Communicating Justice:
A Comparison of Courts and Police Use of Contemporary Media

JANE JOHNSTON
Bond University, Australia

ALYCE MCGOVERN
University of NSW, Australia

As social media becomes firmly entrenched in professional communication practice, organizations need to consider the efficacy of their overall media praxis. Within this context, this article investigates the stakeholder communication practices of two of the most important arms of the justice system: the police and the courts. Focusing on the Australian condition, while also providing international comparisons, this paper draws on historical, sociocultural, and legal developments by the communication departments of these two sectors to identify fundamental differences in their development, motivations, and objectives, which, in turn, have placed them in vastly different positions for the transition to social media. Finally, in determining their place within the field of democratic communication practice, it positions courts and police within Habermas' schemas of communicative and strategic action.

Keywords: social media, police, courts, Habermas, communicative action, strategic action, Twitter, Facebook

Introduction

The rise of social media and its widespread adoption in business, government, and the nonprofit sector have placed pressure on many sectors to become "social media savvy." Accordingly, the justice system has moved to adopt the use of social media platforms in its stakeholder communication. But while police have, for some time, incorporated these communication tactics, courts have been far more tentative in their adoption of the new communication choices. This article investigates how these two arms of the justice system have responded to demands to use social media and why the two sectors, particularly in Australia, have moved so differently in engaging with these 21st-century forms of

Jane Johnston: jjohnsto@bond.edu.au
Alyce McGovern: a.mcgovern@unsw.edu.au
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communication. It suggests that a combination of historical, sociocultural, legal, and economic factors come into play in their current communication practice.

The comparison draws on the findings of two bodies of research, undertaken independently and separately by the two authors, into police and courts communication praxis in Australia. It incorporates more than a decade of empirical data, plus the burgeoning literature into the crossdisciplinary fields of courts and police communication, bringing unique insights into contemporary strategies and practices, including moves into the Web 2.0 environment. Through a case study approach of the two sectors, it suggests why it may be useful to consider different frameworks and theoretical modeling for courts and police in order to better understand the disparate communication roles within these two sectors of the justice system, drawing on the communicative and strategic models of Jürgen Habermas (1998).

Courts and Police Communication Compared

While there is a significant body of research into the role of public relations and communication by the police and its relationship with the media (Chermak & Weiss, 2005; Lee & McGovern, 2012; Mawby, 2010; McGovern, 2011; McGovern & Lee, 2010; McGovern & Lee, 2012; Surette, 2001) and there is a growing literature on the parallel role within the courts (Dreschel, 1983; Ericson, Baranek, & Chan, 1989; Johnston, 2008; Johnston, 2012; Keyzer, 1999; Parker, 1998), there has been little that has compared how the two fields of justice administration have developed and managed their media, information, and communication operations.

One theory has developed around the various degrees of public visibility provided by the media, with police at the high end and courts at the low end of the visibility scale (Chermak & Weiss, 2005; Johnston, 2012; Thompson, 2005). This theory, however, has limitations in its application to the present day, centering primarily on the role of traditional media in facilitating a public profile. It is noted that "the media had the capacity to make visible arenas of action that were previously hidden from view" (Thompson, 2005, p. 39). As Johnston (2012) observes:

> This visibility has now extended beyond the news media, to an expanded visibility of the Web and other digital media. In these spaces the PIOs [Public Information Officers], judges and the public will now stand alongside the news media as storytellers of courts. (p. 54)

Similarly, while others, such as Canadian researchers Ericson, Baranek, and Chan (1989), compared information sources from the two sectors, their analysis failed to expand on communication practices, and their work—carried out in the 1980s—did not include the contemporary social media time frame within which our present study is situated. This article therefore seeks to advance the limited comparisons that have been made between the courts and police communication and media practices, and position these within the social media landscape. It brings together the work of two researchers who have independently studied the courts and the police, drawing on previously reported publications that, in turn, provide a framework for new research in the form of a comparison between these two disparate but overlapping fields of justice administration.

While the article began as a comparison of social media usage between the two institutions, the lack of existing comparative literature suggested that it was first necessary to examine the broader communication frameworks within which each of these justice institutions operates in order to gain a context for current practices. Thus, drawing from our two respective specialized fields of courts and police, we have developed three key areas of comparison: historical, sociocultural, and legal contexts. We suggest that an exploratory examination of these might provide a clearer understanding of which media choices might be used with greatest efficacy in these two sectors.

