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Judges, tabloids and trial by media[1]
Judiciary Working Group Session
1 November 2012

Illustration: Front page of the *Sun*, 23 March 2011, criticizing judges for being soft on crime. One of their main targets was Lord Justice Leveson; the *Sun* complained that Leveson LJ "introduced proposals to let 4,000 assault convicts [sic] a year go free rather than face jail".

Introduction

Winning in the court of public opinion can be as important as winning in court. This gives the media, especially tabloids, power not only to write about court proceedings, but to influence them. Editorials complaining about "soft" sentencing, recommendations for law reform and accounts of criminal trials form a significant part of the newsgathering process. However, some trials seem to grip the public imagination, and the resultant blizzard of media stories may provoke concerns that the trial process is being overtaken by "trial by media".

Most journalists and media academics consider there is already a satisfactory balance between protection of the judicial process and freedom of expression; all that is needed is a responsive self-regulatory body[2] for those cases where there is misconduct. What sort of regulation (if any)

[1] Judge J C Gibson, District Court of NSW, Australia; President, Judiciary Working Group.

[2] See the proposed models for a revised PCC discussed by Damian Carney, "Media Accountability After the Phone Hacking Inquiry", *Meejalaw* 30 August 2012. For media commentary, see "Self-regulation of the press is flawed, but reform is no easy matter", *the Guardian*, 20 July 2011.

there should be of the media[3] is one of the issues under consideration in Inquiries in the United Kingdom and Australia[4]. Some of the newsgathering methods used, such as phone and computer hacking, payments to trial witnesses or to police/government sources and "blagging", have been used in relation to court proceedings, particularly murder and sexual assault trials.

What these Inquiries have not examined, or heard evidence about, is whether newsgathering methods of this kind have actually contaminated the trial process. Members of the public who gave evidence in the Leveson Inquiry, such as the family of murder victim Milly Dowler, have given evidence about how they felt personally about media treatment of the criminal investigation in which they had been caught up. However, there has been no consultation of judges in the criminal trials known or suspected of being affected, criminologists, or members of the criminal bar to enable analysis of the impact of trial by media on the judicial process.

This is unfortunate, because the impetus for the Leveson Inquiry came from the revelation that a *News of the World* private investigator hacked into the mobile phone of a murder victim, Milly Dowler[5], which caused uncertainties about whether she was still alive.

The Milly Dowler case was just one murder investigation but, unfortunately, it is one of many where the media has intruded into a criminal investigation or trial with unfortunate results. Nor were these cases just "one-off" incidents of the press going too far in their enthusiasm to report a story. The fact that journalists were doing so by using illegally obtained information (such as phone hacking, on an industrial scale)[6] is not the issue either. Far more important than the illegal obtaining of information is the use to which it has been put, namely to pursue and attack persons seen as guilty of crime or some form of sexual "hypocrisy", or to attack the trial process and judges who go "off their heads" (see the *Sun*, above) and allow the guilty to go free.

Judges are in charge of ensuring fairness in the criminal process. How should judges ensure the playing field stays level where one or both parties, or the media of its own volition, are playing out the issues in the public arena rather than in the courts? Courts in countries around the world have long been concerned about the need to protect the integrity of the trial process where the exuberance of the parties or the media leads to the case being decided on the front page instead of in the courtroom[7].

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[3] Perhaps "tabloid" journalism practices and ethics is more accurate: Rodney A Smolla, "Will Tabloid Journalism Ruin the First Amendment for the Rest of Us?", 1998 symposium, "Privacy and Publicity in a Modern Age: A Cross-Media analysis for the First Amendment: (1998 – 9) 9 DePaul LCA J. Art & Ent. L 1

[4] The Leveson Inquiry (http://www.levesoninquiry.org.uk/) was set up in the United Kingdom in July 2011. The Independent Inquiry into the Media and Media Regulation ("the Finkelstein Inquiry") was set up in Australia by terms of reference on 14 September 2011: (http://www.dbcde.gov.au/__data/assets/pdf_file/0006/146994/Report-of-the-Independent-Inquiry-into-the-Media-and-Media-Regulation-web.pdf).

[5] Brian Cathcart, "Everybody's Hacked Off", Penguin, 2012, introduction by Hugh Grant, p. 10 – 11.

[6] *Ibid*., p.p. 37 and 71. For example, between 2000 and 2006 one lone investigator employed by one weekly newspaper recorded 4,775 potential targets, and another investigator made 17,000 entries for a three year period.

