

Crime and Justice in Digital Society 2

Justin R. Ellis

Policing Legitimacy

Social Media, Scandal and Sexual
Citizenship

 Springer

Crime and Justice in Digital Society

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Melbourne, VIC, Australia

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Crime and Justice in Digital Society offers an exciting new platform for theoretical and empirical works addressing the challenges and opportunities of digital society and the Internet of Things for crime, deviance, justice and activism. As digital technologies become progressively embedded into our everyday lives, so too are human-technological interactions embedded into everyday crimes, as well as in cultural representations and justice responses to crime. There is a need for scholarly examination of the ways in which shifts in digital technologies as well as socio-political and socio-cultural structures and practices, are producing and reproducing crime, justice and injustices in contemporary societies. This new book series aims to publish and promote innovative, interdisciplinary, and forward thinking scholarship on crime, deviance, justice and activism in the context of digital societies. Both established and early career scholars are encouraged to submit proposals for research monographs or edited volumes. Crime and Justice in Digital Society is particularly welcoming of research that addresses issues of inequalities and injustices in relation to gender, race, sexuality, ability and/or class, as well as works that push the boundaries of conventional 'cyber' crime studies and engage with interdisciplinary frameworks from across criminology, sociology, studies of technology and society, media and cultural studies, politics, computer sciences and beyond.

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Justin R. Ellis

Policing Legitimacy

Social Media, Scandal and Sexual Citizenship

Justin R. Ellis
College of Human and Social Futures
University of Newcastle Australia
Callaghan, NSW, Australia

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Policing Legitimacy presents the nuanced 'social media test' as a sophisticated lens through which to interrogate the impact of digital media technologies on negotiations of sexual citizenship and police legitimacy. Drawing on fresh empirical research into scandal around police excessive force, this superb book tests the credibility of policing culture against the expectations of accountability and transparency amongst communities that watch from below.

Professor Gail Mason, University of Sydney

Justin Ellis has produced an authoritative and insightful analysis of the play between social media and police legitimacy in recent and present times. His account of the complexities of police culture and the inconsistencies operating within police organizations under conditions of hypervisibility is nuanced and attentive to the mixed emotions that many of us feel and bring to our relationships with the police. As he reminds us, the legitimacy we afford the police is 'dynamic' and increasingly contingent upon representations of police actions in social as well as mainstream media, as well as being influenced by direct and vicarious experience. His exploration of these matters with respect to the LGBTQI community lays the promising foundations for a new 'digiqueer criminology' of broader application.

Professor Andrew Goldsmith, Flinders University

There is an absence of authoritative empirical and theoretical analyses of the significance of evolving media technologies for the negotiation of police legitimacy. This timely book is a welcome contribution to the filling of that gap. Utilizing a meticulous research design, Justin Ellis develops a scholarly analysis of, and sophisticated theoretical argument around, social media, police communications, accountability and how police legitimacy can be sought, lost and maintained with minority communities. This is an important contribution to the literature, advancing theoretical debates and skilfully demonstrating that legitimacy is complex, contingent and continuously up for negotiation.

Rob C. Mawby, University of Leicester, UK

To my father, Thomas Donovan Ellis

Series Editors' Preface

The central aim of this book series is to elevate innovative, interdisciplinary and future-orientated scholarship on crime, deviance, justice and activism in the context of digital societies. A rapidly developing field of digital criminology is challenging and expanding the boundaries of conventional cybercrime studies and pursuing social, political and cultural analyses of the ways that the human and the technological come to be embedded in harm, crime, justice and injustice. *Crime and Justice in Digital Society* seeks to provide an inclusive home for such scholarship that extends across not only criminology but sociology, studies of technology and society, media and cultural studies, politics, computer sciences and beyond. The series also rests upon a commitment to address issues of gender, race, sexuality, ability, class and the additional intersections of inequality and injustice in human–technological interactions.

It is our hope that the books in *Crime and Justice in Digital Society* will play a key role in bridging disciplinary silos that have arguably hampered theoretical and empirical development and innovation in scholarship on cybercrime. Each book in the series either takes on a specialized substantive area of research in this burgeoning field or seeks to expand the horizons of digital criminologies through advancing concepts, methods and knowledge of the embedded nature of the technological and the human in everyday crime and justice. These books will be essential reading for scholars and students seeking to push interdisciplinary boundaries in examining technology and crime. As well, they aim to be accessible reading across multiple levels of research and study. While each author or team of authors will bring their own distinctive approaches, styles and voice, we hope that collectively the scholarship housed in this series will further inspire new conceptual and empirical directions.