Following this investigation, we propose positioning our comparative analysis within a specific theoretical framework, using the modeling schemas of communicative and strategic action created by Jürgen Habermas (1998). These schemas represent two different ways of reaching understanding through communication. Habermas' main distinction between communicative and strategic action is the motivation behind the interaction. He argues that a fundamental difference lies in the motivation and attitude of the participants who carry out the action. On the one hand, participants are focused on a success-oriented approach (strategic), while on the other hand, participants are oriented toward reaching understanding (communicative) (Habermas, 1998, p. 119). He further distinguishes these concepts by explaining how communicative action is achieved by "motivating convictions," whereas strategic action centers on "exerting influence and inducing behaviour" (p. 222).

While Habermas' schemas center on speech acts, they can be used in the application of broader communication praxis, including the use of written or visual communication via media releases, websites, micro-blogging sites, images, and so on. White (2012) uses the communicative-strategic distinction in an analysis of science communication to distinguish between public information officers (PIOs), who are closely aligned with communicative activity, and public relations practitioners (PRPs), who are more closely associated with strategic activity. Through the analysis that follows, we will consider how the communications departments in the courts and the police may be driven by different communications and strategic motivations, and how we may use Habermas' schemas to assist our understanding of these two democratic institutions.

Research Design and Methodology

The research uses a case study methodology to enable deep insights into these two complex institutions. Chen (2007) argued that a "case-study approach is a valid method for mapping, describing and comparing the processes employed and the practices of organisational innovation" (p. 137). As such, this research is both exploratory in approach and interpretive in nature, drawing on a range of qualitative data and organizational collateral from police and courts departments and jurisdictions from across Australia and internationally. The range of data, and the time frames over which it was collected, assists us in gathering a history and allows us to demonstrate just how quickly, and, significantly, the moves into social media have impacted media practices and policies of both police and the courts.

Police: Qualitative data relating to police media practices was drawn from interviews and documentary analysis from two sample periods: the first involved face-to-face semistructured interviews with current and former NSW Police Force Media Unit personnel (both sworn and unsworn staff) and media

representatives (police and crime reporters and newsroom managers from television, radio, and print media). In total, 29 respondents were interviewed: 16 from the media and 13 from the NSW Police Force Media Unit (current and former staff) between 2006 and 2007. The second interview period (2010 and 2011) was conducted with 12 key media communication decision makers in Australian police organizations, namely, directors and managers from public affairs, media, and communication branches of police forces in five Australian states (New South Wales, Victoria, Tasmania, Western Australia, and South Australia). Interviewees were purposively sampled, a method that is aimed at selecting participants who are representative of a specific set of characteristics or with a specific purpose in mind (Neuman, 2000). Semistructured interviews were conducted, constituting part of a broader, ongoing project exploring the police-media-public relationship. Respondents, while anonymized, are referred to in this article by their role and location. These interviews were supplemented with documentary analysis of official police policy, particularly NSW Police Force documents, plus supplementary historical data from various time periods relating to these documents.

Courts: This research also used qualitative techniques. Purposive interviews were drawn from two sample periods: the first utilized face-to-face and telephone semistructured interviews with courts personnel (PIOs and judges) and media (court reporters and News Directors) personnel. In total, 32 respondents were interviewed: 20 from the media and 12 from the courts, between 1999 and 2004, from six Australian states and territories. The second interview period, this time with courts PIOs only, took place in 2011, with a total of seven respondents (of a possible 16) from six jurisdictions. Court websites were also used, and other documents from both sectors included official reports, annual reports, progress reports, formal studies, media coverage, media inquiries, and other related reports.

In sum, these two qualitative case studies provide rich data and deep insights, obtained from a wide range of sources, illuminating past and present practices and suggesting future directions that incorporate particularistic, holistic, grounded, heuristic, and inductive means of analysis (Merriam, 1988).

Historical Development of Communication Practice

For two decades, scholars from Canada, the United States, and Australia have noted how the courts, as newsmakers, and in their relationship with the public, have been underresearched (Cohn & Dow, 1998; Dreschel, 1983; Ericson, Baranek, & Chan, 1989; Parker, 1998). Dreschel (1983) observed that knowledge of the courts as news was "strikingly meagre compared with our knowledge of news making in other branches of government" (p. 1), while Cohn and Dow (1998) argued that, despite widespread televised courts in the United States, "people know less about the judiciary and the legal system than other branches of government" (p. 7). In Australia, Parker (1998) identified how "the whole area of the relationship between the Courts and the Public is incompletely theorised in Australia" (p. 5). Ericson, Baranek, and Chan (1989) argued that "there is relatively little research on news making in the courts . . . in contrast, the police beat and legislature beat have been researched in greater depth" (p. 34). They further noted how within Canadian courts in the 1980s there were no "full-time news-media officers, as provided on other beats" (p. 37), a deficit that was echoed for several years in Australia (Fife-Yeomans, 1995; Teague, 1999) and the United States (Greenhouse, 1996).