[7] See, for example, Australia: *R v Fardon* [2010] QCA 317 at [76] ("corrosive and prejudicial" reporting of a criminal trial; jury verdict set aside); *A-G v X* [2000] NSWCA 199; New Zealand: *Hotchpin v APN New Zealand Ltd* [2011] NZAR 464 at [18]; The Caribbean: *Kieron Pinard-Byrne v Lennox Linton & Ors*, East Caribbean Supreme Court; High Court of Justice, 27 September 2010 at [34]; Canada: *Bieganek v DataNet Information Systems Inc* [2010] ACBA 1424 (costs awarded on a solicitor/client basis where a party engaged in "trial by media" to discredit the opposing side); India: *Selvi & Ors v State of Karnatka* [2010] INSC 40 (capacity for misuse of lie detector and

The way I propose to approach these issues is to examine media conduct during an investigation and trial where it is now acknowledged that things went wrong. I have chosen this trial because the accused, Mr Colin Stagg, has been one of the persons to provide evidence of media misconduct (in the form of a statement from his current solicitor outlining the relevant events) to the Leveson Inquiry.

Mr Colin Stagg was charged with the murder of Rachel Nickell in 1993 and acquitted in 1994, after what was seen as a controversial pre-trial ruling by the trial judge, namely excluding the main piece of prosecution evidence. After years of attacks on this ruling by the media, Mr Stagg was later found not merely to have been properly acquitted, but also innocent. A serial rapist and killer, Robert Napper, had killed Rachel Nickell; in 2008, Napper pleaded guilty and was sentenced for manslaughter following a plea of diminished responsibility. After a decade of media opposition to the award of compensation, Mr Stagg was eventually awarded a record sum of 706,000 by the UK Government in August 2008.

There were thousands of articles and broadcasts in the United Kingdom about the Rachel Nickell murder investigation and trials. The media stopped at nothing, including phone hacking in one instance, in order to get a good story[8]; other methods included carrying out lie detector and truth serum tests[9], proposing a genuine "trial by media" where the public could phone in their verdicts, and the publication of damaging (but inadmissible) material to contaminate the public mind after Mr Stagg was charged. The result was the diminishing of the judicial process in general, and of Mr Justice Ognall (the trial judge) in particular.

Fortunately, this is a story with a happy ending for the judge who bravely made a ruling that he knew would meet with criticism, because his ruling was ultimately vindicated. In 2008, Boris Johnson (now the Mayor of London) wrote a newspaper column praising Mr Justice Ognall for his "conspicuous gallantry under fire"[10], not only in the 1994 trial ruling, but in the subsequent 14 years of media criticism. However, this is not just a story of an upright judge, but of the dangers of manipulation of the trial process by tabloid tactics.

The murder of Rachel Nickell

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truth drug evidence to cause trial by media and vigilantism); United Kingdom: *Re Ward* [2010] 114 BMLR 48 (assertion of likely reduction in number of expert witnesses for child care proceedings due to "trial by media" if their identity were not kept confidential); Trinidad and Tobago: *Boodram v A-G for Trinidad and Tobago* [1996] AC 842 (media comment about trial insufficient to warrant adjournment of trial).

[8] Colin Stagg was one of the earliest victims of phone hacking by *News of the World*: BBC "News of the World hacked Milly Dowler's phone", 4 July 2011. Information that his phone was hacked in August 2000 was made public on the same day as the hacking of Milly Dowler's phone was revealed. It is unknown whether his phone was hacked or tapped prior to mid-2000, but it seems at least possible.

[9] As to the dangers of lie detector and truth serum evidence violating the right against self-incrimination and right to privacy, as well as being incompatible with a fair trial, see the exhaustive analysis of the Supreme Court of India in *Bieganek v DataNet Information Systems Inc* [2010] ACBA 1424.

[10] See the full text of Boris Johnson's article below.

The murder of Rachel Nickell[11], attacked while walking her dog on Wimbledon Common on 15 July 1992, horrified the general public. Her murderer also threw her 2-year-old son into the bushes. The little boy, who saw his mother murdered, managed to crawl to her body. He was found, crying "wake up, mummy", having stuck a piece of paper on her forehead to make her better.

