

## True Crime and Danger Narratives: Reflections on Stories of Violence, Race, and (In)justice

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### ABSTRACT

In the United States, white people have long told both overt and veiled narratives of the purported danger and criminality of people of color. Sometimes known as ‘danger narratives,’ these gruesome accounts often depict the kidnapping, assault, and murder of white women at the hands of men of color. These narratives have been used to promote and justify enslavement, lynching, mass incarceration, and a host of other methods and institutions of white supremacy and racial control.

While white people have been creating and consuming danger narratives, they have also been telling other stories about crime. Like danger narratives, these stories, known as ‘true crime,’ have existed for centuries, purport to be based on actual criminal acts, and largely focus on violence against white women. Like danger narratives, true crime stories are intended to invoke feelings of horror and shock among their audiences and suggest specific methods—arrest, incarceration, or death of the perpetrator—by which social order may be restored. Unlike danger narratives, however, true crime stories focus almost exclusively on white-on-white crime.

Scholars and others often characterize danger narratives as violence-focused stories with explicit racial and racist intent and outcomes, while true crime is generally treated in the media as entertainment, in which crime and punishment are explored largely as if people of color do not exist. This Article challenges this disparate treatment, arguing that true crime narratives serve to justify and support institutions of racial control while claiming racial impartiality. The study of these stories may nevertheless contribute to

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abolitionist and anti-racist revisioning of our criminal system, as the focus on justice in true crime narratives can inform and inspire alternative visions of justice which are in service to racial equity rather than in support of racial subjugation.

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## I. INTRODUCTION

Stories about crime in the United States are stories about race. White people have been telling tales about the violence and depravity of people of color since the first Europeans arrived in North America. Sometimes known as ‘danger narratives,’ these gruesome accounts often depict the kidnapping, assault, and murder of white women at the hands of men of color. These narratives have been used by white people and institutions to promote and justify enslavement, lynching, mass incarceration, and a whole host of other methods and institutions of white supremacy and racial control.

Running alongside these explicitly race-focused crime narratives is another genre of crime-based storytelling, also largely created – and, it appears, consumed by – white people. Like danger narratives, these stories, known as ‘true crime,’ have existed for centuries, purport to be based on actual criminal acts, and largely focus on violence against white women. Like danger narratives, true crime stories are intended to invoke feelings of horror and shock among their audiences and suggest specific methods, such as law enforcement, vigilantism, incarceration, or death of the perpetrator, by which social order may be restored. Unlike danger narratives, however, true crime stories focus almost exclusively on white-on-white crime.

True crime and danger narratives thus appear to occupy parallel tracks in white American culture. Scholars and others often characterize danger narratives as violence-focused stories with explicit racial and racist intent and

outcomes,<sup>1</sup> while true crime is generally treated in the media as entertainment, in which crime and punishment are explored largely as if people of color do not exist.<sup>2</sup> The year in which this Article is written—2020—provides a stark illustration of these different frames. We are encouraged by magazines and other media to turn to true crime shows for entertainment and comfort during pandemic isolation (“10 True Crime Films to Binge While You’re Social Distancing”)<sup>3</sup> while the United States simultaneously seethes with protests focused on ongoing law enforcement violence against Black people and its connection to the “enduring myth of Black criminality.”<sup>4</sup> The work of activists, scholars, journalists, and others have raised awareness of the ways in which societal associations of people of color with danger and violence underpin the racial disparities of our criminal system. Meanwhile, the flood of true crime narratives continues to rise, featuring tales of crime and punishment in a seemingly all-white world.

This Article will challenge the disparate treatment of danger narratives and true crime, and instead argue that true crime, while differing in some ways from danger narratives, similarly serves to justify and support institutions of racial control. By looking specifically at the modern era of true crime narratives, this Article will build on the work of the small but growing number of critics who argue that the true crime genre contributes to and supports the racial inequities of our criminal system despite frequently representing itself as victim-centered, progressive, and feminist. This Article will then consider whether, despite this troubling role, the study of true crime narratives can be of use to those pursuing abolitionist and anti-racist re-visioning of our criminal system.

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<sup>1</sup> Ashley C. Rondini, *White Supremacist Danger Narratives*, 17 CONTEXTS 60 (2018) (“[I]n danger narratives, [b]y casting men of color as innately predatory, White men set themselves up as the logical defenders of a civilized White society. History bears out this pattern repeatedly.”).

<sup>2</sup> JEAN MURLEY, *THE RISE OF TRUE CRIME: 20TH-CENTURY MURDER AND AMERICAN POPULAR CULTURE 2* (Praeger 2008) (“The cultural work of true crime, in its various pop culture manifestations, is important, compelling, and often misunderstood or ignored entirely. But true crime in its current iteration also raises a host of difficult moral, ethical, and cultural questions, questions that are largely ignored by its mainstream producers and consumers: Why is there such an easy acceptance of murder as entertainment? . . . Why do the vast majority of true-crime depictions deal with white, middle-class killers and victims, thereby ignoring the real dimensions of homicide in America, which is statistically more prevalent in urban communities of color?”).

<sup>3</sup> Connor Mannion, *10 True Crime Films to Binge While You’re Social Distancing*, OXYGEN (Mar. 17, 2020, 5:03 PM), [https://perma.cc/6DHT-NDCE]; see also Alaina Demopoulos, *Why True Crime TV has Become So Popular During the Coronavirus Pandemic*, DAILY BEAST (Apr. 10, 2020, 10:30 AM), [https://perma.cc/2XZ9-52WX].

<sup>4</sup> Ta-Nehisi Coates, *The Enduring Myth of Black Criminality*, KALAMAZOO COLLEGE (May 8, 2018), [https://perma.cc/SPA9-7AGV]. See also Quentin Fottrell, *How America Perfected The ‘Art of Demonizing Black Men,’* MARKET WATCH (June 3, 2020), [https://perma.cc/WSM7-Z5B7].

Part I will provide a brief review of danger narratives in U.S. history, including their role in defending and furthering white supremacist actions and institutions. Part II will discuss the definition and tropes of true crime and review the history of true crime narratives in the United States. Part III will look for meaning in the gender and racial norms of the true crime genre, including consideration of the similarities and differences between true crime and danger narratives. This Part will then argue that white-authored and white-themed crime narratives serve to support institutional racial inequities in our current criminal system. Part IV will conclude by reflecting on whether or how discussions of “justice” in true crime narratives can inform our understanding of how we might advance racial equity in the U.S. criminal system.

## II. A BRIEF HISTORY OF AMERICAN DANGER NARRATIVES

In the United States, white people and white-controlled power structures have long told both overt and veiled narratives of the purported danger and criminality of people of color to justify and promote racist practices and institutions.<sup>5</sup> Such stories, termed by some as “danger narratives,” serve to “justify state-sanctioned and vigilante forms of violence against oppressed communities while also implicitly functioning to assert the ‘rightful’ place of [w]hite men in positions of power.”<sup>6</sup> These explicitly racial—and racist—narratives have appeared in the press, been spread by word of mouth, and been central to legislative sessions and political campaigns for hundreds of years.<sup>7</sup> Further, these stories have often explicitly linked the supposed menace

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<sup>5</sup> See Bryan Adamson, *Thugs, Crooks, and Rebellious Negroes: Racist and Racialized Distortions in Media Coverage of Michael Brown and the Ferguson Demonstrations*, 32 HARV. J. RACIAL & ETHNIC JUST. 189, 192 (2016) (“The media construction of Blacks as thugs or criminals is nothing new. Negative representations have been evident ever since Western colonization of the New World, when colonial newspapers ran slave advertisements and devoted ink to Black insurrections and crimes in columns entitled ‘The Proceedings of the Rebellious Negroes.’ Even today, on television news, Blacks are over-represented as crime perpetrators.”); see also, e.g., Shawn E. Fields, *Weaponized Racial Fear*, 93 TUL. L. REV. 931, 934 (2019) (The “myth of the ‘black bogeyman’ has endured for centuries and taken many forms—from the ‘rebellious Negro,’ to the ‘[b]lack brute’ rapist, to the ‘super-predator.’ These racist tropes of a black criminal subclass are now so ingrained in the fabric of American society that science long ago confirmed the existence of a pervasive, unconscious, and largely automatic bias against dark-skinned individuals as more hostile, criminal, and prone to violence.”).

<sup>6</sup> Rondini, *supra* note 1, at 60.

<sup>7</sup> See, e.g., IBRAM X. KENDI, STAMPED FROM THE BEGINNING: THE DEFINITIVE HISTORY OF RACIST IDEAS IN AMERICA 410–411 (Nation Books 2016) (reviewing the history of a multitude of racist concepts, including associations of people of color and criminality exemplified in Nixon’s ‘southern strategy,’ which substituted ‘criminal’ for ‘Black’ or ‘Puerto Rican,’ thus allowing politicians to call for ‘law and order’ without mentioning race, in order to “[d]emean Black people, and praise White people, without ever saying *Black people* or *White people*.”).

inherent to men of color to the victimization of white women.<sup>8</sup> Even a cursory review of two examples of this genre, captivity narratives and rape narratives, gives insight to their pervasiveness and impact.

“Captivity narratives”—stories, often authored by white men, of the experiences of white women who were captured by Native American people—fascinated white audiences from the 17<sup>th</sup> to the 20<sup>th</sup> centuries<sup>9</sup> with their tales of disruption, violence, and horror followed by the resolution of the protagonist’s rescue or escape (or, at times, assimilation into the tribe and rejection of white culture).<sup>10</sup> These stories, while certainly embellished, exaggerated, and at times entirely fictionalized, were often “true” in which they represented, or claimed to represent, the actual experiences of captured women.<sup>11</sup> One modern anthology of these narratives describes them as “arguably the first American literary form dominated by the experiences of women,”<sup>12</sup> specifically, white women’s stories of victimization at the hands of non-white people.

Mary Rowlandson’s famous account of her capture by members of the Nipmuck, Wampanoag, and Narragansett<sup>13</sup> tribes begins with a description of a brutal attack:

On the tenth of February 1675, came the Indians with great numbers upon Lancaster . . . several houses were burning, and the smoke ascending to heaven. There were five persons taken in one house; the father, and the mother and a sucking child, they knocked on the head . . . another there was who running along was shot and wounded, and fell

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<sup>8</sup> Cindy Casares, *Trump’s Repeated Use of The Mexican Rapist Trope is as Old (And as Racist) as Colonialism*, NBC NEWS (Apr. 7, 2018), <https://www.nbcnews.com/think/opinion/trump-s-repeated-use-mexican-rapist-trope-old-racist-colonialism-ncna863451> (“The myth of black and brown men as sexual predators toward white women is a deeply psychological motivator that activates people’s basest survival instincts, one that’s been around as long as white men have been colonizing places filled with darker-hued humans.”).

<sup>9</sup> See generally WOMEN’S INDIAN CAPTIVITY NARRATIVES (Kathryn Zabelle Derounian-Stodola ed., Penguin 1st ed. 1998) (including narratives authored between 1682–1892).

<sup>10</sup> Some narratives presented the Native American people in a positive light, and some stories featured white protagonists that chose to remain with the Native American people who had originally captured them rather than return to white society. See, e.g., KATHRYN ZABELLE DEROUNIAN-STODOLA & JAMES A. LEVERNIER, THE INDIAN CAPTIVITY NARRATIVE: 1550-1900 (Twayne 1993) (“Many adopted captives grew to love their Indian families and opposed leaving them even when given the opportunity to do so.”).

<sup>11</sup> *Id.* at 2 (“Conservative estimates place the number of captives taken by Indians in the tens of thousands.”).

<sup>12</sup> WOMEN’S INDIAN CAPTIVITY NARRATIVES, *supra* note 9.

<sup>13</sup> Annette Kolodny, *Among the Indians: The Uses of Captivity*, N.Y. TIMES (Jan. 31, 1993), [<https://perma.cc/632B-CNGV>].

down; he begged of them his life . . . but they would not hearken to him . . .<sup>14</sup>

Rowlandson's experience is filled with other harrowing details of violence and grief. Her six-year-old child dies while in captivity, following days of injury and starvation, and Rowlandson is forced to lie next her child's dead body all night.<sup>15</sup> She describes the case of another white woman who was stripped naked by Native American people, killed with her child, and then their bodies burned.<sup>16</sup> Rowlandson also recounts times in which she was shown kindness by Native American people, but when she returns home she celebrates that she "was not before so much hemmed in with the merciless and cruel heathen, but now as much with pitiful, tender-hearted and compassionate Christians."<sup>17</sup>

Another highly influential captivity account, written by Cotton Mather, featured the story of Hannah Duston.<sup>18</sup> A group of Native American people, assumed members of the Abenaki tribe, attacked Duston's Massachusetts community in 1697 and kidnapped both her and her week-old daughter.<sup>19</sup> In Mather's recounting:

About nineteen or twenty Indians now led these away, with about half a score other English captives; but ere they had gone many steps, they dash'd out the brains of the infant against a tree; and several of the other captives, as they began to tire in the sad journey, were soon sent unto their long home; the salvages [sic] would presently bury their hatchets in their brains, and leave their carcasses [sic] on the ground for birds and beasts to feed upon.<sup>20</sup>

Duston, along with another white woman and a white boy, later slaughtered ten of the Native American people, six of whom were children, with an

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<sup>14</sup> MARY ROWLANDSON, *CAPTIVITY AND RESTORATION* (2009) (ebook) (also known as *THE SOVEREIGNTY AND GOODNESS OF GOD*, also known as *A NARRATIVE OF THE CAPTIVITY AND REMOVES OF MRS. MARY ROWLANDSON*, also known as *THE TRUE HISTORY OF THE CAPTIVITY AND RESTORATION OF MRS. MARY ROWLANDSON* (1682)).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* ("[A]nd when [the Native American people] had sung and danced about her (in their hellish manner) as long as they pleased they knocked her on head, and the child in her arms with her. When they had done that they made a fire and put them both into it . . .").

<sup>17</sup> *Id.*

<sup>18</sup> COTTON MATHER, *MAGNALIA CHRISTI AMERICANA: OR, THE ECCLESIASTICAL HISTORY OF NEW ENGLAND, FROM ITS FIRST PLANTING IN THE YEAR 1620, UNTO THE YEAR OF OUR LORD, 1698* at 634-636 (1702).

<sup>19</sup> Barbara Cutter, *The Gruesome Story of Hannah Duston, Whose Slaying of Indians Made Her an American Folk "Hero"*, *SMITHSONIAN MAG.* (Apr. 9, 2018), [<https://perma.cc/2CGZ-XXFP>].

<sup>20</sup> Kathryn Whitford, *Hannah Duston: The Judgement of History*, *HAWTHORNE IN SALEM*, [<https://perma.cc/Q75K-48NF>] (last visited May 6, 2021).

axe as they slept.<sup>21</sup> She then scalped all of the corpses and returned to Massachusetts to present the scalps to the legislature.<sup>22</sup> This act was highly praised—a statute of Dunston holding an axe and a fistful of scalps is thought to be the first statute of a woman erected in North America and still stands<sup>23</sup>—and her story was re-told in history books, children’s books, articles, and other sources for decades after the event.<sup>24</sup>

There were hundreds, if not thousands, of published captivity narratives like these; the genre was “immensely, even phenomenally, popular” from the 1600s through the 1900s, and these stories are still read today.<sup>25</sup> Not all captivity narratives villainized Native American people; some sought to humanize and contextualize the people among whom the authors lived.<sup>26</sup> But many narratives, accompanied at times by “[l]urid illustrations of young white women about to be scalped or captured,”<sup>27</sup> emphasized the gruesome physical violence (and sometimes, but not always, sexual violence), emotional and mental anguish, and deprivation inflicted upon white women captives by Native American people. White audiences certainly consumed these grisly tales of beatings, cannibalism, hangings, infanticide, and starvation as entertainment,<sup>28</sup> but the stories also served to vilify Native people, and thus support

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<sup>21</sup> Cutter, *supra* note 19. *See also* Whitford, *supra* note 20 (“But on April 30, while they were yet, it may be, about an hundred and fifty miles from the Indian town, a little before break of day, when the whole crew was in a dead sleep, (reader, see if it prove not so!) one of these women took up a resolution to imitate the action of Jael upon Sisera; and being where she had not her own life secured by any law unto her she thought she was not forbidden by any law to take away the life of the murderers by whom her child had been butchered. She heartened the nurse and youth to assist her in this enterprise(sic); and all furnished themselves with hatchets for the purpose, they struck such home blows upon the heads of their sleeping oppressors . . .”).