In Australia, at around the same time as these criticisms were being made, the ground shifted and Australian courts began appointing communication officers. Though the first appointment had been made in the Family Court in 1976, continuous, full-time appointments were not made until the 1990s and early 2000s. Likewise, New Zealand's first PIO was appointed in the 1990s. Australia barely reached double figures across all its courts and jurisdictions in 1997; in contrast, the United States had appointed 75 such officers (Innes, in Parker, 1998, p. 86).

While the role of PIO had a media liaison focus, it also included community and public education functions, plus often a judicial support element. Certainly, the primary objective of many of these officers remains that of media relations, which includes acting as a pathway to court documents, writing media releases and judgment summaries, establishing media-court committees, and developing media handbooks and protocols (Johnston, 2008). The role also sought to bridge the tension that had existed between the courts and the media. As a result, the adoption of PIOs into the courts met with near-universal support by journalists, the judiciary, and other stakeholders (Johnston, 2005; Parker, 1998). In the United States, they were seen as "indispensable as a supplier of documentary information and answers to process questions" (quoted in Ginsburg, 1995, p. 2122). In Australia, Parker (1998) noted that "a media liaison person is the first step towards improving communication" (p. 151) and that "(g)iven that the public's need is actually a need for *accurate* information, the function of these officers in preventing mistakes and correcting efforts is obviously an important one" (p. 87). Nevertheless, a study a decade later noted that not all Australian jurisdictions had appointed PIOs (Innes, 2008), and in 2013, the situation had not changed.

During the same period, Australian courts embarked on tentative moves to allow television camera access. Though a full examination of this goes beyond the scope of this article and is covered elsewhere (see Cohn & Dow, 1998; Johnston, 2005; Stepniak, 1999), what is worth noting is that television stations did not fully embrace this potential, which has been partially attributed to the limitations and restrictions placed on them. For example, minimum times were placed on television's use of trial vision, a restriction that television journalists found inconsistent with short television news stories (Johnston, 2005). So, while courts did take steps to advance this option, these were viewed by media workers as too restrictive. Elsewhere in the world, notably in the United States, and to a lesser extent Canada, Britain, and New Zealand, court cameras rolled into courts far more liberally (Cohn & Down, 1998; Stepniak, 1998). This conservative approach and limited uptake of television cameras in Australian courts was to foreshadow a stark contrast to the approach taken by police in proactively using television as an important communication and public relations medium, especially in regards to reality television, as discussed later.

In contrast to the court situation, much more is known about the professionalization of police communication, and the police-media relationship more broadly. Like the courts, this relationship is often characterized as both symbiotic and tense (Brennan, 1997; Mawby, 2012; McGovern, 2010). Prior to the 1960s, police-media relations in Australia were less than comfortable, a situation mirrored internationally. Before the creation of press officers within policing organizations, relations between the police and the press had been subject to little policy attention or regulation (Finnane, 1994, 2002). Over time, the police recognized the need to dramatically alter their relationship with the media and, as a consequence, came

to see utility in engaging with the media, particularly for communicating information to the public. This resulted in a commitment by police and government alike to becoming more proactive about policing, and to engage in partnerships to foster change across a number of facets of policing, including relations with the press (Etter, 2001, p. 25).

According to Finnane (1999, p. 13), it was during this period that the ability of the police to carry out their role came under increasing public and political scrutiny, and it became more common for police authority to be questioned. For example, in what was to be a symptom of change, the first successful law-and-order election was held in New South Wales, signaling the increasing public concern for matters relating to crime and policing (Finnane, 1999; Tiffen, 2004). During the election campaign, opposition leader Robert Askin attacked the Labor government over declining standards of justice, promising to increase police numbers by 1,000 in his first term in office if elected (NSW Police Force, 1965; Puplick, 2001). It was this focus on the lack of adequate police protection that was said to have been one of the major influences on the election of the Liberal Party into government in NSW, and since this time has been a common policy platform of politicians internationally.

Dedicated media officers, or PIOs, first appeared on the international scene in criminal justice agencies in the 1960s,[1] partly in response to negative attitudes toward police officers who, as a result of social upheavals, came to be seen as "armed occupational intruder[s]" rather than "an accepted law enforcement presence" (Surette, 2001, p. 108; see also Lovell, 2003, pp. 135–137; Mawby, 2002, pp. 17–19). Perhaps as a response to the same kinds of pressures they were facing during this period, both from the public and state governments, Australian police agencies began to broaden their media-related activities. The NSW Police Force led this movement, introducing a Police Public Relations Branch in 1964, which was the first formal branch within the organization specifically created to deal with media issues (NSW Police Force, 1965). The Branch assisted materially in the investigation of serious crimes, not only by publication through press, radio, and television of information relating to cases but also through the dissemination of photographs and descriptions of people who were suspected perpetrators of crime (NSW Police Force, 1965). In addition to this, the Branch issued general warnings to the public via the media in respect to the subject of crime prevention. In the 1964 Annual Report, it was highlighted that the activities of the Public Relations Branch were expected to increase in the near future (NSW Police Force, 1965).