The media coverage was immense. There was "extreme pressure" on the police to catch the killer quickly[12]. Police had arrested fourteen men by 12 August 1992 (one of whom was Colin Stagg), although all were later released, and went on to interview hundreds more suspects and witnesses. In the course of their inquiries, police also went to the home of Robert Napper. Forensic evidence at the crime scene, including a footprint and red paint flakes, which would have identified Napper, was not tested at the time; DNA evidence was in its infancy, but this other evidence should not have been overlooked.[13]

Colin Stagg, an eccentric loner, came to police attention again after a phone call to "Crime Watch" following a description given by psychologist and "profiler", Paul Britton[14], in 1992. Britton's "profiling" theories were popular at the time; the television series "Cracker" was based on his psychological profiling activities. Although there was no forensic or witness evidence tying Stagg to the murder, Britton opined that Colin Stagg fitted the profile. However, evidence was needed – a confession, for example. This resulted in Operation Edzell, where an undercover police officer, "Lizzie James", tried to lure Mr Stagg into admitting he had committed the murder. Mr Stagg, who had never had a girlfriend, was thrilled by her interest in him and went along with her "fantasies" but, despite her efforts, never confessed. Rather than being a dangerous killer, the secretly taped conversations showed him as a timid and ineffectual man.

Colin Stagg is charged

[11]The many books and articles on the murder include Rodney Castleden, "Death on Wimbledon Common: Rachel Nickell" (in "Great Unsolved Crimes" 2004); texts on forensic evidence (such as "A Question of Evidence", Colin Evans, 2003); and publications by the police officer in charge of the investigation (Keith Pedder, "Murder on the Commons", "The Rachel Files"), the falsely accused defendant, Colin Stagg ("Who killed Rachel Nickell?" and "Pariah", which came out on the same day that the real killer, Robert Napper, entered a plea), the victims partner Andre Hanscombe ("The Last Week in July", 1996) and the psychological "profiler", Paul Britton ("The Jigsaw Man" and other publications).

[12]T Brain, "A History of Policing in England and Wales from 1974: A Turbulent Journey", Oxford University Press, 2010, p. 212. The pressure arose not only from the distressing facts, but also because when the murder happened, the police, the media and the criminal justice system were being hit by a wave of miscarriages of justice. In 1991, the Birmingham Six had finally been released; two years before that, the Guildford Four. The week that Rachel Nickell was killed, the appeal by the Darvell brothers, who had been wrongly convicted of a murder in Swansea, was being heard. Serious though these miscarriages of justice were, they would later be overshadowed by two murders that the tabloids were reluctant to write about: the murder of Daniel Morgan in 1987 and the murder of Stephen Lawrence in April 1993, and they would be followed by concerns about the trial of Barry George for the murder of Jill Dando. George's appeals were not among the 97 convictions quashed by the CCRC between 31 March 1997 and 30 June 2003; he would have to wait until 2008.

[13]S. Laville and Peter Walker, "Met rules out fresh inquiry into Rachel Nickell murder errors". *The Guardian*, 19 December 2008.

[14] See Nick Ross's introduction to "Pariah", by Colin Stagg and Ted Hynds.

THE Sun

Fantastic 48-page value 20p

Wednesday, August 18, 1993 20p Today's TV: Pages 20 and 21

Another Sun exclusive

WPC 'TRAPS' RACHEL MAN

She became girlfriend of the murder suspect

BY MIKE SULLIVAN

A MAN was being held over the murder of mum Rachel Nickell last night after an amazing police operation in which a woman detective became his "girlfriend.".

The 30-year-old man was arrested yesterday following a six-month undercover mission by the plucky police girl.

The married WPC, in her 30s, had volunteered to try to forge a close friendship with the loner in a bid to trap him.

Rachel, 23, was knifed 49 times and sexually assaulted in front of her two-year-old son Alex on Wimbledon Common, South London, in July last year.

LETTERS

The blonde detective first met the man at the murder scene, where he walks his pet dog every day.

She gradually won his trust — and was so convincing that the two became close friends.

They had a series of meetings and exchanged cards and letters at their

Continued on Page Five

Victim . . . murdered mum Rachel Nickell with son Alex and boyfriend Andre Honscombe

The media attack began as soon as Colin Stagg was charged on 17 August 1993. The day after his arrest, *Sun* journalist Mike Sullivan published "Another *Sun* exclusive: WPC 'traps' Rachel man". The admissibility (or lack thereof) of this entrapment evidence was the reason for the case against Stagg ultimately falling apart. For it to be published the day after his arrest was highly prejudicial.

According to the police officer in charge of the case, D I Keith Pedder[15], Scotland Yard was furious at this information being published, and began an investigation into "who leaked the 'Lizzie' story to the press". Mr Pedder claims that two of his colleagues became suspicious of the identity of the leaker after they remembered that Sullivan had dropped around to see them without having a convincing reason.[16] Mr Pedder additionally claims that the Attorney-General issued writs against four daily newspapers for contempt of court[17].

