want to live in a crime world you'll know about it. Us decent folk don't want to know about these".

Such complaints demonstrate just how effective processes of opting in and out are at insulating participants from critical voices in the media. Our information environment enabled participants to be unusually attentive to and reflective about how they and their colleagues were reacting to news stories. Yet, despite the room creating those 'indirect relays that permit one to change one's own judgement a bit, while relying in part on the advice of others' (Hennion, 2007: 104), participants were predominantly unmoved by the news environment one way or the other. With criminological 'expertise' in the area within our ranks, we also offered participants the opportunity to ask us for our opinions, or to clarify matters of contention from the group discussions. Yet, these 'expert' opinions carried no especial weight, begging questions of academics' role in public debate on criminal justice matters.

In sum, processes of opting in to familiarity or out of unfamiliarity seemed to leave participants' penal tastes insufficiently exercised and therefore undeveloped. A recent study of Facebook has shown their news feed algorithm, based on users' previous choices, reduces the appearance of politically cross-cutting content by 5 percent for conservatives and 8 percent for liberals (Bakshy et al., 2015).

As Hennion remarks of music tastes:

'Taste is not an attribute, it is not a property (of a thing or of a person), it is an activity. You have to do something in order to listen to music, drink a wine, appreciate an object... Through comparison, repetition and so on, things that are less inert than they appear are made more present' (Hennion, 2007: 101).

It may be then that the potential of developing a taste for community sanctions is diminished in convergence cultures: practices of opting in and out of stories do not challenge or test predispositions that, regardless of being for or against prison, appear to value moral censure regardless. The inert nature of our audiences' penal tastes is also suggested by their fact that the community sanctions stories did not seem to invite 'spreadability'.

Even so, working to reverse the moral legitimacy of the prison through a discourse that humanises 'offenders' remains a valuable end in itself, and may yet offer the means to further problematize the prison's cognitive legitimacy. But our analyses suggest that this will be no easy task. We find ourselves aligning with Birkett's findings of the 'claimsmaking' processes used by campaigners to influence politicians, the media and the public into supporting penal reform for women caught up in criminal justice:

"Those pursuing 'crime fighting' or 'managerialist' frames seek to pursue their strategies within the dominant media–crime paradigm, while those pursuing overtly 'humanitarian' language wish to 'shift' the current discourse to an agenda that centres on social justice" (Birkett, 2014: 128)

Our study indicates that convergence culture's lauded democratisation of media does not necessarily communicate the humanity of 'offenders' or the case for the public legitimacy of community sanctions. To encourage a more informed dialogue about the legitimacy or illegitimacy of different forms of punishment (whether imprisonment or community sanctions) may require us to move beyond the top-down approaches of 'better' penal reform campaigns or 'better' public relations strategies for probation. Rather, our findings suggest the need for a much deeper deliberative dialogue about punishment which has the potential to better exercise and develop our penal tastes; dialogue that allows us to recognise when satiating our appetites

and indulging our tastes might in fact harm us and others (cf. Loader, 2009). The echo chambers created by both traditionalists and convergers mean that the news media may not be the best arena in which to foster such dialogue.

## Acknowledgments

This paper is based on research funded by British Academy/Leverhulme Small Research Grant Ref. SG48403. We are grateful to our funders and our participants for making the research possible. We are also grateful to members of the European Society of Criminology Working Group on Community Sanctions and Measures for their helpful comments on an early version of this paper presented at their meeting in Dublin in May 2016. Finally, we want to acknowledge the contribution of the anonymous reviewers whose thorough and constructive reviews have made this a much better paper.

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