Fast forward to today, and every policing jurisdiction in Australia, reflecting global trends, now hosts a professionalized public relations/media branch within its organization. Media units, public affairs branches, and communication departments have become a major vehicle for the promotion of the police profile, as well as police-community relations. As noted by the former NSW Police Force Director of Marketing and Media, Sue Netterfield (1994), in the past the media had been used by police in a reactive way to announce details, rather than to proactively promote issues (see also Lovell, 2003). Today, police are much more aware of the impact that proactive communication activities have on their image in the media and public. Police nationally and internationally have thus broadened their scope and usage of

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[1] The first police press office, however, was believed to be established in Scotland Yard, England, in 1919 (Lovell, 2003; Mawby, 2002)

communication, which has allowed "the Police Service to retain strategic control of the agenda and the key messages" (Keelty, 2006, p. 3). And it is this concept of control that is the cornerstone of much of the proactive communication that police undertake, that is, control, or at least attempted control, over the information disseminated and the way in which the police are represented in the media and to the public. For example, in their 2002 Media Policy, the NSW Police Force stated that "providing media with regular information helps to contain them and allows the facts to be reported" (NSW Police Force, 2002, p. 8).

As Lovell (2003) notes, "today, media-relations units have become central to both the police organizational structure and the daily function of routine police work" (p. 139). Indeed, the larger Australian police forces have departments that operate 24 hours a day, seven days a week, staffed with "experienced journalists, public relations specialists and police officers" (NSW Police Force, 2004, p. 5) and guided by well-developed media policies and strategies. They play an integral role in a range of reactive and proactive media activities, and their directors are often situated in influential positions in the organizational hierarchy. Whereas police media departments of old, as previously discussed, were more interested in disseminating information about crime events or communicating road safety messages, the departments of today engage in a wide range of activities, including but not limited to:

- Media liaison and communication strategies;
- Media training;
- Media monitoring;
- Multimedia filming and production;
- Digital and social media; and
- Film and television production liaison.

The range and scope of media activities now being undertaken by most, if not all, police media departments in Australia and many Western nations are demonstrative of an increasingly professionalized and strategic approach to the way in which police interact and deal with the media; they are much more inclined to "court" the media than in previous eras. Courts, too, have moved to a professionalized approach to communication; however, the scope of activities undertaken by courts PIOs is on a far smaller scale than police, as discussed in the latter part of the article.

Sociocultural Expectations

As noted earlier, police have been identified as "by far the most visible of all criminal justice institutions" (Chermak & Weiss, 2005, p. 502). The role of the courts PIO, conversely, tends to be "behind the scenes" work, facilitating access to materials and documents already in the public domain, and is not intended to raise visibility in the same way. This is consistent with the distinctions drawn by Ericson, Baranek, and Chan (1989), who have discussed the courts' "limited requirement for publicity" (p. 54), a sentiment that predated the appointment of PIOs, but which nevertheless is illustrative of the limited expectations for courts interaction with the media from just over two decades ago. This is despite a somewhat paradoxical well-established legal rhetoric about open justice, illustrated in English jurist Jeremy Bentham's famous call for publicity and justice: "Publicity is the very soul of justice. . . . It keeps the judge himself, while trying, under trial" (Bentham, n.d.).

Meanwhile, police work focuses on raising the profile of the police service through publicity. Manning (1992) notes:

> There are many different examples of overt or covert activities police organizations use to communicate externally to harness public emotion and manufacture symbolic legitimacy . . . ceremonies, visible daily activities, props and symbols, and special knowledge and techniques constitute resources by which police can mark, claim, display, defend, and reaffirm their mandate. (p. 144)

Police public relations now systematically and strategically connect with "public good" causes in very public ways. For example, in August 2012, Australian Broadcasting Corporation (ABC) television news reported how Gold Coast police had collaborated with the surf lifesaving movement in the use of a helicopter patrol (ABC news, August 14, 2012). Three days later, another ABC news story showed Queensland police officers in "training" with the All-Blacks Rugby Union team in the buildup to the Bledisloe Cup (ABC news, August 17, 2012). Such collaborations seek to align police with positive public causes, in these cases sports-related, in order to garner public support. As Chermak and Weiss (2005) have noted, "Police . . . recognize the power of the media and attempt to use this power to promote the organization" (p. 501).