[15]"Murder on the Commons" at p. 432.
[16]Ibid, p. 432 – 5. Mike Sullivan was one of four *Sun* journalists arrested on 28 January 2012 during Operation Elveden in relation to payments allegedly made to police, but these allegations appear to relate to periods of time after 2001.
[17] "Murder on the Commons", p. 432.

The case against Colin Stagg was known to be weak from the first. There was no forensic evidence; he had not confessed; and there was a strong likelihood that the "honey pot" undercover policewoman evidence would be found to be inadmissible. In March 1994 (in the murder trial of Keith Hall[18]) a similar attempt to rely upon evidence obtained by another female officer pretending romantic interest failed when the evidence was rejected by the court. Nevertheless, in what Colin Evans called "the worst decision ever made in the hundred-year history of the CPS"[19], the prosecution pressed ahead with the trial.

The murder trial

Colin Stagg had spent 13 months in prison[20] before the murder trial was sent for hearing to Mr Justice Ognall (an experienced criminal law judge who had been the prosecutor in the Yorkshire Ripper trial) at the Old Bailey, on 14 September 1994. The first issue was the admissibility of the undercover evidence of "Lizzie James". The defence challenged the admissibility of evidence gathered by her during Operation Edzell, which consisted largely of correspondence between her and Mr Stagg.

After 5 days of reading the documents to be tendered, and hearing legal argument, Mr Justice Ognall not only held the "honey pot" evidence was inadmissible under the *Police and Criminal Evidence Act* 1984, but described it as "wholly reprehensible", and obtained by using "deceptive conduct of the grossest kind". As the evidence of Lizzie James was really all the police had, the prosecution collapsed; Colin Stagg was acquitted and set free. This was when his real trial – trial by media – began.

Trial by media

From the day of his acquittal until police revealed Napper was Rachel Nickell's murderer, Colin Stagg was the subject of unrelenting media hostility. "No Girl is Safe" said the *Sun* on the day Mr Justice Ognall's ruling was announced, adding that Rachel's killer "was now laughing at the law amid fears he would kill again". "Now I'll make a Killing", said the *Mirror*, referring to the damages Mr Stagg was likely to demand. "Where is the Justice?" asked the *Express*.

The media criticism of Mr Stagg was relentless. When a grant of legal aid to sue the police was approved, the *Mail on Sunday* carried a story full of objections to this (the grant was later withdrawn). Mr Stagg had to endure a campaign where he was described in newspapers as a

[18] Reported in *The Independent*, 11 March 1994. See Andrew L-T Choo and Manda Mellors, "Undercover Police Operations and What the accused said (or didn't say) [1995] 2 Web JCLI. Entrapment evidence was in fact used in the trial of Shaun Armstrong for the murder of Rosie Palmer; a Mr Bernard O'Mahoney tricked him into writing a letter of confession; Armstrong then changed his plea to guilty. The trial judge, by coincidence, was Mr Justice Ognall. Mr O'Mahoney's story-selling activities about secret revelations by criminals are described by Nick Davies in "Flat Earth News", 2008, at pp. 360 – 62.

[19] Colin Evans, "A Question of Evidence" at p. 110.

[20] In a true "own goal", police had to concede that Stagg could not have committed the murder of Samantha Bissett and her 4 year old daughter in November 1993 because he was already imprisoned on remand, having been charged with the murder of Rachel Nickell.

"sick weirdo", a "pervert" and a "kinky sex offender" and false claims that the Nickell family were going to sue him[21].

The impact of the media onslaught was something he had to share with the victim's family (Rachel Nickell's partner and their son moved to France and then Spain to avoid the media)[22] and the police officers (Keith Pedder retired, aged 39, in December 1995 and "Lizzie James" also retired early, on health grounds, on 12 June 1998). However, the victim's family, the media and the police were united in one respect: all blamed Mr Justice Ognall, who was portrayed in the media as a muddleheaded liberal who had freed a guilty man. The victim's father, speaking on GMTV after Mr Justice Ognall's ruling, said:

> "It is very easy for a judge to sit at the Old Bailey in dry surroundings when he's had a week to consider what he wants to say. He's not out there on the streets. He is not on Wimbledon Common picking up someone's body which has been cut…[Police] are the people who are trying to keep society sage for us and all the time we legislate against them we make it more and more difficult for them to do their job."