<sup>22</sup> Whitford, *supra* note 20 (reporting that one Native American woman was wounded but lived, while another Native American boy ran away during the attack).

<sup>23</sup> *Monumental Dilemma*, 99% INVISIBLE (May 5, 2014), [<https://perma.cc/2LJT-35NL>]. Two other monuments to Dunston also still exist. *See* Cutter, *supra* note 19.

<sup>24</sup> Cutter, *supra* note 19 (“After 1702, Americans forgot about Hannah Duston until the 1820s, when there was a half-century-long revival of interest in her story, stoked by the nation’s expansion westward into Indian lands. The nation’s foremost literary figures, including Nathaniel Hawthorne, Henry David Thoreau, and John Greenleaf Whittier, all wrote about her. Virtually all histories of the United States from that time contained a version of the story, as did numerous magazines, children’s books, biographies of famous Americans, and guidebooks. A mountain in northern New Hampshire was named ‘Mt. Dustan’ in her honor—and of course, communities erected the three monuments.”).

<sup>25</sup> DEROUNIAN-STODOLA & LEVERNIER, *supra* note 10, at 14.

<sup>26</sup> *See, e.g.*, James E. Seaver, *A Narrative of the Life of Mrs. Mary Jemison* (1826) (recounting the capture of a teenage Mary Jemison by both Shawnee and French forces; she was then traded to the Seneca people, with whom she lived for the rest of her life, marrying two men from the Seneca tribe and bearing eight children).

<sup>27</sup> Kolodny, *supra* note 13.

<sup>28</sup> DEROUNIAN-STODOLA & LEVERNIER, *supra* note 10, at 40 (“In a regular rhythm, while new captivity accounts were published, the more durable old ones were revamped and republished

and justify westward expansion; forced removal of Native American people from their native lands, including the Trail of Tears; the massacre of Native American people; and other means of racial control and subjugation.<sup>29</sup>

Similar tropes can be found in white-created crime narratives which depict African American men as inherently violent and sexually aggressive, with many such narratives “perpetuat[ing] the deadly stereotype of African American men as hypersexual threats to white womanhood.”<sup>30</sup> These narratives grew more pervasive after slavery was abolished, when white fear of the possibility of growing Black political and economic power was “met with a shift from Black people being viewed as compliant and submissive servants to savages and brute monsters.”<sup>31</sup> Allegations of criminal activity were then used by white people to justify the lynching and beating of African American people, and accusations of sexual assault were prevalent; “[n]early 25 percent of the lynchings of African Americans in the South were based on charges of sexual assault.”<sup>32</sup> These stories, while almost entirely false, were presented as true by those telling them. Indeed, in the Jim Crow era, “[o]ne of the greatest victories of white supremacy . . . was to persuade whites that they confronted an epidemic of black men raping white women.”<sup>33</sup>

These stories portray Black men as destroying the tranquility and safety of white women’s lives through disruptive acts of sexual and physical violence. A May 17, 1892 *Memphis Daily Commercial* editorial (quoted by Ida B. Wells in *Southern Horrors: Lynch Law in All Its Phases*,<sup>34</sup>) is representative:

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alongside them. The reading public seemed to crave both the new and the novel as well as the old and the classic.”).

<sup>29</sup> See DEROUNIAN-STODOLA & LEVERNIER, *supra* note 10, at 31 (“With the conclusion of the American Revolution and the withdrawal of British military forces from North America, anti-Indian propaganda becomes a major motivation for writing and publishing captivities . . . In these narratives, American Indians are depicted as so ‘fierce and cruel’ that ‘an extirpation of them would be useful to the world, and honorable to those who can effect it.’”).

<sup>30</sup> EQUAL JUST. INITIATIVE, *LYNCHING IN AMERICA: CONFRONTING THE LEGACY OF RACIAL TERROR* 30 (3d ed. 2017), [<https://perma.cc/8HLC-3JLE>]. Anti-lynching laws were also met in state legislatures with explicit references to the need to protect white women from African American men. See Jennifer Wiggins, *Rape, Racism, and the Law*, 6 HARV. WOMEN’S L.J. 103, 125 n. 136 (1983).

<sup>31</sup> Calvin John Smiley & David Fakunle, *From “Brute” to “Thug:” The Demonization and Criminalization of Unarmed Black Male Victims in America*, 26 J. HUM. BEHAV. SOC. ENV’T 350, 353 (2016) [hereinafter Smiley & Fakunle].

<sup>32</sup> EQUAL JUST. INITIATIVE, *supra* note 30, at 29–30 (“Of the 4084 African American lynching victims [EJI] documented, nearly 25 percent were accused of sexual assault and nearly 30 percent were accused of murder. Hundreds more Black people were lynched based on accusations of far less serious crimes like arson, robbery, non-sexual assault, . . . and vagrancy, many of which were not punishable by death if convicted in a court of law.”) (footnotes omitted).

<sup>33</sup> Stephen Kantrowitz, *America’s Long History of Racial Fear*, WE’RE HISTORY (June 24, 2015), [<https://perma.cc/9P3J-A5L5>].

<sup>34</sup> IDA B. WELLS-BARNETT, *SOUTHERN HORRORS: LYNCH LAW IN ALL ITS PHASES* 16 (New York Age Print 1892), [<https://perma.cc/WQJ7-WT4Z>].



In each case [of rape] the crime was deliberately planned and perpetrated by several Negroes. They watched for an opportunity when the women were left without a protector. It was not a sudden yielding to a fit of passion, but the consummation of a devilish purpose which has been seeking and waiting for the opportunity. . . . No man can leave his family at night without the dread that some roving Negro ruffian is watching and waiting for this opportunity.<sup>35</sup>

George T. Winston, in his 1901 article, *The Relation of the Whites to the Negroes*, wrote ominously that, “[W]hen a knock is heard at the door [a white woman] shudders with nameless horror. The black brute is lurking in the dark, a monstrous beast, crazed with lust.”<sup>36</sup> A 1956 *Look* magazine article about the murder of 14-year-old Emmett Till explained that “in the Delta, no white woman ever travels country roads after dark unattended by a man[.]” and one of the white murderers later justified his act by stating that “when a [\*\*\*\*\*] gets close to mentioning sex with a white woman, he's tired o' livin'. I'm likely to kill him.”<sup>37</sup>

These tropes are alive in the modern era as well. Examples are legion. In 1989, five Black teenage boys—now known as the “Exonerated Five”<sup>38</sup>—were wrongfully arrested and later convicted for the beating and rape of a white woman in New York City, an event which received an enormous amount of national press coverage describing the boys as “wilding,” “rampaging in wolf packs,” and “driven by a collective fury . . . they had only one goal: to smash, hurt, rob, stomp, rape.”<sup>39</sup> In 1995, Professor John Dilulio wrote that kids in “[B]lack inner-city neighborhoods” were “super-predators,” characterized by

The buzz of impulsive violence, the vacant stares and smiles, and the remorseless eyes . . . for as long as their youthful energies hold out, they will do what comes ‘naturally’: murder,

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<sup>35</sup> *Id.* at 15. The press regularly published notices of planned lynchings, beatings, and other acts of terrorism before they occurred, so that white people could plan to attend. See also Brent Staples, *When Southern Newspapers Justified Lynching*, N.Y. TIMES (May 5, 2018), [https://perma.cc/9AAF-KEBW].

<sup>36</sup> George T. Winston, *The Relation of the Whites to the Negroes*, 18 ANNALS AM. ACAD. POL. & SOC. SCI. 105, 109 (1901).

<sup>37</sup> *The Murder of Emmett Till: Killers' Confession*, PBS, [https://perma.cc/C9PX-GAAJ] (last visited May 6, 2021).

<sup>38</sup> Matt Fagan, *Here's The Lesson Passed on to Passaic Students by One of The 'Exonerated 5'*, NORTHJERSEY (Feb. 17, 2020), [https://perma.cc/VY4E-JZAJ].

<sup>39</sup> Elizabeth Hinton, *How the 'Central Park Five' Changed The History of American Law*, THE ATLANTIC (June 2, 2019), [https://perma.cc/4L2A-3UZW]. A Netflix series “based on” the case, *When They See Us*, was watched 23 million times in the month after its release. Deanna Paul, *When They See Us' Tells the Important Story of the Central Park Five. Here's What it Leaves Out.*, WASH. POST (June 29, 2019), [https://perma.cc/8DEV-CXCW].

rape, rob, assault, burglarize, deal deadly drugs, and get high.<sup>40</sup>

A white man who massacred nine African American people in a Charleston prayer group in 2015 said he did so because African American people were “raping our women and are taking over our country.”<sup>41</sup> In 2016, a viral meme titled “Interracial Rape,” illustrated by a photo of a battered and bruised white woman next to an image of a smiling and unharmed Black woman, falsely claimed that interracial rape occurs solely with Black men as perpetrators and white women as victims.<sup>42</sup>

Danger narratives are not limited to stories about Native American and African American people. In the 1800s, for example, white-controlled newspapers stoked fears about Chinese and Japanese men raping white women;<sup>43</sup> in the pre-World War II era of the 20<sup>th</sup> century, “popular culture depicted dark-skinned caricatures of Japanese men attacking or abducting White women.”<sup>44</sup> In 2015, President Donald Trump stated in a speech that when Mexican people come to the United States, “They’re bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good people.”<sup>45</sup> Nor are these stories focused solely on violence against white women; danger narratives portray people of color as being more devious, less trustworthy, and more violent than white people—indeed, more inherently criminal in almost every way. These narratives arise in different eras and in different political settings, but traffic in the same fear-based tropes in which people of color commit disruptive and terrifying acts of criminality and violence, and order must be restored by white-imposed punishment and control.

The association of people of color with criminality has been a fundamental tenet of white supremacy, and an underpinning of the creation and expansion of policies and institutions with significant negative impacts on non-white racial

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<sup>40</sup> John DiLulio, *The Coming of the Super – Predators*, WASH. EXAMINER (Nov. 27, 1995), [https://perma.cc/PHB2-K3TB] (“No one in academia is a bigger fan of incarceration than I am. Between 1985 and 1991 the number of juveniles in custody increased from 49,000 to nearly 58,000. By my estimate, we will probably need to incarcerate at least 150,000 juvenile criminals in the years just ahead.”).

<sup>41</sup> Rachel Kaadzi Ghansah, *A Most American Terrorist: The Making of Dylann Roof*, GQ (Aug. 21, 2017), [https://perma.cc/9CJ7-DHC8].

<sup>42</sup> Rafi Letzter, *Here’s How Bad Government Math Spanned a Racist Lie About Sexual Assault*, BUS. INSIDER (Oct. 18, 2016), [https://perma.cc/K4AG-8BBR] (discussing a meme that cited a government report appearing to contain these statistics, although a closer look reveals that the data was extrapolated from a sample size of ten or fewer women in 2008).

<sup>43</sup> Jennifer Loubriel, *4 Racist Stereotypes White Patriarchy Invented to ‘Protect’ White Womanhood*, EVERYDAY FEMINISM (July 10, 2016), [https://perma.cc/L3KH-J85H] (“The Chinese are uncivilized, unclean, and filthy . . . lustful and sensual in their dispositions.”).

<sup>44</sup> Rondini, *supra* note 1, at 61.

<sup>45</sup> Michelle Ye Hee Lee, *Donald Trump’s False Comments Connecting Mexican Immigrants and Crime*, WASH. POST (July 8, 2015, 2:00 AM), [https://perma.cc/6UEZ-WQPR].

groups.<sup>46</sup> These stories have been used to justify violence against people of color, often under the guise of protecting white women, while providing absolution to the criminal wrongdoing of white men (and women). They have been the impetus or justification for laws and policies ranging from westward expansion to the separation of immigrant parents from their children at the border.<sup>47</sup> They have given white people a distorted understanding of how many crimes people of color, particularly African-American and Latino<sup>48</sup> people, commit, and have fueled a punitive response to lawbreaking in white culture that exceeds that of people of other races.<sup>49</sup> They have been directly linked to law enforcement violence against Black people,<sup>50</sup> and to the destruction of entire Black communities by white mobs.<sup>51</sup> Stories that white people and white power

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<sup>46</sup> The list of examples is almost limitless. The concept of the ‘super-predator’ to describe primarily Black youth, for example, spread widely in the 1990s, influencing politicians and policymakers in the formation of criminal law and policy and resulting in the wide passage of laws that permitted prosecutors to charge children as adults and courts to sentence children under 18 to life in prison or even to death. *See also* Hinton, *supra* note 39 (“Amid the ‘super-predator’ frenzy, nearly every state passed laws that made it easier to punish children as young as 13 as adults and, in some cases, *sentence* them to life without the possibility of parole. In 1998 alone, roughly 200,000 youths were put through the adult court system, and the majority of them were black . . . These practices went even further in the mid-1990s . . . [B]etween the release of ‘The Coming of the Super-Predators’ in 1995 and the Supreme Court’s *Roper v. Simmons* decision, which outlawed the death penalty for juveniles in 2005, 62 percent of the children placed on death row across the U.S. were black or Latino.”).

<sup>47</sup> Jasmine Aguilera, *Here’s What to Know About The Status of Family Separation at The U.S. Border, Which Isn’t Nearly Over*, TIME (Oct. 25, 2019, 2:49 PM), [<https://perma.cc/S6H9-MR2G>] (“The ACLU argued in federal court Friday that the children separated since that injunction have been wrongfully taken from their parents in violation of the administration’s own executive order, saying the separations have been ordered on grounds including a parent’s minor criminal offense—such as a parking violation or DUI.”).

<sup>48</sup> Nazgol Ghandnoosh, *Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies*, THE SENTENCING PROJECT 1, 3 (2014), [<https://perma.cc/K9MH-VF8J>] (“White Americans overestimate the proportion of crime committed by people of color, and associate people of color with criminality. For example, white respondents in a 2010 survey overestimated the actual share of burglaries, illegal drug sales, and juvenile crime committed by African Americans by 20-30%.”).

<sup>49</sup> *Id.* (“Whites are more punitive than blacks and Hispanics even though they experience less crime. For example, while the majority of whites supported the death penalty for someone convicted of murder in 2013, half of Hispanics and a majority of blacks opposed this punishment. Compared to blacks, whites are also more likely to support ‘three strikes and you’re out’ laws, to describe the courts as not harsh enough, and to endorse trying youth as adults. And yet, blacks and Hispanics are far more likely than whites to be victims of violent and property crimes.”).

<sup>50</sup> *See generally* Smiley & Fakunle, *supra* text accompanying note 31 (documenting the ways in which white-created “myths, stereotypes, and racist ideologies” have fueled violence and discrimination against Black men in the form of laws, judicial rulings, racial violence, and mass incarceration).

<sup>51</sup> In Tulsa, Oklahoma, in 1921, a white mob used the rumor that a Black man had assaulted a white woman to justify a massacre of up to 300 Black people, injuries to hundreds more, and the looting and burning of the Black business district. *1921 Tulsa Race Massacre*, TULSA HIST

structures have told about the criminality and violence inherent to people of color have impacted every aspect of our system of law enforcement and punishment—from kindergarten suspensions<sup>52</sup> to self-defense claims,<sup>53</sup> mass incarceration,<sup>54</sup> sentencing,<sup>55</sup> and beyond. The impact of danger narratives on people of color is clear. But does the parallel criminal narrative tradition in white America—true crime narratives focused on white-on-white crime—play the same role? A closer look at the true crime genre may help us better understand the role of white-authored crime narratives in the creation and expansion of our systems of law enforcement, trial, and punishment.