In addition, police provide stories to the news media as a measure of deterrence and as part of crime prevention and control (Lee, 2011; Lee & McGovern, 2012). One West Australian (WA) Police media spokesperson noted that:

> If you can harness the power of the media to convey the impression that we are running a very, very hard campaign on drivers using mobile phones while driving, we believe that that will make a big impact on getting people to stop doing that rather than relying on the old system where a copper has to pull them over and charge them. (WA Police Spokesman 1, 2011)

This was further explained by NSW Police Force media spokesmen when discussing their embracing of reality television programming by the department: "Deterrent, it's the word. . . . Actually the catchword of an awful lot of these programs is that at the end of the day it's deterrent that will stop them" (NSW Police Spokesman 1, 2010).

While this argument extends to the news media's coverage of court stories too, which have a deterrent effect on crime and corruption, courts do not use the profile-raising and image-enhancing stunts that hinge around developing newsworthiness in the same way as police. Increasingly, police organizations are investing in reality television programs, also known as "observational documentaries," in an effort to boost their image (Mawby, 2007; Reiner, 2000). In Australia, for instance, shows such as *The Force, The Code, Missing Persons Unit, Crash Investigation Unit, Forensic Investigators, The Recruits*, and *Highway Patrol* have all been promoted as behind-the-scenes accounts of true policing activities. These

shows give "good copy" for the police, who have veto over what goes to air and the angles promoted in these programs (Burton, 2007; Lawrence & Bissett, 2009).

As the NSW Police Force has acknowledged, film and television opportunities such as those listed offer "a platform to promote our business" (p. 25) and core objectives (NSW Police Force, 2009). The phenomenon, however, is not unique to Australian police forces. Mawby (2002, p. 38) has also recognized the growth of police reality television in the United Kingdom, where shows like *Crimewatch UK*, *Cops with Cameras*, *Police Interceptors*, and *Night Cops* are broadcast.

Language also presents a significant sociocultural variation. In investigating narrative structures and language of courts and media, Johnston and Breit (2010) found that "both languages have developed in response to professional routines—journalism grounded on populist traditions; law steeped in formality" (p. 55). The difference is exacerbated by the need to interpret expert testimony and technical language in court. Indeed, one of the roles of the PIO is that of interpreter, with the development of summaries of long judgments, media releases, and verbal explanations to the media. The journalist is also expected to act as interpreter of legalese (Johnston & Breit, 2010). Police, on the other hand, are encouraged to reinforce key corporate police media messages when engaging with the media and, by extension, the public, using simple English. This, however, does not include the same level of complex legal language as the courts. The strategic way in which police approach their media contact is evidenced in many of the media policies that have been developed. For example, NSW Police messages include the following:

- Police are in your community working hard to address crime and the fear of crime.
- Crime prevention is our priority.
- Police need the community's help to continue to drive down crime (Crime Stoppers).
- Crime is coming down.
- Police encourage personal responsibility.
- Police respect people's rights, but will promptly act when the law is broken (NSW Police Force, 2012).

Such messages go hand in hand with police imperatives to avoid the "pitfalls" that in the past often beset police media relations (NSW Police Force, 2013).

Finally, differences may be seen in the use of titles and names within these communication units and what this represents, both internally and externally, in reinforcing cultural perceptions. A PIO in the United States made a clear distinction between court and government communication, noting "we do not do spin" (House, in Ginsberg 1995, p. 2122). This is consistent with how Australian PIOs see themselves, rejecting the idea that their job is public relations or propaganda (ABC, 1998). It is interesting to note that in the Australian courts none of the communication departments use the terms "public relations" or "public affairs" in their title, preferring "Communication," "Media Relations," or "Public Information."

Police public relations staff are also reluctant to accept that the work they do is akin to "spin" or propaganda. For these individuals, the media work they engage in plays a vital role in the actual job of policing; they see their work as fundamental to police being able to carry out their work. As one NSW Police Spokesman said,

> There is that notion [that the work we engage in is one] of pure public relations, that it's just simply about reputation . . . but corporate reputation is pretty important for the cops because we know from our own research that . . . if community confidence in police declines, community reporting of crime declines and therefore the cops can't do their job. (NSW Police Spokesman 1, 2010)

Legal Constraints

The need for accuracy in reporting is arguably the key reason for the appointment of PIOs to the court. One study found that media and court professionals cited "accuracy" and "access" as the PIO's prime raison d'être (Johnston, 2005). Courts face significant restrictions on what can be reported and when, prescribed by the laws of sub judice contempt. The period following a crime and prior to charging or a court appearance affords a great deal more opportunity for media coverage and police commentary than the significant restrictions placed on reportage of a court case once it is before a court. In the crime reportage periods, prior to any arrests or charges, police regularly use the media to distribute their message, such as supplying descriptions of suspects or remarks made by offenders, as well as "public reassurances about police action to deal with the matter" (NSW Police Force, 2012). Indeed, police websites now include images of "wanted" people in much the same way as they would have once on billboards (see, for example, the NSW police website). Once a person has been apprehended and charged by police, however, and he or she is due to appear in court, the sub judice period begins and restrictions apply to the publication of images. Thus the publication of images represents a sharp contrast in the communication practice, as limited under the law, between the two institutions.