In *Policing Legitimacy: Social Media, Scandal and Sexual Citizenship*, Justin Ellis provides a compelling account of the context and consequences of digital media technologies on public order policing, including citizen resistance through sousveillance. This book makes a vital contribution to the field of digital criminology, drawing on a range of case studies that illustrate the fast-changing dynamics of the relationships between police and the publics they purportedly serve, and,

importantly, the role of digital technology in mediating these relationships. As Ellis notes in the introduction to the book, digital technologies in regard to policing are 'unsettled'. For example, if we think about the role of social media in communications around policing, the ability to control narratives is contested. Even while police might have the capacity to produce master narratives, the ways in which these are picked up, subverted, resisted or even overtaken by counter-narratives have become much less obvious. The once clear 'symbiotic' relationship between the police and media has fractured, and while the mainstream media (MSM) still relies on police for stories (perhaps increasingly so in regard to cut and paste 'churnalism'), social media and citizen journalists challenge the MSM with other angles, competing commentary and other 'truths'. Ellis' book is situated in this unsettled and contested space, posing a series of case studies that expose the fractures, explore the tribalism and uncover the contradictions of policing a tribalized and digitized identity-driven society. Importantly, it reveals the way police struggle to deal with crisis and scandal through these increasingly complex digital communication dynamics.

However, it is not just the digital world that policing has had to come to terms with. As Ellis' work makes clear, the increasingly diverse natures of globalized cities and communities have seen policing struggle to change and respond. Instances of the use of un-necessary force against minority groups by police, as well as racist and homophobic practices have increasingly become publicized. While the most obvious embodiment of this is the killing of black (mostly) men in the United States and the resultant Black Lives Matter (BLM) movement, similarly if less well-publicized examples have occurred across the world—with these scandals themselves highly reliant on digital and social media. Diversity within police forces—both in terms of strategic thinking and officer identity (sexuality/gender/race/ethnicity) have struggled to keep apace of the populations they police. The result is that police legitimacy and trust is fragile and contingent. Ellis' work explores this fragility through revealing research interviews and minutely dissected case studies, giving us insights into police/media/public relationships that transcend quantitative surveys and undercut populist and partisan debates on the topic.

The book also provides some new and exciting insights for criminology and those interested in theory. In particular, the development of a 'digi-queer' conceptual approach to investigate the impacts of digital media technologies, policing and resistance for marginalized populations represents a substantial contribution to the discipline. Ellis' work highlights the need for criminology to examine the impact of negotiations around sexual citizenship, and the impacts this negotiation has on networks of governance and 'sousveillance'. Some once minority and marginal groups have used identity politics as a site of empowerment (along with increased economic independence), and while this has served some groups well, Ellis notes that such a politics may be losing its potency. Moreover, this strategy has worked far better for some groups than others.

In the Australian context, the capacity for such a politics to make significant inroads into the over-policing of Aboriginal Australians is questionable. Hence, Ellis' somewhat muted support for this approach and his call for more granular

analysis of negotiated policing in the digital world. As he puts it, the case studies in his book constitute small examples of larger geo-political fault-lines. The case studies:

...speak to the mutually constituted nature of social and mainstream media and in-person representations of the police image; police transgressions in individual cases that for want of exposure through video may well have remained aggregated police statistics in police annual and mainstream media reports.

And so, in the cases dissected here, we see police grapple with officer transgressions that hitherto may not have come to light. We explore an emergent digi-politics of resistance that was once unthinkable. These cases urge us to re-examine what we know about police/media/public relationships. This fascinating and thought-provoking book is a publication for the times and we are proud to present it as part of our series.

Anastasia Powell
Murray Lee
Travis Linnemann
Robin Cameron
Gregory Stratton

Preface

This timely book presents original, empirically researched analysis on the impact of digital media technologies on police scandal. The book focuses on an in-depth analysis of a viral media case of police excessive force filmed by a bystander at the 2013 Sydney Gay and Lesbian Mardi Gras Parade and uploaded to YouTube. Bringing new perspectives, it examines both the immediate and longer term impacts of social media-generated police scandal on police legitimacy and accountability within a socially and politically well-organized LGBTQI community. The book interrogates the technological, political and legal frameworks that govern the relationships between the police and LGBTQI communities in Australia and beyond through the ‘social media test’; the mutual constitution and contestation of police narratives through social media, mainstream media and police media. For the first time, the book provides interdisciplinary scholarship on ‘digital’ and ‘queer’ criminology. In doing so, it combines social and mainstream media analysis, in-depth interviews with police and non-police stakeholders and a wider LGBTQI community perspective through an online survey. The book critically engages with the debates on pressing topics such as police excessive force, police accountability, the moral and regulatory underpinnings of digital platforms and identity-based rights claims. To this end, it considers the role of sexual citizenship discourse as a political, economic and social organizing principle. Drawing on a range of cases of sousveillance—the watching of authority from below—the book also explores the broader impact of digital watching technologies, such as police surveillance through body-worn cameras. Central to the contribution of the book is to document and analyse the capacity of sousveillance as a political force.