### III. A BRIEF HISTORY OF AMERICAN TRUE CRIME NARRATIVES

True crime is a hugely popular and growing media genre, one which tells emotional and provocative stories about violence, loss, investigation, justice, revenge, and punishment. It appeals to deep fascinations with deviancy, mystery, and horror, is available in multiple forms, and is widely disseminated. True crime media thus leads and prompts a wide-ranging cultural conversation about crime and punishment—aspects of our society which are steeped in racial inequity—through a lens of whiteness. In order to explore whether and how stories about white-on-white crime might contribute to that racial inequity in ways similar to overtly racist danger narratives, it is first necessary to understand the parameters of the true crime genre and its long history in the United States.

#### *A. True Crime Defined*

True crime media is not the same as journalism,<sup>56</sup> nor is it the same as a detective story or other fictionalized accounts of the resolution and fallout of

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SOC'Y & MUSEUM, [https://perma.cc/5MCT-PGB9] (last visited May 6, 2021); *see also* Jessica Glenza, *Rosewood Massacre a Harrowing Tale of Racism and The Road Toward Reparations*, THE GUARDIAN (Jan. 3, 2016), [https://perma.cc/E8US-U8TT] (explaining that in 1923, after white people blamed a Black man for beating a white woman, a white mob killed eight Black people and destroyed the Black town of Rosewood, Florida).

<sup>52</sup> See Melinda D. Anderson, *Why Are So Many Preschoolers Getting Suspended?*, THE ATLANTIC (Dec. 7, 2015), [https://perma.cc/8HPR-PNEJ].

<sup>53</sup> Addie C. Rolnick, *Defending White Space*, 40 CARDOZO L. REV. 1639, 1647 (2019) (examining “the role of self-defense doctrine in maintaining White residential spaces.”).

<sup>54</sup> See *Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System*, THE SENTENCING PROJECT (Apr. 19, 2018), [https://perma.cc/QLD8-X9RC] [hereinafter *Report to the United Nations*].

<sup>55</sup> *Demographic Differences in Sentencing*, U.S. SENTENCING COMM'N (Nov. 14, 2017), [https://perma.cc/RPW4-CLM2].

<sup>56</sup> IAN CASE PUNNETT, *TOWARD A THEORY OF TRUE CRIME NARRATIVES: A TEXTUAL ANALYSIS* 85, 93 (Routledge 2018) (arguing that true crime is a “separate, legitimate art form that predates journalism,” and stating that “[t]rue crime and journalism share similar historical DNA, but true crime seeks to create emotional sensations and regarding criminal events and transport moral messages and social truths through entertaining narratives rich in detail in color. True crime eschews a slavish, chronological mono-dimensional discourse of news events in favor of narrative forms more commonly associated with fiction.”).

criminal acts, although the boundaries between journalism, fiction, and true crime are at times blurry.<sup>57</sup> Descriptions differ, but all definitions of true crime<sup>58</sup> include both storytelling and an allegiance to truth-telling as essential aspects of the genre.<sup>59</sup> In the words of Professor Mark Selzer, “true crime is crime fact that looks like crime fiction.”<sup>60</sup>

The primary characteristics of true crime media—storytelling and fidelity to reality—have their own complexities. Dr. Jean Murley, author of *The Rise of True Crime: 20th Century Murder and American Popular Culture*, defines true crime as “a murder narrative whose truth-claims are unchallenged by its audience and taken as ‘real,’” noting, however, that in the process of storytelling “true crime always fictionalizes, emphasizes, exaggerates, interprets, constructs, and creates ‘truth.’”<sup>61</sup> In *Toward a Theory of True Crime Narratives*, Dr. Ian Case Punnett developed a two-step theory for defining whether a narrative about crime is a “true crime” narrative.<sup>62</sup> He first asks whether a particular crime narrative is “striving to be as true as possible.”<sup>63</sup> He then asks whether the narrative includes a majority of the themes intrinsic to the genre, including seeking justice for a victim, raising awareness of systemic injustices, emphasizing the importance of forensic science, and serving as modern “folk tales” that “explain a truth to the public.”<sup>64</sup>

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<sup>57</sup> MURLEY, *supra* note 2, at 13 (“One major challenge raised by the genre as a whole is the muddy distinction between the true, the real, and the fictional in murder narration.”).

<sup>58</sup> Rachel Franks, *True Crime: The Regular Reinvention of a Genre*, 1 J. ASIA-PACIFIC POP CULTURE 239, 239 (2016) (noting that true crime is “sometimes referred to as fact crime, nonfiction crime, fact-based crime literature, or, more recently, as crime narrative or murder narrative.”).

<sup>59</sup> In a boiled down definition, true crime consists of “accounts of actual crime cases, often in narrative form,” and it is power of storytelling couched in an allegiance to reality that underlies the allure of true crime media. Alex M. Durham, H. Preston Elrod & Patrick T. Kinkade, *Images of Crime and Justice: Murder and the ‘True Crime’ Genre*, 23 J. CRIM. JUST. 143, 144 (1995) (“The appeal of the genre is that it purports to be about the real world, not merely the fictional world of the novel.”).

<sup>60</sup> Mark Seltzer, *Murder/Media/Modernity*, 38 CAN. REV. AM. STUD. 11, 12 (2008).

<sup>61</sup> MURLEY, *supra* note 2, at 13.

<sup>62</sup> PUNNETT, *supra* note 56, at 95–99.

<sup>63</sup> *Id.* at 96.

<sup>64</sup> *Id.* at 96–99 (listing the complete set of themes as: seeking justice for a victim, aspiring to subvert the status quo in some way, raising awareness of systemic injustices, strongly focusing on the particular setting of the crime, emphasizing the importance of forensic science, telling stories from a position of advocacy rather than neutrality, and serving as modern “folk tales” that “explain a truth to the public.” Punnett refers to these themes as “codes,” which he labels as Justice, Subversive, Crusader, Geographic, Forensic, Vocative, and Folkloric). Others have also compared true crime to folk tales, such as commentator Kate Tuttle, who wrote in *The New York Times* that, “[I]n the best true crime there’s a quality of the fairy tale or fable: a simple story that reveals powerful, complicated truths. ‘Hansel and Gretel’ is a true-crime story: Their father and stepmother abandon them; the witch tries to murder them. Why do children love that scary tale? Because the fear is a thrill, because they can imagine themselves in the same situation and they like the useful advice about bread crumbs and white pebbles. And because in the end justice is served—evil is vanquished and the lost children make their

Under Punnett's analysis, narratives which meet these requirements constitute true crime, which Punnett, like Seltzer, observes "tell a story that is true—but in the manner of one that is not."<sup>65</sup>

While true crime stories do involve the reoccurring themes of the type identified by Punnett and others, the draw of the genre is in the storytelling—how those themes are presented and the ways in which the tales are told. True crime stories are traditionally about murder, often murder accompanied by other crimes such as kidnapping or sexual assault.<sup>66</sup> Although there are times that the genre focuses on non-fatal crimes,<sup>67</sup> the emphasis in true crime is on sensational, unusual, traumatic, and violent acts,<sup>68</sup> usually inflicted upon white women.<sup>69</sup> Like horror or detective novels, true crimes stories emphasize mystery, images and descriptions of horrific acts, unexpected and tragic disruption of conventional lives and routines, and the specialized investigative tools and techniques of law enforcement.<sup>70</sup> A look at the introductions to several true crime narratives, pulled from a television program, a book, and a podcast, reveal some of these narrative tools at work:

She was a young woman who devoted her whole life to making music. An accomplished musician who played several instruments, acted, even wrote her own songs . . . So who could

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way home." Kate Tuttle, *Why do Women Love True Crime?*, N.Y. TIMES (July 16, 2019), [<https://perma.cc/XPK3-4V8G>].

<sup>65</sup> PUNNETT, *supra* note 56, at 99.

<sup>66</sup> HAROLD SCHECHTER, TRUE CRIME: AN AMERICAN ANTHOLOGY xii–xiii (Library of America, 1st ed. 2008) ("Some of these early [true crime] accounts detailed the misspent lives of pirates and frontier desperadoes, but their main focus was on the kinds of homicides that have always formed the subject matter of the true-crime genre in its most typical form . . . those peculiarly horrific and unsettling crimes that have from the beginning haunted the American imagination: crimes that have, in the words of pioneering newspaperman James Gordon Bennett, 'some of the sublime of horror about them' . . .").

<sup>67</sup> For example, the podcast, The Drop Out, focuses on "the rise and fall of Elizabeth Holmes and her company, Theranos," which resulted in fraud charges. *The Dropout*, ABC NEWS, [<https://perma.cc/GZL3-GR5V>] (last visited May 6, 2021). Swindled is a podcast "about white collar crime and corporate greed." *Swindled*, [<https://perma.cc/BE6N-ZJ6D>] (last visited May 6, 2021).

<sup>68</sup> SCHECHTER, *supra* note 66, at xiii ("Crimes that are 'frightful,' 'horrid,' 'extraordinary,' and 'unheard-of' . . . acts of violence that can erupt in otherwise ordinary lives.").

<sup>69</sup> MURLEY, *supra* note 2, at 5–6 ("True crime . . . is driven by and preoccupied with themes of an updated, contemporary gothic horror . . . This horror is personified by the presence of the psychopath, paranoia, and hidden threats lurking in a seemingly innocuous environment, domestic and romantic betrayals and reversals, and extreme, graphic, sexualized violence against women . . . The overwhelming majority of true-crime stories portray white killers and victims, with a heavy emphasis on serial killing and murder in the domestic sphere, and the 'missing white woman of the week' is vastly overrepresented in major media forms . . .").

<sup>70</sup> *Id.* at 2 ("True crime is a way of making sense of the senseless, but it has also become a worldview, an outlook, and a perspective on contemporary American life, one that is suspicious and cynical, narrowly focused on the worst kind of crimes, and preoccupied with safety, order, and justice.").

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have predicted that on July 14, 2013, the music and a young girl's dreams would end so suddenly? . . . A small town was faced with a mystery, with police asking what was real, and what was a performance.<sup>71</sup>

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On the side of a four-lane road, obscured by snowdrifts five feet high, sat a small coffee kiosk, its bright teal paint vibrant against the asphalt and gray big-box stores. Drivers passing by could see the familiar top peeking above the piles of snow, this cheerful but lonely little shack. The night before, eighteen-year-old Samantha Koenig had been working this kiosk alone. Now she had vanished. She had been on the job for less than a month.<sup>72</sup>

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Patsy Bolton Wright was a beautiful, vibrant, and wealthy woman who seemed to have everything going for her . . . She was a popular socialite, a vivacious woman who seemingly had no enemies. Her death in 1987 was shocking . . . Years of investigations, sifting through red herrings, a messy divorce, and family secrets would not turn up her killer.<sup>73</sup>

The themes of true crime tales—disruption, shock, mystery, resolution—are furthered and intensified by the inclusion of “real life” artifacts within the story.<sup>74</sup> Books and articles feature photos of the perpetrator, the victim, and the crime scene.<sup>75</sup> Television shows and documentaries interview family members and detectives, recreate investigations, and pan cameras past courthouses and cemeteries; podcasts play hysterical 911 calls and post links to photos and other coverage of the crime.<sup>76</sup> As author Rachel Monroe notes, and the short excerpts

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<sup>71</sup> *Dateline: Obsession* (Nov. 9, 2018), [https://perma.cc/FMX9-KKLR].

<sup>72</sup> MAUREEN CALLAHAN, *AMERICAN PREDATOR: THE HUNT FOR THE MOST METICULOUS SERIAL KILLER OF THE 21ST CENTURY* 3 (2019).

<sup>73</sup> Southern Fried True Crime, *Poisoning Patsy*, STITCHER (June 13, 2019), [https://perma.cc/G4JW-QH3S].

<sup>74</sup> MURLEY, *supra* note 2, at 5 (“True crime is obsessed with full-on visual body horror: autopsy footage, close-ups of ligature marks and gunshot wounds on bodies, bruises or lividity on flesh, and blood pools, stains and spatters in the physical spaces where murder has occurred are all depicted in the genre, with varying visual intensity, causing some critics to refer to true crime as ‘crime porn.’”).

<sup>75</sup> Laura Browder, *True Crime*, in *CAMBRIDGE COMPANION AM. CRIME FICTION* 121, 124–25 (2010) (“True crime books generally contain a multi-page insert of what are usually described as dramatic, shocking, or chilling photographs of the killer and the victim.”).

<sup>76</sup> For example, the *Morbidology* podcast describes itself as “[u]sing investigative research combined with primary audio including 911 calls, interviews and trial testimony, *Morbidology* takes an in-depth look at some of the world's most heinous murders.” Emily G. Thompson, *Morbidology*, [https://perma.cc/AU87-6YLA].

above indicate, all these aspects of true crime stories call upon strong emotions: the desire to find answers to unresolved questions; the “strangely soothing” promise that horrific crimes can be explained, or at least solved, through competent investigation and forensic science; the draw of dark and forbidden topics inherent to an interest in violence and its aftermath.<sup>77</sup>

### B. *The History of American True Crime Narratives*

White people have been telling true crime stories as long as they have been recounting danger narratives.<sup>78</sup> In his 2008 anthology of American true crime writing, Professor Harold Schechter begins with a 1651 account of a hanging in Plymouth Plantation and an early example of an execution sermon—an excerpt from Cotton Mather’s 1699 *Pillars of Salt*.<sup>79</sup> Schechter describes execution sermons, which were orally delivered before a public execution and sold in print form afterwards, as the first popular form of true crime.<sup>80</sup> Meant, as Mather notes, “to Correct and Reform,” these homilies were primarily focused on the moral improvement of the audience,<sup>81</sup> but could at times include all the gory

<sup>77</sup> RACHEL MONROE, *SAVAGE APPETITES: FOUR TRUE STORIES OF WOMEN, CRIME, AND OBSESSION* 17, 47, 51, 233 (2019).

<sup>78</sup> True crime narratives have a rich and complex history, with books devoted to the genre by historians and commentators such as Albert Borowitz, Thomas McDade, Jean Murley, Ian Case Punnett, Rachel Monroe, Karen Halttunen, and Harold Schechter, among others. An incomplete list of these authors’ work includes: ALBERT BOROWITZ, *BLOOD AND INK: AN INTERNATIONAL GUIDE TO FACT-BASED CRIME LITERATURE* (2002); KAREN HALTTUNEN, *MURDER MOST FOUL: THE KILLER AND THE AMERICAN GOTHIC IMAGINATION* (1998); THOMAS M. McDADE, *THE ANNALS OF MURDER: A BIBLIOGRAPHY OF BOOKS AND PAMPHLETS ON AMERICAN MURDERS FROM COLONIAL TIMES TO 1900* (1st ed. 1961); RACHEL MONROE, *SAVAGE APPETITES: FOUR TRUE STORIES OF WOMEN, CRIME, AND OBSESSION* (2019); JEAN MURLEY, *THE RISE OF TRUE CRIME: 20<sup>TH</sup> CENTURY MURDER AND AMERICAN POPULAR CULTURE* (2008); IAN CASE PUNNETT, *TOWARD A THEORY OF TRUE CRIME NARRATIVES: A TEXTUAL ANALYSIS* (2018); and HAROLD SCHECHTER, *TRUE CRIME: AN AMERICAN ANTHOLOGY* (1st ed. 2008).

<sup>79</sup> SCHECHTER, *supra* note 66, at xii, 1, 3 (including an excerpt from *The Hanging of John Billington* and an excerpt from *Pillars of Salt*. The original title of *Pillars of Salt* was “*Pillars of salt : an history of some criminals executed in this land, for capital crimes : with some of their dying speeches, collected and published, for the warning of such as live in destructive courses of ungodliness : whereto is added, for the better improvement of this history, a brief discourse about the dreadful justice of God, in punishing of sin, with sin.*” COTTON MATHER, *PILLARS OF SALT* (Evans Early Am. Imprint Collection, 1699), [https://perma.cc/GLP7-2M5Z].

<sup>80</sup> SCHECHTER, *supra* note 66, at xii, 3.