Courts suppression orders represent one of the biggest legal hurdles to the media's coverage of courts, and it is important to identify how cultures of limited access to information have developed over the years. At a national forum on courts and digital media in 2011, the then-Chief Executive of the Australian arm of News Corporation, News Ltd, argued that suppression orders were "strangling open justice" (Hartigan, 2012, p. 19). He noted how it was easier for his reporters to report on a case before a U.S. court than an Australian court. Suppression orders thus not only represent limitations for the media, but are emblematic of the limitations placed on the PIO in one of its primary interfaces—with the media.

Police are equally cognizant of the potential legal implications of their media activities, developing detailed and instructive media policies that clearly outline the roles and responsibilities of officers and spokespeople when engaging with the media. The policies clearly delineate responsibilities prior to and following the arrest and charging of suspects. These legal concerns also extend to who has the capacity to speak with the media, with officers who communicate with the media without authorization threatened with disciplinary action and/or criminal or civil sanctions, threats that have been carried out in the past (see, for example, the Adam Purcell case, AAP, February 9, 2010). In addition, the role and place of social media in everyday life has also led many organizations to develop specific policies instructing officers of their responsibilities around personal and official use of social media platforms, in an attempt to reduce the risks that such platforms raise around the inappropriateness of content on such sites.

Internationally, this issue has posed challenges and seen varying responses by the courts, resulting in new models and approaches to social media, as well as an expanded dialogue by courts. Notably, in the United Kingdom, the Lord Chief Justice of England and Wales produced a proactive social/digital media report, the *Policy on the Use of Live Text-based Communications from Court* (2011), which recommended some limited use of social media tools by the media. Meanwhile, Scotland is unlikely to adopt moves to allow tweeting from courts (Munro, 2012), while Associated Press reported that in U.S. courts "there's no consensus among either state or federal judges about the propriety of in-court tweets, so individual judges are often left to craft their own rules" (Tarm, 2012, para. 13). At the same time, NSW courts tabled an amendment to its Courts Security Act (2005) prohibiting unauthorized transmission of court proceedings from the courtroom by (among other means) "posting entries containing the sounds, images or information on social media sites or any other website" (Courts and Other Legislation Further Amendment Bill, 2012, p. 11).

Elsewhere in Australia, this issue reached a critical point in late 2012 following the arrest of 41-year-old man in the high-profile murder investigation of ABC staffer Jill Meagher. The ABC reported how police had "identified six sites which they believe could be prejudicial to the case against 41-year-old Adrian Bayley, but say Facebook has refused to shut them down" (Alberici, 2012, n.p.). In this case, not only were police actively seeking the removal of these sites, but Australia's Attorneys General had gathered to urgently address the issue. This example illustrates the challenges for all justice departments and arms of government in the growth of social media use by members of the public in high-profile cases, and one which this article can only briefly touch on, with further research currently underway by the authors.

The Social Media Transition

Thus, the open-access of social media presents major challenges to courts, which are underpinned by imperatives of fair trial and the due administration of justice. However, the use of social media *about* courts' activities represents a different issue to the use of social media *by* the courts.

In 2012, Johnston (2012) noted how the courts had, over the space of two decades, both *sought out* visibility and had visibility *imposed* on them by changing communications practices "first via the Web 1.0 (predominantly websites) as well as traditional media . . . and more recently, by Web 2.0 (predominantly social media)" (p. 41). That study of the Australian court environment found most courts had not adopted any systematic use of social media via Twitter, Facebook, blogs, and YouTube, though most jurisdictions were firmly engaged in Web 1.0, namely Web streaming and Web pages. The study found that courts' adoption of social media was tentative, cautious, and still in the early stages, drawing the following types of responses:

- "[We are] . . . exploring steps into social media."
- "We have still not moved into Twitter."
- "Planning is underway to increase proactive work and possibly use social media."

Since that time, justice institutions from the state of Victoria have developed a social media committee with representatives from courts, tribunals, and other legal institutions focusing on issues, challenges, and benefits relating to the adoption of social media.