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About the Author

Justin R. Ellis is a lecturer in Criminology at the University of Newcastle, Australia. His research examines the impact of digital media technologies on trust in public institutions. His current focus is on the scrutiny of public order policing through sousveillance within the LGBTQI community in Sydney. His broader research focus is on the impact of digital media technologies on institutional accountability and responsible government. His scholarship has been published in internationally peer-reviewed journals *Policing and Society*, *Crime, Media, Culture*, *The Australian and New Zealand Journal of Criminology*, *Criminology and Criminal Justice* and *Current Issues in Criminal Justice*. Justin has peer reviewed for leading criminology journals *Crime, Media, Culture*, *The Australian and New Zealand Journal of Criminology* and *New Media and Society* and is the editor-in-chief of *Current Issues in Criminal Justice*, the journal of the Sydney Institute of Criminology.

Chapter 1

The Social Media Test



Scrutiny of public order policing through digital media technologies continues to evolve in unpredictable ways with unknown consequences. The unsettled nature of digital communication has thrown into stark relief the importance of order and generated suspicion about what conventional representations of order might conceal. The networked and monitory capacity of digital media has allowed for a more complex evaluation of police performance (Goldsmith 2010) and by extension, what constitutes legitimate police practice. Context is key to understanding local policing issues. Yet the call to reconsider public policing priorities in the face of chronic issues with police integrity resonates globally (Chapman 2014; Prenzler 2016; Vitale 2017).

This book investigates the meaning-making capacities of social media between a public police force and a socially and politically well-organized lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI¹) community. The focus is primarily on the Australian jurisdiction of New South Wales. However, the analysis and concepts developed throughout the book will be relevant in societies where identity-based rights claims are a standard media frame. The empirical basis for the book is a major case study of a police scandal generated by a bystander video of police excessive force distributed through social media. The case study employs empirical research methods: social and mainstream media analysis, qualitative in-depth

¹I have used the LGBTQI (lesbian, gay, bisexual, transgender, queer and intersex) initialism throughout the book to encompass sexual orientation and gender identity communities. This initialism is intended to be inclusive of the range of perspectives and lived experience across these communities and at the same time reflects the limitations of such initialisms in capturing all of those lived experiences. I use the initialism in the singular and in the plural in conjunction with 'community/ies' as a further reflection of this diversity. The book includes LGBTQI allies, notably in the online survey sample in Chap. 7. Where alternative versions of this initialism are used, they reflect official titles, such as the NSW Police Force Corporate Sponsor LGBTI Facebook page, research that has focused on particular communities, such as LGBT, or agencies and services that represent broader or narrower stakeholder groups.

interviews with NSW Police Force employees ($n = 20$) and non-police stakeholders ($n = 22$), and a qualitative and quantitative online survey with a wider LGBTQI and allied sample ($n = 97$). The aim of the study is to develop analytical approaches on the impact of new media technologies on police legitimacy—conformity to established rules that can be justified by reference to beliefs shared by authorities and subordinates and evidence that the subordinate consents to the particular power relation (Beetham 1991/2013). The argument is that the proliferation and diversification of digital platforms, notably social media networks, emphasize that institutional change is ‘... in constant dialogue with the demands of legitimacy’ (Gilley 2009, p. 132) and that ‘... consent is continually renewed’ (Beetham 1991/2013, p. 101). As such, the plurality and immediacy of competing perspectives borne of digital media diversification come with confrontations that require constant justification to sustain legitimacy (see Bourdieu in (Wacquant 1993) on the legitimacy of capital).

Research into legitimacy and procedural justice in Western liberal democracies needs to consider in greater depth the impact of new media on political agency (Loader and Sparks 2013). This book addresses this gap in relation to police legitimacy and procedural justice research in multi-media saturated Western liberal democracies where identity-based rights claims are a standard media frame. The book demonstrates that justification needs to be credible to develop and sustain trust. In the words of a New South Wales (NSW) Police Force Superintendent, the still new but now pervasive technological scrutiny of social media represents the literal shift from the traditional ‘front page test’, how one’s actions would be construed under the scrutiny of front page exposure in a major newspaper (Institute for Local Government 2015), to an evaluation of police performance through social media representations:

... years ago, the test was always, are you happy to see your actions or your story on the front page of *The Daily Telegraph* [a Sydney tabloid newspaper]. We don’t call it that anymore, I guess it’s a social media test, which is more contemporary.

—R2 NSWPF Superintendent

There is no doubt that civilian oversight of police performance through sousveillance, the watching of authority from below (Mann et al. 2003), has been pivotal in substantiating civilian demands for more police justification of police practices. Yet, as demonstrated throughout this book, it is the mutual constitution of police narratives through social media, mainstream media, and police media, and their contestation, that is central to the significance of the ‘social media test’. This test, broadly speaking, is a credibility test of police culture. To reflect the complexity of police culture the test considers the social, economic, legal and political sites that constitute the conditions of policing (Chan 1997; Dixon 1999b). This chapter outlines the context and consequences of digital media technologies on public order policing and police and civilian truth claims in the early decades of the twenty-first century. The chapter sets the scene for the book through a detailed summary of the viral media case of police excessive force filmed by a bystander at the 2013 Sydney Gay and Lesbian Mardi Gras Parade and uploaded to YouTube. The bystander filming of that incident is the basis for the major case study and empirical findings documented