<sup>81</sup> *Id.* at 4 (quoting Mather, *supra* note 79); MURLEY, *supra* note 2, at 7 (“Rather than relating the shock and horror of murder and details about the crime, execution sermons related the spiritual transgressions that led to murder, and (hopefully) described how the murderer’s soul was then saved by his or her minister before execution.”); KAREN HALTTUNEN, *MURDER MOST FOUL: THE KILLER AND THE AMERICAN GOTHIC IMAGINATION* 7-9 (Harv. U. Press 2000) (describing “Death the Certain Wages of Sin,” a 1701 sermon preached on the occasion of the execution of Esther Rodgers, found guilty of infanticide, in which “the story of this murderer’s crimes was shaped into a triumphant narrative of spiritual transcendence, of victory over sin and eternal death. Once an irreligious, unchaste woman willing to destroy her own



details any modern true crime fan might desire.<sup>82</sup> In *Pillars of Salt*, for example, Mather writes of a woman who killed her infant child:

[s]he denied it Impudently. A further Search confuted her Denial. She then said, *The Child was Dead Born, and she had Burnt it to Ashes* . . . At Last it was found in her Chest; & when she Touch'd the *Face* of it before the Jury, the *Blood* came fresh into it. So She confessed the whole Truth concerning it.<sup>83</sup>

As time went on, these overtly spiritually-minded accounts of wrongdoing gave way to more graphic tales distributed in the 19<sup>th</sup> century through “[c]heap crime pamphlets,<sup>84</sup> trial reports,<sup>85</sup> and the lurid accounts in the ‘penny press’ . . . along with such widely distributed compendiums as *The Record of Crimes in the United States* (1834).”<sup>86</sup> These narratives were often characterized as relying on “a set of ‘Gothic horror’ conventions,” such as focusing on the bloody details of the crimes, and often fixated on the moral reprehensibility of the perpetrator.<sup>87</sup> In *The Record of Crimes in the United States*, for example, a chapter on Daniel Davis Farmer, a “respectable husbandman of Goffstown in New-Hampshire” with “a wife, four children, and an aged mother,” paints a vivid scene of his violent attack on his lover and her daughter:

[s]uddenly, Farmer snatched his club, and said, “Mrs. Ayer, I’ll kill you first, and then you may kill me.” With that, he struck the woman on the head as she was rising from her chair, and

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child to conceal her vicious conduct, she had been spiritually transformed during her eight months of bondage, and had emerged from prison ‘Sprinkled, Cleansed, Comforted, a Candidate of Heaven.’”)

<sup>82</sup> SCHECHTER, *supra* note 66, at 5 (quoting Mather, *supra* note 79).

<sup>83</sup> *Id.*; HALTTUNEN, *supra* note 78, at 93 (“Early American execution sermons assigned no mystery to the crime of murder. Their guiding assumption was a centuries-old proverb, ‘Murder will out’ . . . Early New Englanders brought suspected murderers to touch the corpse in the presence of the coroner’s jury, and if “the *Blood* came fresh into it”—as when Mary Martin touched the face of her dead newborn child—the guilt to the murder was proved.”).

<sup>84</sup> Pamphlets discussing crimes were originally devoted to execution sermons, but “[s]tarting in the 1770s, crime pamphlets became more elaborate, sometimes reporting on the murder story as it had unfolded at trial, or indeed creating an independent narration that artfully arranged a strictly chronological rendering and fastened on the horrible or the shocking aspects of murder,” which were written by “journalists, printers, and lawyers” instead of religious figures. PATRICIA CLINE COHEN, *THE MURDER OF HELEN JEWETT* 27 (Vintage Books 1st ed. 1999).

<sup>85</sup> Halttunen provides a helpful overview of the growth of the “murder trial account” in the United States, which “signaled the gradual breakup of the clerical monopoly over the public discourse of murder.” HALTTUNEN, *supra* note 78, at 94–95. Such accounts included a 1770 “transcript of the trial proceedings for the eight soldiers charged with murder in the ‘Boston massacre’” and 19<sup>th</sup>-century “trial reports [which] purported to be transcripts which recorded all trial testimony, the closings of counsel, the judge’s instructions to the jury, the verdict, and, when the defendant was found guilty, the sentencing.” *Id.* at 94, 96.

<sup>86</sup> SCHECHTER, *supra* note 66, at xii.

<sup>87</sup> MURLEY, *supra* note 2, at 8.

she fell to the floor. The child screamed and ran toward the door, but before she reached it, Farmer overtook, and struck her down, senseless. He gave both mother and daughter so many blows that he believed them dead, and then set about burning the house.<sup>88</sup>

In the same vein, the “penny press” of the 1800s<sup>89</sup> kicked off a wider trend towards extensive true crime coverage with their relentless attention to the 1836 axe-murder of glamorous sex worker Helen Jewett in New York City.<sup>90</sup> Ms. Jewett, the New York *Herald* lamented, was in death “a beautiful female corpse . . . that surpassed the finest statue of antiquity,” apart of course from “the dreadful bloody gashes on the right temple.”<sup>91</sup> Thus started the true beginning of decades of true crime coverage in both ‘high’ and ‘low’ media sources.<sup>92</sup>

The early 1900s featured the birth of magazines devoted to true crime

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<sup>88</sup> THE RECORD OF CRIMES IN THE UNITED STATES 270-71 (H. Faxon & Co. 1834).

<sup>89</sup> So-called because these newspapers were smaller and cheaper than the more business-oriented ‘six-cent’ papers. COHEN, *supra* note 84, at 24-25 (“New York City already had more than a half-dozen daily newspapers of the six-cent variety that attended to political and economic news . . . They were sometimes called blanket sheets because of their size (as much as two by three feet per page) and potential function (four by three feet when opened out, enough to take a snooze under)]) . . . In contrast, the smaller penny papers could be held in the hands and read on the street, or in a crowded tenement, a saloon, or even a privy.”).

<sup>90</sup> HALTTUNEN, *supra* note 78, at 70 (“[T]he penny daily offered a mix of scandals, sports, and above all, crime coverage, intended to appeal to a mass urban readership. Leading the field were two New York papers, *The Sun*, founded by Benjamin H. Day in 1833, and *The Herald*, founded in 1835 by James Gordon Bennett. Even their crime coverage remained generally limited to short reports on crimes and trials, until the murder that irrevocably altered the nature of American journalism: the 1836 axe-murder of the beautiful and notorious prostitute Helen Jewett by her lover Richard Robinson, a young clerk in a New York firm. During two months of extensive front-page coverage of the murder and the ensuing trial, *The Herald* and *The Sun* took opposing positions on Robinson’s guilt and dramatically expanded their circulation.”). See also MURLEY, *supra* note 2, at 8–10 (discussing the *Sun* and *Herald*, along with the *Tribune* and *Transcript*, as significant members of the “antebellum ‘penny press,’” and further describing the role of the *National Police Gazette*, which, starting in 1845, “offer[ed] coverage of crime and criminals exclusively . . . .”); SCHECHTER, *supra* note 66, at xiii (writing that James Gordon Bennett, who established the *New York Herald*, “was a seminal figure in the history of true-crime journalism . . . [P]roviding extensive and extremely graphic coverage of the most shocking crimes of the day, most famously the 1836 hatchet murder of the prostitute Helen Jewett.”).

<sup>91</sup> COHEN, *supra* note 84, at 16-17 (quoting James Gordon Bennett, *The Recent Tragedy*, N.Y. HERALD, Apr. 11, 1836).

<sup>92</sup> See Franks, *supra* note 58, at 247–48 (noting that, “in antebellum America, the reporting of crime became a staple feature of working-class news,” accompanied at the same time by “Edgar Allen Poe’s ‘invention of modern crime fiction,’” and thereafter “[t]he demand for both crime fiction and true crime texts would increase, dramatically, across America and between 1830 and 1900 . . . .”).

coverage, such as the infamous *True Detective*,<sup>93</sup> which recounted crime stories from around the country, often based on accounts by the police officers who investigated the cases.<sup>94</sup> At their most popular, six million copies of *True Detective* and the two hundred or so other copycat crime magazines were sold in the United States each month.<sup>95</sup> The covers of these magazines consistently featured women, generally in scenes of peril and distress, illustrating articles such as “A California Homicide Puzzle: Who Would Kill the Lady Preacher?”<sup>96</sup> and “Brutal Rape-Slaying of the Blue-Eyed Blonde!”<sup>97</sup> as the content morphed over time from a focus on police work and crimes scenes to increasingly sexualized images and cases.<sup>98</sup> “The ‘golden age’ of true-crime magazine publishing and circulation was between the 1930s and the 1960s,”<sup>99</sup> and while *True Detective* survived until 1996,<sup>100</sup> interest in true crime magazines was largely supplanted by books and television programs in the latter half of the 1900s and beyond.

The 1960s marked the beginning of an upswing in the volume of books about true crime, but the genre existed before the mid-twentieth century in America. Apart from fiction based on or inspired by real criminal cases,<sup>101</sup> there

<sup>93</sup> SCHECHTER, *supra* note 66, at xvii (“The progenitor of this pulp genre, which first appeared on the newsstands in 1924, was Bernarr Macfadden’s *True Detective*, whose immediate success spawned a host of even more disreputable imitators such as *Shocking Detective*, *Underworld Detective*, *Confidential Detective*, and about six dozen similar titles.”).

<sup>94</sup> MURLEY, *supra* note 2, at 20 (“From the inception of the form, the magazines got their stories by soliciting policemen and journalists to send them in.”).

<sup>95</sup> *Id.* at 18 (“A huge number of titles saw publication in the boom years of the crime magazine; some researchers believe that up to 200 different titles were circulated at some point between the 1930s and the 1960s.”). See also John Marr, *The Long Life and Quiet Death of True Detective Magazine*, GIZMODO (Aug. 19, 2015, 10:10 AM), [https://perma.cc/GAF6-XL3M] (“Although it initially published fictionalized accounts of true crime stories, [*True Detective*] soon switched to a winning formula of factual, no-nonsense accounts of police investigating and solving sensational crimes. It became a massive success and spawned hundreds of imitators . . . During the genre’s pre-World War II heyday, some 200 different titles would hit the stands. At their peak, some six million fact crime magazines were sold every month. *True Detective* alone had a circulation of two million.”).

<sup>96</sup> *A California Homicide Puzzle: Who Would Kill The Lady Preacher?*, TRUE DETECTIVE MAG., July 1968.

<sup>97</sup> *Brutal Rape-Slaying of The Blue-Eyed Blonde!*, TRUE DETECTIVE MAG., Sept. 1984.

<sup>98</sup> MURLEY, *supra* note 2, at 35.

<sup>99</sup> *Id.* at 15.

<sup>100</sup> Marr, *supra* note 95. *True Detective* still publishes under British ownership, and there is currently a website entitled “The Crime Mag,” copyrighted to True Crime Magazine, with features such as articles and photo archives like “A Look Inside Jeffrey Epstein’s Prison Cell” and “Revisiting Ted Bundy’s First Murder.” See generally The Crime Mag Home Page, TRUE CRIME MAGAZINE, [https://perma.cc/2SXZ-YABH] (last visited May 6, 2021).

<sup>101</sup> Harold Schechter, *Truman Capote’s In Cold Blood and the Origins of True Crime*, HUMANITIES N.Y. 6–9 (2016), [https://perma.cc/L3SV-GH9Z] [hereinafter *Origins of True Crime*] (describing “barely fictionalized” accounts of crime such as Edgar Allen Poe’s *The Mystery of Marie Roget*, and “important works of fiction that have sprung from . . . crimes,” such as “*Wieland*,

were true crime books such as 1927's *Ruth Snyder's Own True Story: Written by Herself in the Death Cell*,<sup>102</sup> the extensive publications of "murder fancier" Edmund Lester Pearson, including 1924's *Studies in Murder*,<sup>103</sup> and law enforcement memoirs such as 1871's *Knots Untied: or, Ways and By-Ways in Hidden Life of American Detectives*, by police officer George S. McWatters.<sup>104</sup> But, in the words of Ian Case Punnett, the "blood gates opened" following the publication of Truman Capote's *In Cold Blood* in 1966.<sup>105</sup> *In Cold Blood*, Capote's bestselling book about the murder of a Kansas family, while perhaps owing more to established true crime traditions than Capote would acknowledge,<sup>106</sup> is often noted as the beginning of a long era of avid cultural consumption of books about true crime. After

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the pioneering Gothic novel by Charles Brockden Brown, published in 1798 . . . Frank Norris's *McTeague* (1899) . . . James M. Cain's *Double Indemnity* (1943) . . . Meyer Levin's 1956 bestseller, *Compulsion*" and other books that describe murders of families, spouses, lovers, and strangers).

<sup>102</sup> Stephen J. Gertz, *The Shocking Story of The First Woman Executed by Electric Chair*, BOOKTRYS (Feb. 22, 2012), [<https://perma.cc/ZG97-4RCF>].

<sup>103</sup> Schechter, *supra* note 66, at xvii ("Among true-crime aficionados—"murder fanciers," as he himself called them—the acknowledged American master of the genre in the early 20th century was Edmund Lester Pearson. . . . [T]he Harvard-educated Pearson was a professional librarian who wrote widely on various bibliophilic subjects before devoting the last dozen years of his life to the field of true crime."); Murley, *supra* note 2, at 48–49 ("One of the early twentieth-century writers whose works forms a bridge between the nineteenth century gothic or scientific sensibility in murder narration and the modern true crime style is Edmund Lester Pearson, who wrote "fact-crime" "fact-crime" stories prolifically between 1924 and 1936. . . . Pearson's work is significant within the genre for his total elimination of gothic horror conventions and sentimentality and the introduction of irony into the American murder narrative. . . . his most popular works were his murder stories: *Studies in Murder* (1924), *Murder at Smutty Nose* (1927), *Five Murders, and a Final Note on the Borden Case* (1928), *Instigation of the Devil* (1930), *More Studies in Murder* (1936), and *The Trial of Lizzie Borden* (1937).").

<sup>104</sup> GEORGE S. MCWATTERS, *KNOTS UNTIED: OR, WAYS AND BY-WAYS IN THE HIDDEN LIFE OF AMERICAN DETECTIVES* (2014) (ebook) (describing in its title page as "a narrative of marvellous [sic] experiences among all classes of society,—criminals in high life, swindlers, bank robbers, thieves, lottery agents, gamblers, necromancers, counterfeiters, burglars, etc., etc., etc."). See also WILBUR R. MILLER, *THE SOCIAL HISTORY OF CRIME AND PUNISHMENT IN AMERICA: AN ENCYCLOPEDIA* (SAGE Publications, 1st ed. 2012) ("Memoirs written by police officers and prosecutors have a long history in Europe and the United States. In the United States, the rise of the modern city created an environment in which the memoirs of tough, crusading criminal justice professionals echoed the narratives in the mass media about crime and crime fighters. Such early literary offerings include . . . *Knots Untied: or, Ways and By-Ways in the Hidden Life of American Detectives* (1871) . . .").

<sup>105</sup> PUNNETT, *supra* note 56, at 12. Other true crime books were published before *In Cold Blood* as well, as recounted by Jean Murley in *The Rise of True Crime*, including Joel Barlow Martin's *Why Did They Kill?* (1952), Lucy Freeman's *Before I Kill More...* (1955), and Meyer Levin's *Compulsion* (1956). MURLEY, *supra* note 2, at 51–54.

<sup>106</sup> *Origins of True Crime*, *supra* note 101, at 7–9 (noting Meyer Levin's *Compulsion* and Celia Thaxter's *A Memorable Murder* as examples of fact-based storytelling that predated *In Cold Blood*, although Capote claimed "the nonfiction novel" as his own creation); see also Frederick Burwick, *De Quincey and the Aesthetics of Violence*, 27 *THE WORDSWORTH CIRCLE* 78, 85 (1996) (discussing the work of Thomas De Quincey, author of 1827's "On Murder Considered as One of the Fine Arts" and other murder-focused texts, and stating that "De Quincey draws from the documentary precision of journalism and the new style of reportage being developed in the newspapers of his day. For this reason, his essays on murder are more properly antecedent to Truman Capote's *In Cold Blood* (1966) than to the murder stories of popular fiction.").