Reports from the United States indicate increasing use of social media by the courts as well as moves to allow media to tweet and blog from courts (Johnston, 2012; Meinke, 2010; National Center for State Courts, n.d.); however, though courts may be using Twitter, they appear to be far from active users. For example, the Los Angeles Superior Court, the largest trial court in the United States, which serves more than 10 million people per year (Los Angeles Superior Court, 2013), has

- sent 128 tweets, follows 1 on Twitter, is followed by 2.
  (https://twitter.com/LASuperiorCourt)

This court has a protected Twitter site, which requires users to send a "Follow" request. As a result, it appears to be an extremely inactive Twitter participant.[2]

Other courts are using Twitter more actively, although few on a large scale. For example, the following figures were noted in January 2013:

- New Jersey Courts: 2,596 followers, following 5, tweets 1,765 (http://twitter.com/njcourts)
- Florida Supreme Court: 3,082 followers, following 0, tweets 450
  (https://twitter.com/flcourts)
- DC Courts PIO: 1,453 followers, following 385, tweets 1,071
  (https://twitter.com/DCCourtsInfo)

In the United Kingdom and Australia, also in January 2013, the following Twitter activity was recorded:

- UK Supreme Court: 12,484 followers, following 35, tweets 139
  (http://twitter.com/UKSupremeCourt). It is interesting to note that the UK Supreme Court, which has far more followers than most other courts, heard the extradition hearing of Julian Assange, indicating that individual cases may result in followers for a short period of time.
- Manchester Crown Courts: 165 followers, following 0, tweets 61,113
  (http://twitter.com/ccManchester/). This extremely high number of tweets appears to be due to tweeting the daily law list, with relatively few followers.
- Supreme Court of Victoria: 1,241 followers, following 148, tweets 272
  (http://twitter.com/SCVSupremeCourt).

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[2] As with all other courts noted below, this Twitter account has not been verified by Twitter.

In Australia, only Victorian Courts and the Family Court have trialed the use of Twitter. None have an official Facebook page, and two jurisdictions have RSS feeds. One U.S. report noted how "hesitancy by courts to embrace social media" could be explained by the following differences:

- New media are decentralized and multidirectional, while courts are institutional and largely unidirectional.
- New media are personal and intimate, while courts are separate, even cloistered, and by definition independent.
- New media are multimedia, incorporating video and still images, audio and text, while courts are highly textual. (Davey, 2012, n.p.)

In contrast, the police have become masters of social media, with followings akin to politicians and celebrities. In 2012, Queensland Police had a Facebook fan base of 289,500—larger than that of any newspaper in the state and the national broadcaster the ABC (Pearson, 2012). In this way, social media has become embedded within police communication activities. Queensland Police Service's Media and Public Affairs Departments now incorporate their social media platforms into their media communication. For example, their e-mail signatures include:

Follow us on Twitter—http://twitter.com/QPSmedia
Like us on Facebook—http://www.facebook.com/QueenslandPolice
Watch us on YouTube—http://www.youtube.com/QueenslandPolice

Similarly, NSW Police Force's Public Affairs Branch broadcast their Facebook, Twitter, and YouTube pages in the background of every media conference and advertise their social media presence on official police vehicles. Policing organizations have become very aware of the potential benefits of social media in their communication practice. With pressure on the police—often in the form of formalized key performance indicators—to increase public confidence and reduce community concerns over crime, social media has emerged as a key communication strategy and priority for police. The police now have unfettered and unmediated access to developing "virtual" relationships with a public that previously may only have experienced and learned about matters of policing through the news media.

As well as the fostering of closer police-public relations, and perhaps even because of these closer relations, social media is also increasingly seen as a beneficial investigative tool for police. The Internet is littered with news stories of how police use of Facebook, in particular, has assisted in solving crime as a result of either information posted on the social networking site or information garnered from the public via the site. For example, the *Townsville Bulletin* in 2012 reported that social media led to the recovery of more than 20 stolen cars across the city due to residents posting tip-offs on Facebook (Armistead, 2012).

Police media officials we interviewed spoke positively of the way in which social media has helped solve crime. In NSW, for example, one police spokesman cited an incident in which a man was killed outside a karaoke bar. The crime was captured on CCTV and subsequently placed on YouTube by police—this ultimately led to the identification and arrests of those involved (NSW Police Spokesman 2, 2010).

The benefits of police social media are also being seen internationally. During and following the U.K. riots in August 2011, police were able to harness social media to communicate with the public and seek assistance in identifying alleged rioters. A number of British police agencies, including West Midlands, used Facebook, Twitter, Flickr, and YouTube to allay public fears and concerns over safety during the riots, call for information, publish photographs and descriptions of alleged rioters in an effort to identify suspects, and assure the public that justice would be served (Hartley, 2011; Van Grove, 2011). In the aftermath of the riots, Greater Manchester Police made further use of Facebook and Twitter to "name and shame" those convicted of riot-related offences, although this particular strategy was met with mixed reactions from the public (Van Grove, 2011).

The far-reaching benefits of social media for policing agencies were also felt in Australia in late 2010 and early 2011 during a series of natural disasters in Queensland. During Tropical Cyclone Yasi and Tropical Cyclone Tasha, the Queensland Police Service (QPS) took to their newly established Facebook and Twitter accounts to inform the public about weather patterns and impending threats, safety measures and tips, public transport closures, emergency services responses and, most importantly, "mythbusting" information aimed at quashing widespread rumours and community concerns (Larkin, 2011, p. 37).