*In Cold Blood*, American audiences could begin to choose among an abundance of books about both individual murderers and serial killers, from *Helter Skelter*'s prosecutor's-eye-view of the Manson family murders to Ann Rule's meditation on her unknowing friendship with a serial killer in *The Stranger Beside Me*.<sup>107</sup>

While the popularity of true crime books has waxed and waned over the years, we are in a time of massive renewed attention to the genre. Publication numbers have increased: 976,000 books about true crime were sold between January and November 2016; in 2018, 1.6 million true crime books were sold in the same time frame.<sup>108</sup> In the modern era, publications as diverse as Oprah Magazine,<sup>109</sup> Reader's Digest,<sup>110</sup> Cosmopolitan,<sup>111</sup> The New York Times,<sup>112</sup> Women's Health,<sup>113</sup> and the AARP website<sup>114</sup> promote true crime books in upbeat articles<sup>115</sup> with titles such as "25 Best True Crime Books That'll Make You Want to Sleep With the Lights On."<sup>116</sup> These and other sources reveal an

<sup>107</sup> Jean Murley includes Gerold Frank's *The Boston Strangler* (1966), Vincent Bugliosi and Curt Gentry's *Helter Skelter* (1974), Edward Keyes' *The Michigan Murders* (1976), and Ann Rule's *The Stranger Beside Me* (1980), among other works, as examples of the growing popularity of this genre after *In Cold Blood* was published. MURLEY, *supra* note 2, at 58-75.

<sup>108</sup> Clare Swanson, *Morbid Curiosity: True Crime 2018–2019*, PUBLISHERS WKLY. (Nov. 16, 2018), [https://perma.cc/AW8E-RDFQ] ("In books, too, the category is on the rise: since the beginning of 2018, true crime titles sold 1.6 million print copies, per NPD BookScan; in the same period in 2016, titles in the category sold 976,000 print copies.").

<sup>109</sup> Swapna Krishna & Elena Nicolaou, *25 Best True Crime Books That'll Make You Want to Sleep with The Lights On*, THE OPRAH MAG. (July 25, 2019), [https://perma.cc/P5B9-4AUF].

<sup>110</sup> Molly Pennington, *20 True Crime Books You Won't Be Able to Put Down*, READER'S DIG. (Apr. 14, 2020), [https://perma.cc/9YPQ-V482].

<sup>111</sup> Hannah Chambers & Laura Hanrahan, *21 Books That Will Satisfy Your True-Crime Obsession*, COSMOPOLITAN (Mar. 24, 2020), [https://perma.cc/B8TT-94XE].

<sup>112</sup> Tina Jordan & Ross MacDonald, *50 States of True Crime*, N.Y. TIMES (July 26, 2019), [https://perma.cc/CQC9-9KWS].

<sup>113</sup> Alyssa Girdwain, *The 25 Best True Crime Books to Read While Waiting For 'Mindhunter' Season 2*, WOMEN'S HEALTH (June 6, 2019), [https://perma.cc/Q5A4-FA5E].

<sup>114</sup> Christina Ianzito, *3 Seriously Scary Must-Reads for True-Crime Junkies*, AARP (Sep. 12, 2019), [https://perma.cc/6KKH-R7FD].

<sup>115</sup> A partial list of articles of this type include: Gabby Raymond, *The 16 Best True Crime Books of All Time*, TIME (Nov. 20, 2019, 8:14 PM), [https://perma.cc/LM5B-EJRJ]; GOODREADS, *True Crime Book Lists*, [https://perma.cc/SL36-KLFX] (last visited May 6, 2021); Leah Carroll, *33 Great True-Crime Books, According to Crime Writers*, VULTURE (Aug. 1, 2018), [https://perma.cc/J8K4-BU8S]; Syd Shaw, *These True Crime Thrillers Will Make You Sleep with The Lights On*, REFINERY29 (Aug. 7, 2019, 2:05 PM), [https://perma.cc/AAU5-3MS5]; Clint Davis, *The 25 Best True Crime Books Of All Time*, SIMPLEMOST (July 9, 2019), [https://perma.cc/M7C2-DNH3]; Lizz Schumer & Olivia Muenter, *36 of the Best True Crime Novels to Read with the Lights On*, WOMAN'S DAY (Oct. 19, 2020), [https://perma.cc/2ZA9-UWJQ]; Gina Tron, *10 True Crime Books To Read Before The New Year*, OXYGEN (Dec. 27, 2019, 2:59 PM), [https://perma.cc/R26H-FUSQ]; Sam Slaughter, *10 Best True Crime Books to Quietly Obsess Over*, THE MANUAL (Mar. 23, 2020), [https://perma.cc/8W3B-KZDU]; Tobias Carroll, *11 True Crime Books for Music Lovers*, ROLLING STONE (Apr. 8, 2019, 7:34 PM), [https://perma.cc/52E2-UD5L].

<sup>116</sup> Krishna & Nicolaou, *supra* note 109.

ongoing cultural interest both in true crime “classics,” like the Pulitzer Prize-winning *The Executioner’s Song*,<sup>117</sup> and more recent publications, such as the best-selling<sup>118</sup> *I’ll Be Gone in the Dark: One Woman’s Obsessive Search for the Golden State Killer*.<sup>119</sup>

In addition to print narratives, modern audiences have consumed tales of true crime in radio and television form since those media became available. The radio show *Crime Classics*, for example, presented episodes on historic crimes—with titles such as *Coyle and Richardson: Why They Hung in a Spanking Breeze* and *Widow Magee and the Three Gypsies; A Vermont Fandango*<sup>120</sup>—in 1953 and 1954,<sup>121</sup> and shows focused on apprehending criminals, solving crimes, and imposing punishment, such as *Forensic Files*, *America’s Most Wanted*, and *Date-line NBC*, have flourished from the 1980s to the present day.<sup>122</sup> Now, however, newer sources such as Netflix, HBO, and Amazon Prime regularly create and present high-profile true crime shows and documentaries,<sup>123</sup> and entire cable networks such as Investigation Discovery and Oxygen are now devoted solely to true crime programming,<sup>124</sup> while others like Lifetime heavily feature the genre.<sup>125</sup> Even the Weather Channel has introduced a true crime show, *Storm of Suspicion*, which focuses on how “forensic meteorologists” can help solve crimes,<sup>126</sup> and ESPN’s programming includes both podcasts and documentaries about sports-related crimes.<sup>127</sup> With the added proliferation of YouTube

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<sup>117</sup> NORMAN MAILER & JEAN ROSENTHAL, *THE EXECUTIONER’S SONG* (Little, Brown & Company 1979).

<sup>118</sup> Michelle McNamara, *I’ll Be Gone in the Dark*, HARPER COLLINS PUBLISHERS, [https://perma.cc/XGW2-FPCF] (last visited May 6, 2021).

<sup>119</sup> MICHELLE MCNAMARA, *I’LL BE GONE IN THE DARK: ONE WOMAN’S OBSESSIVE SEARCH FOR THE GOLDEN STATE KILLER* (2018).

<sup>120</sup> *Crime Classics*, CBS RADIO (1952), [https://perma.cc/9EXY-ZWLM].

<sup>121</sup> *Crime Classics*, OLD TIME RADIO CATALOG, [https://perma.cc/2YMR-7EPM] (last visited May 6, 2021) (noting that the host of *Crime Classics*, played by actor Lou Merrill, introduced the show as “[a] series of true crime stories from the records and newspapers of every land, from every time. Your host each week is Mr. Thomas Hyland—connoisseur of crime, student of violence, and teller of murders.”).

<sup>122</sup> MURLEY, *supra* note 2, at 109–132 (describing the scope of true crime and crime-inspired television programming in the United States).

<sup>123</sup> Including the tales of murder featured in *The Jinx*, *Making a Murderer*, *Conversations with a Killer: The Ted Bundy Tapes*, and *The Staircase*, among others. See, e.g., Aja Romano, *The 11 Best True Crime Series on Netflix*, VOX (Mar 24, 2021, 9:30 AM), [https://perma.cc/VHP9-ERM7].

<sup>124</sup> Maria Elena Fernandez & Josef Adalian, *How TV’s Biggest True-Crime Players Find Their Stories*, VULTURE (July 30, 2018), [https://perma.cc/7W7K-RDZV].

<sup>125</sup> *Id.*

<sup>126</sup> See *Storm of Suspicion*, THE WEATHER CHANNEL, [https://perma.cc/2EGE-9FLZ] (last visited Mar. 13, 2021).

<sup>127</sup> Marisa Guthrie, *ESPN Enters True Crime Genre With Doc ‘Pin Kings’*, THE HOLLYWOOD REPORTER (Aug. 2, 2016, 8:18 PM), [https://perma.cc/252F-VZNT].

channels devoted to true crime,<sup>128</sup> the magnitude of true crime visual media is at a historic high.

Audio true crime entertainment plays a significant and growing role in the genre as well. Podcasts, which are digitally recorded audio files published online that have the feel of radio programming, have been a particularly popular platform for true crime narratives since the explosive interest in the podcast *Serial* in 2014.<sup>129</sup> *Serial's* first season focused on the murder of a high school girl purportedly at the hands of her ex-boyfriend, and its wild popularity ushered in the podcasting era in earnest. Podcasting hosts like Stitcher, iTunes, and Spotify are platforms for an ever-increasing body of true crime programming, and as of April 2021 now over two million podcasts, with 48 million episodes, worldwide,<sup>130</sup> with true crime identified as the third-most popular genre in October 2020.<sup>131</sup> There were more than 200 true crime podcasts as of August 2019;<sup>132</sup> in May 2021, true crime podcasts made up 50% of the top ten podcasts on iTunes.<sup>133</sup> As with the proliferation of true crime magazines in the 1950s and 1960s, some have called this time the “golden age” of podcasting,<sup>134</sup> in which the most popular of the true crime podcasts—episodic shows like *My Favorite*

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<sup>128</sup> Erica Bahrenburg, et al., *Mukbangs, Makeup, ASMR, and True Crime: Why Some YouTubers Mashup Surprising Genres*, MASHABLE (June 26, 2020), [https://perma.cc/U3H5-SUBL].

<sup>129</sup> *Serial* was not the first podcast, but its popularity significantly boosted the creation and consumption of podcasts. See Nicholas Quah, *We're Entering the Era of Big Podcasting*, VULTURE (Sept. 30, 2019), [https://perma.cc/N5E8-487N] (noting that some challenge the idea that *Serial* was the beginning of the podcasting boom, but “*Serial's* late 2014 debut is nonetheless a strong historical marker. To wit: According to Edison Research, the number of monthly podcast listeners in America practically doubled in the five years after 2014, from around 39 million Americans to an estimated 90 million. In the five years preceding 2014, the same metric grew by only 35 percent. In other words: There was podcasting before 2014, and there was podcasting after 2014.”).

<sup>130</sup> Ross Winn, *2021 Podcast Stats & Facts (New Research from Apr 2021)*, PODCAST INSIGHTS (April 100, 2021), [https://perma.cc/69PR-EHHQ] (last visited May 6, 2021).

<sup>131</sup> *Leading Podcast Genres in the United States in October 2020*, STATISTA (Mar. 4, 2021), [https://perma.cc/8Y6M-GDNF].

<sup>132</sup> Lou Raguse, *True Crime Podcasts Gaining Popularity Thanks to Female Listeners*, KCENTV (Aug. 6, 2019), [https://perma.cc/AH3L-XWNP].

<sup>133</sup> *Apple Podcasts—United States of America—All Podcasts*, CHARTABLE, [https://perma.cc/33CZ-2KPBJ] (last visited May 6, 2021). The same was true in August 2019. See Katie Heaney, *Is True Crime Over?*, THE CUT (Aug. 19, 2019), https://www.thecut.com/2019/08/is-true-crime-over.html (“What was once a subject we could pretend was esoteric now accounts for 50 percent of the top-ten podcasts on iTunes . . .”).

<sup>134</sup> Rebecca Lavoie, *The 10 True-Crime Podcasts That Changed Everything*, VULTURE (Oct. 1, 2019), [https://perma.cc/7RHK-FX8F].

*Murder*<sup>135</sup> and *Crime Junkie*,<sup>136</sup> as well as those devoting a season to one case like *Bear Brook* and *Dirty John*—are downloaded millions of times each month.<sup>137</sup>

The current upsurge in interest in true crime extends beyond media consumption. Podcast hosts with large followings go on live tours, presenting tales of true crime in venues in the United States and around the globe, and offering merchandise featuring their logos and catch phrases, such as “Be Weird, Be Rude, Stay Alive”<sup>138</sup> shirts and “Lock the F\*\*king Door” doormats.<sup>139</sup> A search for “true crime” items on the Etsy website in April 2021 yields 21,263 results,<sup>140</sup> including a cutting board featuring the face of Jeffrey Dahmer, who cannibalized some of the men and boys he killed in his apartment, along with the phrase “start eating at home more.”<sup>141</sup> Fans of the genre can choose to attend the popular annual CrimeCon convention,<sup>142</sup> embark on true-crime themed tours,<sup>143</sup> such as the Helter Skelter tour of the Manson family murders in Los Angeles,

<sup>135</sup> *My Favorite Murder* is downloaded approximately 19 million times a month. Nicholas Quah, *My Favorite Murder's Creators Are Launching a Podcast Network*, VULTURE (Aug. 15, 2018), [https://perma.cc/L7YP-U6BH].

<sup>136</sup> In two months in Spring 2019, the *Crime Junkie* podcast was downloaded more than 18 million times. Team Cabana, *Breakaway Podcast Hit Crime Junkie Surpasses 18 Million Downloads in Two Months*, CABANA (Apr. 16, 2019), [https://perma.cc/2NWK-DPAS].

<sup>137</sup> See, e.g., Nicholas Quah, *Public Radio Podcasts as Direct Donation Vehicle: A Cast Study*, HOTPOD (April 2, 2019), [https://perma.cc/DNB2-6GWJ] (noting that between October 2018 and March 2019 the *Bear Brook* podcast was downloaded 4.5 million times); Jeanette Settembre, *Exclusive: Producer of the 'Dirty John' Podcast to Debut New True Crime Series*, MARKETWATCH (Dec. 14, 2018, at 9:02 AM), [https://perma.cc/NE9T-BM7Z] (stating that the *Dirty John* podcast was downloaded more than 33 million times). It is a testament to the pervasiveness of true crime podcasting that satirical send-ups of the genre have been created, such as *Done Disappeared* and *A Very Fatal Murder*. See John David Booter, *Done Disappeared*, APPLE PODCASTS, [https://perma.cc/9WYC-SED7] (last visited May 6, 2021); *A Very Fatal Murder*, THE ONION, [https://perma.cc/4G2M-6ST9] (last visited May 6, 2021).

<sup>138</sup> *True Crime Podcast Junkie Be Weird Be Rude Stay Alive Shirt*, AMAZON, [https://perma.cc/KG7R-JZFP] (last visited May 6, 2021).

<sup>139</sup> MY FAVORITE MURDER, *Lock Your Fucking Door Mat*, [https://perma.cc/QSS7-ZP6Q] (last visited May 6, 2021).

<sup>140</sup> Author Rachel Monroe also commented on the proliferation of true crime merchandise on Etsy, noting shops on the site selling “enamel pins of Ted Bundy’s Volkswagen Beetle and iPhone cases depicting Jeffrey Dahmer’s face.” MONROE, *supra* note 77, at 11.

<sup>141</sup> ETSY, *Jeffrey Dahmer Wooden Cutting Board Serial Killer True Crime Fan and Foodie Gift*, [https://perma.cc/27PC-Z543] (last visited May 6, 2021).

<sup>142</sup> *CrimeCon CC21: Austin*, CRIMECON, [https://perma.cc/233G-DKH4] (last visited May 6, 2021). For an engaging description of a personal experience at CrimeCon, see MONROE, *supra* note 77, at 1–8.

<sup>143</sup> Camille Myers, *10 True Crime Vacation Destinations in the US*, EXPEDIA (Nov. 15, 2019), [https://perma.cc/8X46-LXNK]; Lauren Oster, *15 Chilling Tours for True-Crime Aficionados*, TRAVEL CHANNEL, [https://perma.cc/JQ8U-5TXS] (last visited May 6, 2021); Sarah Schmalbruch, *15 Vacations for True Crime Buffs*, INSIDER (May 30, 2018), [https://perma.cc/N2X3-NPDD].



<sup>144</sup> stay overnight in homes where famous murders occurred,<sup>145</sup> subscribe to “Hunt a Killer” subscription boxes filled with clues to a faux murder,<sup>146</sup> or even take a CrimeCruise to the Bahamas which features “hot sun” and “cold cases.”<sup>147</sup>

As this truncated history<sup>148</sup> of true crime narratives in America makes clear, the current fervor for true crime entertainment is a continuation of a long history of true crime storytelling in the United States. The modern era of true crime differs from other periods, among other reasons, because of the unprecedented variety of true crime media, its predominantly female audience, and the significant cultural attention to the genre. But modern era true crime narratives also retain many of the traditional tropes and structure of the narrative tradition, including, as has been made clear, its primary focus on violent crimes involving white people.

#### IV. THE RACIAL IMPLICATIONS OF STORIES ABOUT WHITE-ON-WHITE CRIME

True crime narratives are sometimes framed as morality or cautionary tales, sometimes as reactions to social change, sometimes viewed as low-brow entertainment and sometimes as high-minded investigations into the science and psychology of crime.<sup>149</sup> In the modern era, the variety of media options—including “literary” narratives in the spirit of *In Cold Blood*, public radio podcasts like *Serial* and *Criminal*, and an increased call for audiences to actively assist in solving crimes<sup>150</sup>—have contributed to the sense, for some, that an interest in true crime

<sup>144</sup> DEARLY DEPARTED TOURS, *Helter Skelter Tour*, [https://perma.cc/9HEY-Y9DC] (last visited May 6, 2021).

<sup>145</sup> For example, visitors can stay the night in Lizzie Borden’s home, where she was alleged to have murdered her father and stepmother, or in the “Villisca Ax Murder House,” where two adults and six children were murdered by an unknown assailant in 1912. LIZZIE BORDEN BED & BREAKFAST / MUSEUM, *Lizzie Borden Bed & Breakfast Museum*, [https://perma.cc/V4Y7-F6GK] (last visited May 6, 2021); VILLISCA AXE MURDER HOUSE, *Day Tours & Overnights at Villisca Axe Murder House*, [https://perma.cc/KS2S-UCUS] (last visited May 6, 2021).

<sup>146</sup> HUNT A KILLER, [https://perma.cc/S3L2-2WTQ] (last visited May 6, 2021).

<sup>147</sup> CRIMECRUISE, [https://perma.cc/5P4Z-XRF3] (last visited May 6, 2021).

<sup>148</sup> There is much that this article must leave out about the history of true crime—including the role that movies, songs, police procedurals, blogs, and online forums have played in that history—and the author points interested readers to the excellent sources cited throughout for more information. See, e.g., MURLEY, *supra* note 2; MONROE, *supra* note 77.

<sup>149</sup> MURLEY, *supra* note 2, at 1–14 (describing the history of American true crime and the shifting roles that such stories play, from addressing the nature of sin to coping with rising crime rates or changing cultural traditions).

<sup>150</sup> See, e.g., THE MURDER SQUAD, [https://perma.cc/3HWC-59BM] (showing a podcast hosted by Billy Jensen and Paul Holes that gives assignments to audience members to help solve cold cases). A podcast listener submitted her DNA to a public database at the urging of *The Murder Squad* hosts, leading to the solving of a decades-old murder. Brenna Ehrlich & Andrea Marks, *True Crime Podcast Leads to Arrest in 40-Year-Old Cold Case*, ROLLING STONE (Jan. 14, 2020), [https://perma.cc/5PL2-34AA].

is socially and personally valuable<sup>151</sup> or, in any case, not shameful. But however, no matter how we may view the genre—as exploitative or healing, feminist or frivolous, compelling or repugnant—what has remained consistent is its almost relentless focus on white-on-white crime.

#### A. *The Whiteness of True Crime*

True crime narratives, from the age of execution sermons to the present day, have been characterized by “white creators focusing on white victims and white perpetrators,”<sup>152</sup> and, as one reporter observed, “[t]he stories that are well-known, that get rehashed over and over again, are largely about white male perpetrators and white, middle-class, female victims.”<sup>153</sup> A review of the genre makes this racial reality clear. In Harold Schechter’s *Anthology of True Crime*, which includes stories from the 1600s to the modern era, a review by this author noted that almost every narrative presented is about white-on-white crime. In an analysis of the podcast *My Favorite Murder* conducted by this author, approximately 2/3 of the first 150 episodes were about white-on-white crime. Whether considering bestselling true crime books, most popular true crime podcasts, the most widely watched true crime shows on Netflix, the results are the same: the vast majority of these narratives are about white-on-white crime.

This is not to say that there are no true crime narratives created by, and about, people of color. In the seminal first season of *Serial*, which was downloaded 175 million times,<sup>154</sup> the accused was Pakistani-American, the victim was Korean-American, and significant witnesses were African American.<sup>155</sup> There are true crime podcasts focused on people of color<sup>156</sup> such as *Atlanta Monster* (investigating the serial killing of African American children in Atlanta in the

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<sup>151</sup> Alice Bolin, *The Ethical Dilemma of Highbrow True Crime*, VULTURE (Aug. 1, 2018), [https://perma.cc/HA59-6PCU].

<sup>152</sup> Your Fat Friend, *The Conflicted Life of a True Crime Fan*, HUMAN PARTS (Aug. 13, 2018), [https://perma.cc/2HXZ-KHZN].

<sup>153</sup> Ilana Masad, *Why Do We Find True Crime Fascinating? ‘Savage Appetites’ Looks for An Answer*, NPR (Aug. 20, 2019), [https://perma.cc/24VZ-2RE8].

<sup>154</sup> Todd Spangler, *The ‘Serial’ Team’s New Podcast, ‘S-Town,’ Tops 10 Million Downloads in Four Days*, VARIETY (Mar. 31, 2017), [https://perma.cc/4FT3-NHWS].

<sup>155</sup> Although the host (a white woman) received criticism for her handling of the racial and religious issues inherent to the case. Jay Caspian Kang, *White Reporter Privilege*, THE AWL (Nov. 13, 2014), [https://perma.cc/VWN3-V9N5].

<sup>156</sup> The hosts of these shows are sometimes, though not always, people of color; for example, *Affirmative Murder*, *Crime in Color*, and *Fruit Loops* are all hosted by Black people, while the hosts of *Atlanta Monster* and *The Fall Line* are white. Mekishana Pierre, *18 Black-Hosted Podcasts That You Should Subscribe to Immediately*, POPUGAR (Feb. 27, 2019), [https://perma.cc/R5PF-AVRA]; *Crime in Color*, CRIME IN COLOR, [https://perma.cc/39E8-YZP9]. See Phoebe Lett, *True Crime Podcasts at The Intersection of Race*, N.Y. TIMES (July 27, 2020), [https://perma.cc/F89G-4C6L].

1970s);<sup>157</sup> Affirmative Murder (a “true crime comedy podcast . . . [telling] murder stories from marginalized communities”);<sup>158</sup> Crime in Color (focused on “people of color in true crime”);<sup>159</sup> Fruit Loops (a podcast about serial killers of color);<sup>160</sup> and The Fall Line (examining cases of marginalized communities in the Southeast).<sup>161</sup> Books like Professor Kali Nicole Gross’s *Hannah Mary Tabbs and the Disembodied Torso: A Tale of Race, Sex, and Violence in America*<sup>162</sup> and Christine Pelisek’s *The Grim Sleeper: The Lost Women of South Central*<sup>163</sup> focus on murders in which both the victim(s) and the perpetrator are Black. Further, those who study and consume true crime may formally or informally classify some stories involving people of color as civil rights or racial justice stories rather than as true crime narratives<sup>164</sup>—meaning that such stories exist but may fall outside of audience expectations of the genre.

Despite these examples, white people create the vast majority of true crime media, and the vast majority of the true crime stories told are about white people.<sup>165</sup> Further, whatever the gender makeup of the genre’s fan base may have

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<sup>157</sup> *Atlanta Monster*, TENDERFOOT TV & HOWSTUFFWORKS, [https://perma.cc/FN7T-YZDG].

<sup>158</sup> Alvin Williams & Francel Evans, *Affirmative Murder*, APPLE PODCASTS, [https://perma.cc/952H-NP4R] (last visited May 6, 2021).

<sup>159</sup> *Crime in Color*, *supra* note 156.

<sup>160</sup> FRUITLOOPS: SERIAL KILLERS OF COLOR, [https://perma.cc/5DB2-PD9G] (last visited May 7, 2021).

<sup>161</sup> EXACTLY RIGHT MEDIA, *The Fall Line*, [https://perma.cc/67YV-9KRZ].

<sup>162</sup> KALI NICOLE GROSS, *HANNAH MARY TABBS AND THE DISEMBODIED TORSO: A TALE OF RACE, SEX, AND VIOLENCE IN AMERICA* (Oxford U. Press 1st ed. 2016).

<sup>163</sup> CHRISTINE PELISEK, *THE GRIM SLEEPER: THE LOST WOMEN OF SOUTH CENTRAL* (Counterpoint 1st ed. 2017).

<sup>164</sup> Bryan Stevenson’s *Just Mercy*, for example, a book that focuses on the wrongful conviction of an African-American man for the murder of a white woman—a story that is both true and about violent crime—is classified by readers on the Goodreads website in the “memoir,” “social justice,” “history,” “race,” and “politics” categories far more frequently than “true crime.” *Top Shelves for Just Mercy*, GOODREADS [https://perma.cc/24HB-2SE6] (last visited May 7, 2021). Stevenson’s book is certainly about all of those things, but the fact that the Goodreads members are choosing those categories over “true crime” reveals, perhaps, something about audiences’ expectations of the genre. See BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* (Spiegel & Grau 1st ed. 2014).

<sup>165</sup> See J. Oliver Conroy, *Why Are Women Obsessed with True Crime? Rachel Monroe has Some Answers*, THE GUARDIAN (Aug. 20, 2019), [https://perma.cc/Q7JY-3Y9H] (“One thing troubling about the true crime genre is how disproportionately it favors stories about attractive middle-class white women who’ve gone missing versus stories about the people who are much more likely to suffer violence in our society.”); Elon Green, *The Enduring, Pernicious Whiteness of True Crime*, THE APPEAL (Aug. 21, 2020), [https://perma.cc/DS7R-8SWQ] (stating that “it matters a great deal that most true crime focuses on white police officers and detectives, white victims, and white prosecutors working to avenge them—aimed . . . ‘at a presumed white audience.’”).

been in the past, women<sup>166</sup> are far and away the most significant consumers of true crime in the modern era.<sup>167</sup> According to one recent study, women make up 73% of the true crime podcast audience;<sup>168</sup> another study revealed that women wrote 70% of the reviews of true crime books on Amazon and, when given a choice between reading a book about true crime versus a book about war, 77% of women selected the book about true crime.<sup>169</sup> Women constituted the majority or vast majority of the audience for all but one of twelve popular true crime podcasts in 2018<sup>170</sup> and women make up 80% of the attendees at CrimeCon.<sup>171</sup> In the words of author Rachel Monroe, “[t]elevision executives and writers, forensic scientists and activists and exonerees all agree: true crime is a genre which overwhelmingly appeals to women.”<sup>172</sup>

While the gendered nature of true crime consumption is widely analyzed

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<sup>166</sup> This may not always have been the case; it is not easy or even possible to know the gender demographics of true crime audiences in the United States throughout history. Jean Murley’s analysis of advertising in *True Detective Mysteries* magazine in the 1920s and 1930s, for example, indicates a shift from advertisements targeted to both white women and men in the magazine’s early days to a predominance of “ads for masculine goods and services” in later years as the editors got a better sense of their audience. MURLEY, *supra* note 2, at 17–18 (noting the difficulty in gathering reliable data about “magazine readers from eighty years ago,” but citing Erin Smith’s work analyzing advertising in pulp fiction magazines as indicating that such ads “give clues as to what the magazine’s editors imagined their readers to be.”). *See generally*, ERIN SMITH, *HARDBOILED: WORKING CLASS READERS AND PULP MAGAZINES* (Temple U. Press 2000) (discussing the audience for the genre of “hardboiled” detective stories published from the 1920s through the 1940s).

<sup>167</sup> MURLEY, *supra* note 2, at 47–48 (noting the difficulties of understanding the “demographic contours” of the true crime audience: “At present, true crime is a female genre—it attracts more women readers and fans of particular writers and types of true crime, although women comprise 60 percent of readers of all genres combined. The evidence of readership is anecdotal because tracking gender (or race, or any other demographic category) for book sales or library borrowing trends with accuracy is challenging. True-crime authors know that women comprise the majority of fan-letter writers and attendees at book signings, and evidence from Internet true-crime fan sites and Web logs with comments functions bolsters the theory that the genre has a largely female readership. But there is much that remains unknown and unexplored about who reads true crime, and how the readership understands the genre.”).

<sup>168</sup> Kelli S. Boling & Kevin Hull, ‘Undisclosed’ Information—‘Serial’ Is ‘My Favorite Murder’: Examining Motivations in the True Crime Podcast Audience, 25 J. RADIO & AUDIO MEDIA 92, 99 (2018).

<sup>169</sup> Amanda M. Vicary & R. Chris Fraley, *Captured by True Crime: Why Are Women Drawn to Tales of Rape, Murder, and Serial Killers?*, 1 SOC. PSYCHOL. & PERSONALITY SCI. 81, 83 (2010).

<sup>170</sup> Gemma Joyce, *Podcast Audiences: Why Are Women Such Big Fans of True Crime Podcasts?*, BRANDWATCH (June 28, 2018), [https://perma.cc/6LJ7-HL88].

<sup>171</sup> Britt Peterson, *Victims, Families and America’s Thirst for True-Crime Stories*, WASH. POST MAG. (July 30, 2019), [https://perma.cc/2S79-Q65Z] (“CrimeCon guests—like true-crime fans generally—are demographically similar to the victims most featured in true-crime shows and books: 80 percent female, according to organizers, and largely white.”).

<sup>172</sup> MONROE, *supra* note 77, at 14.

and discussed,<sup>173</sup> scholars and commentators generally either entirely ignore the racial composition of true crime audiences or mention it in passing or anecdotally.<sup>174</sup> There does seem to be general acknowledgement that the modern audience is primarily white; typical observations include “women who fixate on the victims of crimes tend to pick women like themselves: typically white and middle-class”<sup>175</sup> and “white women . . . seem especially drawn to true crime, perhaps because white female victims get so much airtime in the media.”<sup>176</sup> In 2019, the Washington Post reported that CrimeCon attendees are “largely white” and observed that, “[t]he CrimeCon line was dominated by white women: white women in large, laughing groups, white women tugging a husband or boyfriend by the hand, white women in ‘Stressed, Blessed and True Crime Obsessed’ or ‘Talk Murder to Me’ or ‘It’s Always the Husband’ T-shirts.”<sup>177</sup> But historical racial demographics are hard to track; there is no contemporaneous data regarding, for example, the racial makeup of readers of crime pamphlets of the 1700s or the “penny press” of the 1800s, although an understanding of racial and class history in the United States can provide insight as to who had the funds and the access to education that would aid consumption of these narratives. Even demographic audience data for modern true crime media, such as podcasts and books, is difficult to discover—although, overall, podcast listeners are 59% white, 12% African-American, 11% Hispanic/Latino, and 7% Asian-American,<sup>178</sup> those numbers are not true crime-specific—and viewership data is purposefully kept private by some media providers such as Netflix.<sup>179</sup> Anecdotal and observational evidence thus indicates that true crime is largely consumed by white people, but more study would be needed to verify audience demographics.

We have, then, a centuries-old narrative tradition in the United States in which an audience of (it appears) primarily white people (now, primarily white women) are entertained by stories written by white people, which feature violence and other criminal acts perpetrated by white people against other white people (again, primarily white women). The question remains, however,

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<sup>173</sup> See, e.g., Tuttle, *supra* note 64 (reflecting on the appeal of true crime); Megha Sharma, *This Might Be The Reason Why Women Are Obsessed With True Crime Stories*, VOGUE (Feb. 20, 2020), [https://perma.cc/CG5W-T87H]; Laura Barcella, *Why Women Are Obsessed with True Crime*, MEDIUM: FORGE (Dec. 5, 2019), [https://perma.cc/5KTF-LVJ7].

<sup>174</sup> Peterson, *supra* note 171.

<sup>175</sup> Laura Miller, *Guilty Pleasures*, SLATE (Aug. 26, 2019), [https://perma.cc/JUG5-J46Z].