Why Social Media?

At the heart of social media is the concept of "relinquishing control" of the message (MacManus, 2005), that it includes participatory culture (Jenkins, 2006), and that it connects and engages with publics (Fitch, 2009). Macnamara (2010) pointed out,

> From definitions offered by the founders and architects of Web 2.0 as well as from scholarly literature, the defining characteristics of this emergent communication environment can be summarised as *openness* for *interactive two-way* interaction at human-to-human as well as human-to-content levels expressed through *conversation, collaboration*, and *co-creativity* harnessing collective intelligence. Explicit in definitions and descriptions of this environment is relinquishing *control* that characterises one-way top-down information distribution models, and a requirement for *authenticity* instead of heavily 'produced' and pre-packaged content. (p. 3)

These descriptions clearly describe the police communication practices more than the courts. The courts, by their nature, are a conservative institution, and their communication practices follow this approach, as illustrated by the tentative and limited uptake of Twitter and apparent lack of engagement with Facebook. Police, on the other hand, have developed a proactive, expansive, and inclusive path. These differences may be explained by the examination undertaken in this article, coupled with one further point of explanation: resourcing.

It is widely recognized that social media, used effectively by organizations, is time and resource demanding. As one legal organization has noted, establishing a social media presence is both time consuming and dependent on broad organizational support (see Counsel, in Johnston, 2012). The courts, still in their early days of using professional communication practitioners, are far less resourced than

police services. Most court PIOs work either on their own or in very small teams, with fewer than 20 individuals employed in Australian courts in 2011 (Johnston, 2012). They are so outnumbered by communication/public information units in government that any comparison seems farcical—for example, in the state of Victoria alone, it was estimated that 822 PR/marketing/communication personnel were employed in government departments in 2010 (Rolfe & Kearney, 2010). In the police sector specifically, public affairs departments and police media units can be found in every state and federal police department, with larger forces employing upwards of 100 full-time staff, inclusive of dedicated social media officers. As such, this sector is far better equipped to establish and sustain the ongoing demands that come with successful social media.

Theoretical Modeling

The histories, legal contexts, and sociocultural expectations of the courts and the police thus provide two very different case studies for review. While the two share principles of advancing information and communication from and about the justice system, this study has shown how there are many factors that set them apart.

If we now consider Habermas' two schemas, it would appear that courts have more in common with the communicative action model, whereas police are more consistent with the strategic model. Collectively, the use of media and social media in the development of public information and relations by police, as indicated in this analysis, is more in keeping with the success-oriented strategic approach, while the courts' work is aimed more at achieving understanding by its stakeholders (the communicative action model). Though Habermas favors the communicative action model, we do not apply a preferred normative style. Rather, the alignments are used to help explain the two styles of communication praxis in achieving their respective goals and objectives.

This is consistent with White's (2005) analysis of science PIOs: "communication professionals within governmental agencies and educational research institutions who disseminate information about health/science issues, enabling better decision-making within the public sphere" (p. 563). For White (2005), the distinction is based on the difference between advocacy (police) or furthering the public agenda through information transfer (courts). As such, the courts have been found to have an information-out approach to communication, whereas police not only use media for information-out, but they seek information back into the dialogic loop via Facebook in particular, using whatever means are available to advocate (and advertise) their own image, as illustrated in the analysis.

Conclusions and Recommendations

This article has found fundamental differences in the motivations, goals, and objectives of court and police communication practices that underpin the differences in their usage across these two sectors. It suggests that differences in historical, legal, and sociocultural developments have positioned the two sectors at very different places for the future engagement with social media. Following Thompson's (2005) observation of visibility, we can see that police have remained by far the more visible of the two institutions, heightened and accentuated with social media. These two sectors can be found to fall within

the theoretical schemas of Habermas' communicative action and strategic action, with courts more in keeping with the former and police the latter.

In summary, we found, courts media and communication have tended to be tentative, with limited use of social media. This may be attributed to

- a focus on "information-out" communication with an emphasis on access and accuracy;
- a historically late entry into institutional communication;
- limited resourcing;
- legal limitations to using social media;
- sociocultural restrictions, including language, professional cultures, and internal understandings of the job.

In contrast, police have embraced and exploited a wide range of media opportunities, with much more fully developed communication and media practices. This has developed into a fulsome and strategic use of social media, attributed to

- a focus on "conversations" and "information-in" as well as promoting a positive police image;
- a long history of police-media relations and an established culture of police-media relations;
- greater access to funds and resources;
- fewer legal restrictions on the use of social media.

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