<sup>176</sup> Taylor Prewitt, *What Does Our Fascination with True Crime Say About Us?*, TEXAS OBSERVER (Oct. 7, 2019), [https://perma.cc/H5UR-EN6P]; see also Aidan Milan, *The Racial Bias of True Crime: Why is Murder Marketed to White Women?*, METRO NEWS (Jan. 1, 2021, 7:55 AM), [https://perma.cc/4XGD-3JKM] (discussing the marketing of true crime to white, middle-class women).

<sup>177</sup> Peterson, *supra* note 171.

<sup>178</sup> Tom Webster, *Podcasting and Race: The State of Diversity in 2018*, EDISON RESEARCH BLOG – LATEST NEWS (Nov. 19, 2018), [https://perma.cc/QPW7-Z496].

<sup>179</sup> Steven Zeitchik, *Does Netflix Have a Killer Problem?*, WASH. POST (Mar. 21, 2019), [https://perma.cc/433G-HZEY].

whether the true crime genre, like danger narratives which explicitly focus on interracial crimes of violence, similarly contributes to racial inequity. A review of the focus and impact of true crime stories can help us identify the commonalities between the genres, and, in particular, the ways in which they both serve to reify criminal systems that are steeped in racial disparity and critiqued as engines of racial control.

### B. *True Crime as Force for Social Change*

True crime shares many of the characteristics of danger narratives: white authorship; a focus on the victimization of white women; attention to the lurid details of violence acts; and a call for vindication for who have been wronged. But while stories about white-on-white crime have existed alongside danger narratives throughout U.S. history, there seems to be an assumption by those who produce and study the genre that the two strains of storytelling are distinct. Danger narratives featuring people of color as perpetrators and white people as victims are not included in true crime anthologies or marketed as true crime in Netflix series or podcasts. The scholarly books about the history and meaning of American true crime cited throughout this article do not include danger narratives in their analysis.

To be sure, true crime stories are different in many ways from danger narratives. True crimes stories do not focus on vilifying men of color (men of color are almost entirely absent) or reifying white men (white men are usually featured as the perpetrators of horrendous crimes—although, as will be discussed below, white male law enforcement officers often take on heroic roles in the narrative). True crime does not explicitly call for white people to wage war or commit other acts of violence against people of color. Indeed, while there is extensive academic and cultural debate about many aspects of the true crime genre, including the ethics of viewing violent crime as entertainment<sup>180</sup> and the reasons that women are drawn to narratives in which women are often horrifically victimized, modern true crime has also been characterized or self-described as feminist, justice-oriented, and progressive.<sup>181</sup>

One of the complexities of the modern true crime genre, as established above, is that the stories of white female victimization are often being created by, and primarily being consumed by, white women. Contemporary true crime is not catering to men buying *True Detective* magazines with bondage photos on

<sup>180</sup> See, e.g., Bolin, *supra* note 151 (discussing the ethics of consuming crime stories as entertainment).

<sup>181</sup> See, e.g., Laura Browder, *Dystopian Romance: True Crime and the Female Reader*, 39 J. POPULAR CULTURE 928 (2006) (discussing consumption of true crime as a way for women to cope with and resist male violence); Marcos A. Hernandez, *True Injustice: Cultures of Violence and Stories of Resistance in the New True Crime*, 3 IDEAFEST: INTERDISC. J. CREATIVE WORKS & RES. HUMBOLDT ST. U. 77 (2019); Katie Cunningham, *Women Are Fuelling The Growth of True Crime Podcasts. Here's Why*, ABC EVERYDAY (Dec. 17, 2018), [<https://perma.cc/8FDY-5BW7>]; Think Olio, *The Feminist Approach to True Crime Storytelling* (May 15, 2017), [<https://perma.cc/8BEV-W299>] (compiled by Tracy Bealer).

the cover or reading “penny press” articles rhapsodizing over the beauty of a female corpse. Indeed, modern readers and producers of true crime often characterize the focus on women as victims as a feminist choice. An article about two women who founded a “non-sensationalist” true crime magazine is representative of this viewpoint:

Though historically the genre was associated with the exploitation and sexualisation [sic] of women, according to Harrison “that’s not the case anymore.” She explains: “There are so many brilliant true crime podcasts and books being created by women that I think women feel a lot more catered for. There has been a real shift, and women are reclaiming the narrative.”<sup>182</sup>

Certainly, there are many, including fans of true crime, who dispute whether the fact that the genre appeals to women means it is, in fact, feminist, but there seems to be widespread agreement that women are drawn to these violent tales for reasons deeply influenced by gender.

Contemporary consumers of true crime contend that reading, watching, and listening to true crime stories is an outlet for women’s anxiety about criminal victimization. They describe the genre as “a source of comfort . . . during times of extreme anxiety”<sup>183</sup> and as “somehow relaxing[—]almost calming;”<sup>184</sup> online videos combining ASMR (whispered voices)<sup>185</sup> and true crime cases are used by viewers “to fall asleep—though the content is actually horrifying.”<sup>186</sup> True crime stories are also lauded as helping women share their own experiences, educate themselves about staying safe, and fight for other women who have been harmed.<sup>187</sup> The podcast *My Favorite Murder* has been described as “empower[ing] listeners by offering practical advice for survival and self-care and by using

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<sup>182</sup> Caroline Carpenter, *Can The Crime Genre Ever be Feminist?*, *STYLIST* (2019) [<https://perma.cc/S5V5-XMMC>] (last visited May 7, 2021); but see Ashton Williams, *Shockingly Evil: The Cruel Invasive Appropriation and Exploitation of Victims’ Rights of Publicity in the True Crime Genre*, 27 J. INTELL. PROP. L. 303 (2020) (stating that true crime often appropriates and exploits the stories of crime victims, and arguing that victims of crime should have enforceable remedies to violations of their right of publicity in true crime narratives).

<sup>183</sup> Melissa Ragsdale, *Reading True Crime Makes Me Feel Less Anxious—For A Good Reason*, *BUSTLE* (July 24, 2018), [<https://perma.cc/VZB5-XVWJ>].

<sup>184</sup> Susan, *If You Don’t Laugh, You’ll Scream: True Crime, Anxiety, And Facing Danger with Humor*, *BOOK SQUAD GOALS: BLOG* (July 15, 2017), [<https://perma.cc/HGS5-LDM6>].

<sup>185</sup> Emily Blatchford, *ASMR: What Is It and Why Are People into It?*, *HUFFINGTON POST* (Oct. 5, 2020), [<https://perma.cc/N6WF-CAMS>].

<sup>186</sup> Isabelle Kohn, *The Latest ASMR Craze Involves Tales of Crime and Murder*, *MEL MAG.* (2020), [<https://perma.cc/7G4L-N8D3>]. (last visited May 7, 2021).

<sup>187</sup> See, e.g., KTHV STAFF, *AR Podcast Teaches You ‘How to Not Get Murdered,’* (Oct. 11, 2019), [<https://perma.cc/9ZRW-SMUE>] (describing how the crime-podcast consumers describe their affinity to the genre).

comedy to deflate the scariness of these topics.”<sup>188</sup> For women, one author suggests, these “stories can be a mental dress rehearsal of sorts, a way of unpacking and understanding dangerous situations that haven’t yet happened to them.”<sup>189</sup> While white women are still the primary victims in these tales, white women’s consumption of the stories is now framed by many as liberating, justice-centered, and mentally healthy.

Further, commentators and others have applauded modern true crime stories for raising attention to police misconduct and crimes involving vulnerable and often overlooked populations such as sex workers.<sup>190</sup> True crime narratives can serve to educate audiences about factors that contribute to unjust convictions and sentences, such as false confessions, flawed forensic science, the impact of juvenile brain development on behavior and decision-making, and the problems associated with eyewitness identification. Some have even hailed true crime narratives as an affirmative source of social change; the co-directors of *Making a Murderer*, a widely viewed Netflix documentary about the potentially wrongful prosecution of two white men for the murder of a white woman,<sup>191</sup> “prefer to call [the film] a ‘social justice’ series, rather than a true crime one.”<sup>192</sup> Not only can these stories raise cultural awareness of flaws in the criminal system, but true crime audiences are sometimes moved or called to action beyond the limits of the narrative, such as undertaking online investigations, working to change laws, or lobbying authorities to reconsider unsolved or mishandled cases. Some such work has led to renewed investigations, arrests, and even the exposure of wrongful convictions.<sup>193</sup>

Mainstream true crime narratives in the modern era thus seem aimed to sell, to thrill, and perhaps to educate and advocate, but not to advance a racial

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<sup>188</sup> Andrea Marks, *How a True-Crime Podcast Became a Mental-Health Support Group*, THE ATLANTIC (Feb. 21, 2017), [<https://perma.cc/93WS-42ZR>].

<sup>189</sup> Barcella, *supra* note 173.

<sup>190</sup> Shannon L. Bowen, ‘Tiger King’ to ‘Murder in the Bayou’: How True Crime Docuseries Shine a Light on Larger Cultural Issues, THE HOLLYWOOD REP. (June 23, 2020), [<https://perma.cc/2SVA-E22J>].

<sup>191</sup> Jethro Nededog, *Here’s How Popular Netflix’s ‘Making a Murderer’ Really Was According to a Research Company*, BUS. INSIDER (Feb. 12, 2016), [<https://perma.cc/65N2-WEHH>].

<sup>192</sup> Jennifer M. Wood, *Is Today’s True Crime Fascination Really About Justice?*, WIRED (Nov. 5, 2018), [<https://perma.cc/NGR9-LU2C>] (“In some cases, the most successful documentaries have transformed viewers into activists. In 2016, following the release of *Making a Murderer*, more than 130,000 people signed a White House petition asking President Obama to issue full pardons to both Steven Avery and Brendan Dassey, who were both convicted in the murder of Teresa Halbach . . . ‘Documentary films have gotten the wrongfully convicted out of prison, advocated for victims’ rights, and have shined a light on problems within the criminal justice system,’ Berlinger says. ‘I think viewers find that aspect to true crime to be very satisfying.’”).

<sup>193</sup> Netflix has, for example, released a nine-part series called *Innocence Files*, which “showcase[s] the stories of real humans, people who went to jail for years or even decades based on evidence that fell apart when it was put under a microscope.” Alissa Wilkinson, *The Innocence Files Explores Wrongful Convictions. It’s the Best Kind of True Crime.*, VOX (Apr. 16, 2020), [<https://perma.cc/G5YU-9CEC>].



agenda. Threading through these stories, however, though not always explicitly acknowledged or addressed, is the recognition that true crime's purported desire to center victims, empower women, and raise awareness of systemic flaws is distorted by its predominant focus on white-on-white crime. The association between modern era true crime stories and the validation of institutions of racial hierarchy may be less obvious than in a study of danger narratives, but a closer look can help make those connections clear.

### *C. True Crime as Danger Narrative*

Telling stories about white men who do terrible things to white women, stories which root for those men to be caught, tried, and punished, may feel compelling, even cathartic. But these stories are not racially neutral. In part, this is because crime media's myopic focus on white-on-white offenses distorts the racial realities of crime and our criminal system. True crime consumers may therefore perceive themselves as being more educated about crime, criminal investigations, trials, and punishments than the average person, while simultaneously operating with misperceptions of those topics that can deeply impact their views on the purpose and power of our criminal system.

True crime narratives can, for example, shape inaccurate perceptions of crime rates, crime risks, and crime demographics. Studies have shown that people who regularly consume true crime narratives may believe that crime rates are higher than they actually are, overestimate their personal risk of victimization, and misjudge the frequency of violent crime.<sup>194</sup> Further, true crime stories portray white women as the primary victims of violent crime, although Black women are killed at a higher rate than any other group of women,<sup>195</sup> and the "murder victimization rate for Black men is consistently higher than the rates

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<sup>194</sup>“Studies have shown that consuming a lot of crime-related media is correlated with both an increased fear of crime and a higher degree of trust in the competence and good intentions of cops.” Andrea DenHoed, *The ‘My Favorite Murder’ Problem*, THE NEW REPUBLIC (Nov. 22, 2019), [<https://perma.cc/HDV5-DT17>]. See also Lisa A. Kort-Butler & Kelley J. Sittner-Hartshorn, *Watching the Detectives: Crime Programming, Fear of Crime, and Attitudes About the Criminal Justice System*, 52 UN. NEB. DEP. OF SOCIOLOGY 36, 45 (2011) (finding that “the frequency of viewing crime dramas and frequency of viewing nonfictional crime shows were positively correlated with fear of crime and support for the death penalty.”). Cf. Sarah Britto & Krystal E. Noga-Styron, *Media Consumption and Support for Capital Punishment*, 39 CRIM. JUST. REV. 81 (2014) (identifying a positive correlation between support for the death penalty and the watching news about crime and crime dramas).

<sup>195</sup>“Studies have shown that Black girls, women, and non-binary people are hyper-vulnerable to abuse. About 22 percent of Black women in the United States have experienced rape. Forty percent will experience intimate partner violence in their lifetime. And Black women are killed at a higher rate than any other group of women. A 2015 survey of Black trans and non-binary individuals found that 53 percent have experienced sexual violence, and 56 percent have experienced domestic violence. At least 16 Black trans people were reportedly murdered in 2018 alone.” Maya Finoh & Jasmine Sankofa, *The Legal System Has Failed Black Girls, Women, and Non-Binary Survivors of Violence*, ACLU (Jan. 28, 2019 12:30 PM), [<https://perma.cc/TU4B-H5BW>].

for men of all other racial and ethnic groups have *ever* been,”<sup>196</sup> and certainly higher than the rates for white women. The statistics for Native American and Latino women are similarly distressing; for Native American women, for example, “[m]ore than 4 in 5 American Indian and Alaska Native women have experienced violence, and more than 1 in 2 have experienced sexual violence.”<sup>197</sup> And despite true crime’s general focus on straight women, LGBTQ\* people are disproportionately likely to experience sexual and other forms of violence.<sup>198</sup> The failure of true crime to focus on victims of color or otherwise marginalized people is representative of and furthers our society’s consistent discounting or ignoring of such victims, both in the media and in the criminal system itself.<sup>199</sup>

The traditional arc of a true crime story also has racial implications. In the words of true crime director Joe Berlinger, “[c]rime stories . . . have perfect dramatic structure . . . Something horrific occurs, there is a search for the guilty person, a conclusion to the legal proceeding, and then hopefully justice is served.”<sup>200</sup> The focus on locating, prosecuting, and punishing the violent perpetrator means police and prosecutors play a starring role in many true crime narratives. Entire shows, such as *Forensic Files*, are focused on the technical work of police officers and law enforcement experts—“pathologists, medical examiners, police officers, attorneys, blood spatter analysts, or even forensic artists and linguists”—as they collect and analyze evidence in order to apprehend the perpetrators of horrendous acts.<sup>201</sup> Crime conventions feature detectives and forensic investigators as headlining speakers;<sup>202</sup> Paul Holes, a detective who played a significant role in apprehending the Golden State Killer, is now a full-fledged celebrity with a crowd-sourced crime solving podcast called *The Murder Squad*, as

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<sup>196</sup> Emily Widra, *Stark Racial Disparities in Murder Victimization Persist, Even as Overall Murder Rate Declines*, PRISON POL’Y INITIATIVE (May 3, 2018), [https://perma.cc/TU4B-H5BW].

<sup>197</sup> *Ending Violence Against Native Women*, INDIAN L. RESOURCE CTR., [https://perma.cc/D2UN-FAQG] (last visited May 7, 2021).

<sup>198</sup> NATIONAL SEXUAL VIOLENCE RESOURCE CENTER, *Sexual Violence & Individuals Who Identify As LGBTQ* NAT’L CTR. (2012), [https://perma.cc/L426-H4YN]; OFFICE OF JUSTICE PROGRAMS, *Responding to Transgender Victims of Sexual Assault* (June 2014), [https://perma.cc/B9G6-KNUM].

<sup>199</sup> See Geneva Brown, *Ain’t I a Victim? The Intersectionality of Race, Class, and Gender in Domestic Violence and the Courtroom*, 19 CARDOZO J. L. & GENDER 147 (2012); Kristin Nicole Dukes & Sarah E. Gaither, *Black Racial Stereotypes and Victim Blaming: Implications for Media Coverage and Criminal Proceedings in Cases of Police Violence Against Racial and Ethnic Minorities*, 73 J. SOC. ISSUES 789 (2017).

<sup>200</sup> Wood, *supra* note 192.

<sup>201</sup> Lijia Liu, *Crime and Intrigue: A Review of Forensic Files*, THE PHOENIX (Apr. 12, 2018), [https://perma.cc/4M9B-YQA3].

<sup>202</sup> *CC20 Speakers & Podcasters*, CRIMECON, [https://perma.cc/Y9RZ-AFPV] (last visited May 7, 2021).

well as a #HotForHoles hashtag and associated fan-created merchandise.<sup>203</sup> Police departments have launched their own podcasts focused on true crime cases,<sup>204</sup> and the podcasts like *Small Town Dicks*, which “features the detectives who broke the case in their small town, and includes assets like jailhouse phone calls, suspect interviews and 9-1-1 calls,”<sup>205</sup> tell stories specifically about police work.

To be sure, there are true crime narratives in which the police are portrayed as corrupt, inept, or disinterested in solving crimes involving marginalized victims, and others in which police investigative techniques are revealed to be flawed or entirely inaccurate. But in many true crime narratives, after the story has been told of the victim’s life and the circumstances of her death, the police become the real protagonists. They are the mystery solvers, using science and intuition and investigation to find the perpetrator and bring him to justice. In the words of one commentator:

The narrative of policing and courts allows us to pretend there is order in our world: There are clear good guys, clear bad guys, and, hopefully, a tidy resolution—the bad guy gets caught; the victim, whether dead or alive, gets some semblance of justice. True crime, for the most part, does not challenge this narrative. . . the vast majority treat the police as undeniable heroes, and frame punishment and imprisonment as a form of feminism: If only more men were behind bars, women could begin to thrive. *Evil is out there. It’s okay to call the police.*<sup>206</sup>

It is little wonder that true crime conventions and podcast merchandise include t-shirts reading “Basically a Detective”<sup>207</sup> or “I think I was supposed to be a detective in real life.”<sup>208</sup> And, indeed, women’s interest in studying criminology<sup>209</sup> and forensic science<sup>210</sup> has surged during the modern true crime

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<sup>203</sup> Filipa Ioannou, *Hot for Holes: Detective Who Tracked Golden State Killer Now a Sex Symbol*, SFGATE (May 11, 2018, 5:36 PM), [https://perma.cc/G4AT-XMQY]; THE MURDER SQUAD, *supra* note 150.

<sup>204</sup> Nicholas Quah, *Cops Have Podcasts Now. Is That Good?*, VULTURE (Nov. 15, 2019) [https://perma.cc/MW2M-28MD].

<sup>205</sup> SMALL TOWN DICKS, [https://perma.cc/Z3LG-HJW4] (last visited May 9, 2021).

<sup>206</sup> P.E. Moskowitz, *True Crime Is Cathartic for Women. It’s Also Cop Propaganda.*, MOTHER JONES (May/June 2020), [https://perma.cc/XB59-N7Z2].

<sup>207</sup> “Basically A Detective” Women’s V-Neck T-Shirt, CRIMECON, [https://perma.cc/8SZQ-4MF5] (last visited May 9, 2021).

<sup>208</sup> Adam Wren, *The Problem with Crime Junkie*, INDIANAPOLIS MONTHLY (Nov. 7, 2019), [https://perma.cc/J44X-5Q9X].

<sup>209</sup> Casey Struble, *How Does Gender Affect Criminology and Criminal Justice?*, MO. STATE: CRIMINOLOGY NEWS (Aug. 26, 2019), [https://perma.cc/N4W7-YQNM].

<sup>210</sup> Anna Barbaro, *Women in Forensics: An International Overview*, 1 FORENSIC SCI. INT’L: SYNERGY 137 (2019).

renaissance.

But while modern true crime stories generally steer well clear of the racist tropes of danger narratives, they rarely work to address or even acknowledge the racial inequities inherent to our system of prosecution and punishment. These narratives do not frequently grapple with police officer killings of African American men, women, and children, with the under-under policing and over-over policing of neighborhoods of color, with stop-and-frisk policies and racially disparate drug arrests and deaths in police custody. One critic has accused true crime creators as playing a role “in the glorification of the so-called good vs. the so-called bad, the benevolent crime-fighting detective, and their blind trust in what police present as facts;”<sup>211</sup> another has labeled true crime “cop propaganda.”<sup>212</sup> As journalist Andrea DenHoed has noted, true crime stories are “often as much about maintaining fantasies of social order as it is about implementing real justice.”<sup>213</sup>

True crime traffics in fear, particularly the fear of violence against white women, and advocates for the expansion of legal oversight and increased systems of punishment as a remedy. Megan’s Law,<sup>214</sup> the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act,<sup>215</sup> and the Pam Lychner Sexual Offender Tracking and Identification Act<sup>216</sup> are just a few examples of statutes passed in the wake of white-on-white crimes that increased the power of the law and law enforcement.<sup>217</sup> True crime narratives frequently feature the truly horrifying cases underlying these laws, and celebrate the creation of the laws themselves, although the racially disparate ways in which the laws are enforced are rarely if ever remarked upon.<sup>218</sup>

Further, true crime’s focus on “justice” for victims looks for that justice in existing institutions—criminal courts, jails, prisons—that in practice are steeped in racial disparity. True crime narratives frequently bemoan short sentences and celebrate long ones; audiences at live podcast recordings break into approving shouts and applause when the story culminates with the imposition of a death

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<sup>211</sup> Marisa Meltzer, *Are True-Crime Podcasts Ready for the #DefundthePolice Era?*, VANITY FAIR (July 9, 2020), [https://perma.cc/6ARD-UPK9].

<sup>212</sup> Moskowitz, *supra* note 206.

<sup>213</sup> DenHoed, *supra* note 194.

<sup>214</sup> *Keeping Children Safe from Sexual Offenders*, MEGAN’S LAW, [https://perma.cc/HSG7-SLDP] (last visited May 9, 2021); *Legislative History of Federal Sex Offender Registration and Notification*, OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (Mar. 24, 2020), [https://perma.cc/2QUY-2DTJ].

<sup>215</sup> *Legislative History of Federal Sex Offender Registration and Notification*, *supra* note 214.

<sup>216</sup> *Id.*

<sup>217</sup> Allie Lembo, *10 Federal US Laws That Are Named After Real People and the Shocking Stories Behind Them*, INSIDER (Jan. 7, 2019), [https://perma.cc/6HU2-FWE6].

<sup>218</sup> Daniel M. Filler & Kenneth M. Rosen, *The Color of Community Notification* 31-44 (Univ. of Ala. Sch. of Law, Working Paper No. 178, 2003), [https://perma.cc/3AA6-QFTG].

sentence. Some true crime storytellers express approval at the idea of perpetrators suffering harm, even death, at the hands of other prisoners. Some suggest that vigilante justice is sometimes appropriate and necessary. However, punishment is discussed in these stories, the message is clear: in order for justice to be done, the perpetrator of these crimes must be caught and incarcerated or killed. And because most true narratives focus on white men harming white women and are thus calling for the punishment of white men, the racial implications of celebrating prisons and death chambers is muted or ignored.

True crime stories thus do not encourage fear of people of color, but they do encourage fear of crime. True crime stories do not frame men of color as the sources of danger for white women, but they do center white women as the most endangered. True crime stories do not advocate for violence against people of color, but they do advocate for institutions that commit such violence. And it is these tropes—the focus on fear, on danger to white women, on institutions of social control such as the police and imprisonment—that demonstrate true crime’s commonalities with danger narratives. Like a race-neutral law with disparate racial impacts, true crime narratives have hidden racial consequences while claiming racial impartiality. True crime thus serves as a white-washed danger narrative; the overt racial agenda and even intent has been removed, but the racial implications remain.

#### V. TRUE CRIME NARRATIVES AND THE MEANING OF JUSTICE

True crime thus arguably falls within a long tradition of narratives in which harrowing tales of violence against white people are used to justify the creation and expansion of institutions that cause harm to communities and people of color. Modern true crime stories, as with true crime stories throughout history, exist alongside entrenched systems of racial control, including a criminal system that arrests, assaults, convicts, incarcerates, and monitors Black, Indigenous, and Latinx people in wildly disproportionate ways.<sup>219</sup> But the current true crime renaissance is different, perhaps, in that it is also taking place within an era of increased awareness of the racial inequities in our criminal system. Indeed, contemporary true crime has flourished at the same time as the rise of nationwide movements calling for the reform of police, prosecution, and punishment, including demands for the complete abolition of prisons and jails and the defunding of law enforcement.

The last decade alone has seen the creation of organizations such as Black Lives Matter and Law for Black Lives; the publication of Professor Michelle Alexander’s best-selling *The New Jim Crow*, which outlined the ways in which mass incarceration serves as a new system of racial control; and the production of widely-viewed documentaries such as *13th*, in which director Ava DuVernay explored the connections between the 13<sup>th</sup> Amendment, mass incarceration,

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<sup>219</sup> *Report to the United Nations*, *supra* note 54.

and race.<sup>220</sup> Our streets, news, and social media have been filled with outrage over the murder of Black people—children, young people, fathers, mothers, women sleeping in their own beds in their own homes—at the hands of the police.<sup>221</sup> Beginning in May 2020, massive and sustained nationwide protests sparked by the murder of George Floyd, a Black man, by white Minneapolis police officer Derek Chauvin have focused public attention on the racialized violence inflicted by law enforcement on Black people.<sup>222</sup> Arguments for de-incarceration and police accountability, for eradicating prisons and policing, have appeared in mainstream news sources across the country.<sup>223</sup>

Amidst this turmoil and change, true crime keeps plugging away in its traditional format: a focus on white-on-white crime, an allegiance to the disruption-mystery-investigation-punishment storytelling arc, a celebration of policing and punishment. To be sure, there are exceptions to this rule, along with public calls for true crime to recognize and remedy its singular attention to the suffering of white people, the centering of policing, and the support for carceral solutions to violence. The protests sparked by the murder of George Floyd spurred many high-profile true crime podcasts to proclaim support for Black lives, and even to switch their coverage (perhaps temporarily) to cases involving people of color,<sup>224</sup> including the murder of George Floyd himself.<sup>225</sup> True crime provides insights into what may unfold when those who have been subjugated by systems of power seek justice within those same systems. The U.S. legal system has injured white women in a multitude of ways, including condoning or ignoring men's violence against them. Women have fought hard to change laws that protected and condoned male violence against women and to change law enforcement and justice systems that treated that violence as a joke or a lie. True crime narratives in which white men are convicted and punished for their

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<sup>220</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010); Julyka Lantigua-Williams, *Ava DuVernay's 13<sup>th</sup> Reframes American History*, *THE ATLANTIC* (Oct. 6, 2016), [<https://perma.cc/UUX9-LSVW>]

<sup>221</sup> Alia Chughtai & Al Jazeera, *Know Their Names*, [<https://perma.cc/L9NW-FGMS>] (last visited May 9, 2021).

<sup>222</sup> Elliott C. McLaughlin, *How George Floyd's Death Ignited a Racial Reckoning That Shows No Signs of Slowing Down*, *CNN* (Aug. 9, 2020), [<https://perma.cc/T5FM-RQU5>]; Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, *N.Y. TIMES* (Mar. 9, 2021), [<https://perma.cc/CAU3-2ZTN>].

<sup>223</sup> Dionne Searcey, *What Would Efforts to Defund or Disband Police Departments Really Mean?*, *N.Y. TIMES* (Dec. 10, 2021), [<https://perma.cc/V58V-R4J3>]; Rachel Hatzipanagos, *What 'Defund the Police' Might Look Like*, *WASH. POST* (June 11, 2020), [<https://perma.cc/2EBW-MF5Q>].

<sup>224</sup> Meltzer, *supra* note 211 (“After George Floyd’s killing, various podcasts reacted with some combination of a black box on social media (Morbid, which later deleted it), a moment of silence (Crime Junkie), or a call for donations to the Minnesota Freedom Fund (My Favorite Murder).”).

<sup>225</sup> *On the Killing of George Floyd*, *SMALL TOWN DICKS*, (June 4, 2020), [<https://perma.cc/HHD6-AVGB>] (“Detectives Dan and Dave offer their professional perspectives on the conduct of the officers now charged with the murder of George Floyd.”); RedHanded, *#1 BLM—George Floyd*, *STITCHER* (June 2, 2020), [<https://perma.cc/BQ6F-J55L>].

violent acts against white women are perhaps satisfying, even comforting, in part for the white women in their audience because the criminal system has so often excused or ignored or even celebrated those acts. In true crime narratives, white women are still victimized by men, but now at least the criminal system is on their side; the stories “serve a purpose other than salaciousness . . . They show that the justice system can work. . . in most cases, the court system does produce justice.”<sup>226</sup>

True crime stories have power, a draw that is described by some as “addictive,”<sup>227</sup> and part of that power may be the satisfaction of watching a system work for those it so often has wronged. This change feels like progress, and surely it is progress to eradicate laws that allow men to assault and control women with impunity, and to demand accountability when such crimes occur. But, as scholars who have critiqued white women’s role in expanding U.S. reliance on incarceration and state power have stated, there are consequences to seeking that justice narrowly.<sup>228</sup> This moment, in which true crime and racial justice movements both play significant roles in our national conversations about our criminal system, lays those consequences bare. White women have an opportunity to recognize that, by seeking justice in systems that harm people of color, their liberation stories turn to danger narratives. This is a moment to focus, yet again, on the truth in the words of civil rights activist Fannie Lou Hamer: “Nobody’s free until everybody’s free.”<sup>229</sup>

True crime narratives are thus cautionary tales. They warn us that seeking justice for some in institutions that oppress others perpetuates rather than eradicates inequity. But these narratives can also help us reflect on the fact that, in the face of chaos and pain, there is a deep human desire for resolution, a need for those who have caused harm to be held accountable and those who have been harmed to be protected and provided for. The work of racial justice activists, organizers, scholars, and others has revealed that the institutions we have created to meet these needs—police, courts, prisons—have inextricably intertwined accountability and safety with racial fear and control. If we wish to untangle those strands, we must envision a narrative in which those who have been harmed and wronged, whoever they may be, obtain justice in ways that do not perpetuate systems of racial or other forms of subjugation. We have the

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<sup>226</sup> Demopoulos, *supra* note 3.

<sup>227</sup> Aly Semigran, *Why True-Crime and Murder Content is So Frighteningly Addictive—Especially for Women*, WELL+GOOD (Mar. 14, 2019), [<https://perma.cc/QMD6-QRYE>].

<sup>228</sup> See, e.g., AYA GRUBER, *THE FEMINIST WAR ON CRIME: THE UNEXPECTED ROLE OF WOMEN’S LIBERATION IN MASS INCARCERATION* (U. Cal. Press 1st ed. 2020) (arguing that American feminists have become “soldiers in the war on crime by emphasizing white female victimhood, expanding the power of police and prosecutors, touting the problem-solving power of incarceration, and diverting resources toward law enforcement and away from marginalized communities.”)

<sup>229</sup> Fannie Lou Hamer, *Nobody’s Free Until Everybody’s Free*, in *THE SPEECHES OF FANNIE LOU HAMER: TO TELL IT LIKE IT IS* 134, 134 (Maegan Parker Brooks & Davis W. Houck eds., 2010).

opportunity to ask what justice looks like if it is not the justice of the danger narrative or the true crime story. And we can consider how to create a world in which these new tales of justice can be told.

#### VI. CONCLUSION

Danger narratives and true crime narratives constitute significant and protracted cultural conversations about the cause of crime and the nature of justice. They are also, either explicitly or implicitly, stories about race. Studying these primarily white-authored and white-focused narratives exposes many of the beliefs and values that have shaped systems of law enforcement and punishment in the United States. We can recognize the ways in which these tales of violence, vulnerability, and revenge have contributed to the creation of systems steeped in racial fear and control. And, we can imagine radically different tales, ones that retain and recognize the power of human experience and emotion, but which do not center justice in institutions of racial inequity.