Similar broadcasts and articles, often based on the provision of material by police to journalists, began appearing on a regular basis. The theme was that the police got it right, and Mr Justice Ognall got it wrong. One of those spoken to, Mike Fielder[23], wrote:

> "Things might have been different, [police] said, if only a judge and jury had heard the rest of the evidence they had planned to submit; if it had not boiled down to the legal rights and wrongs of the Lizzie James testimony. "If a jury had acquitted Colin Stagg after hearing all the evidence, then we would have had no complaints", said one officer, "but to see the case shot down in flames before a jury was even sworn was a dreadful blow."

The Commissioner, Sir Paul Condon, made a public statement defending police, saying that police had relied upon not only the Crown Prosecuting Service (CPS) but upon the "ultimate legal filter before a trial takes place – a contested committal". The kindest thing he could say about Mr Justice Ognall's decision was that the view of this "individual judge" was one police "must respect". Chester Stern, former head of the Yard's Press Bureau, wrote in the *Mail on Sunday* that any claim for compensation would be resisted by the police, who would be prepared to produce all their evidence in what would amount to a new "trial" for Colin Stagg, as would any civil claim, which would be heard before a jury. This was using the power of the press to warn Mr Stagg not to bring any compensation claim, and on the government not to entertain one. It was a successful threat.

Rodney Castleden[24] described the saga as follows:

> "[Police] injudiciously and unethically (given the court's decision to acquit) made it very clear that they still considered Colin Stagg to be guilty. Sir Paul Condon, the Chief Commissioner of the Metropolitan

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[21] Colin Stagg, Pariah, pp. 172 – 3, 181.

[22] In 1996 Rachel Nickell's partner described the media as "callous, mercenary and unfeeling scum ... you've got people on your doorstep every day, people following you around in cars taking pictures of you, people peeping over fences and Rachel's face appearing in the paper every day with any tenuous link…"("The Last Thursday in July", 1996). Moving overseas did not help; *News of the World* tracked down Nickell's son Alex, now 19, and on 9 November 1998 published a photo of him walking his dog in Spain.

[23] "The Murder of Rachel Nickell", Blake's True Crime Library, 2000, p. 233 – 4.

[24] "Rachel Nickell: Murder on Wimbledon Common", *loc. cit.*

> Police, publicly announced, 'We are not looking for anyone else.' …They wanted to create the impression that they had got it right; they had identified the killer; that through some tiresome technicality of the British legal system the killer had got off. The press (notably the *Daily Mail* and the *Mail on Sunday*) went along with this, partly because of some off-the-record briefings by the police. Rachel Nickell's parents and her boyfriend were also persuaded that Stagg was guilty in spite of the acquittal."

The general theme that a liberal judge had let a terrible killer walk free on a technicality was confirmed by articles that actually published the evidence deemed inadmissible at the trial.[25]

Another problem for police was the officer in charge of the murder inquiry, Keith Pedder. After retiring he became a private investigator. He secured a contract with Transworld for a book about the murder, and there were concerns about what he might say. Mr Pedder had copies of documents showing he had approval to run the undercover operation, and this showed that the prosecution methods had been approved both by police and senior CPS lawyers, such as Howard Youngerwood[26]. As he was finishing the manuscript in September 1997, the publisher backed off after a policewoman gave a tabloid the details of their extramarital affair during the Nickell investigation. This did not stop the book. Then, in March 1998, Mr Pedder was arrested and questioned about information he had attempted to get from the police national computer. He was charged under section 1 of the *Prevention of Corruption Act* 1906 with attempting to corrupt a detective constable in the Metropolitan Police.

The charges were dropped in 1999 after the Recorder, Oliver Blunt, ruled the main evidence against him was "unfair"[27]. First of all, the detective constable to whom the alleged request for information from the police computer was made had in fact obtained this information without any request to do so from Mr Pedder. Second, this detective constable was himself under investigation for an allegedly corrupt relationship with a journalist. Mr Pedder obtained evidence corroborating this information. Shortly before the criminal trial, this detective constable suddenly retired from the force.

This all must have sounded horribly familiar to Mr Pedder, who complained he was "set up" by the CIB, as his book had revealed what he called the "duplicity" of senior officers during the fall out following the collapse of the Nickell trial. He illustrated this by revealing a secret report on the undercover aspects of the crime which proved that senior officers had authorized the "Lizzie" undercover investigation.[28] However, the tabloids were still happy to use Pedder's book to attack

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[25] *People* published the letters Mr Stagg sent to Lizzie after he was charged and a Sunday newspaper published them again in 1996 (ITN broadcast, 21 October 1996).

[26] The prosecutor who decided to drop charges against some of the Eltham Five in the Stephen Lawrence murder case, a case then being investigated by, among others, *Guardian* journalists Michael Gillard and Laurie Flynn.

[27] "Nickell officer charged with corruption", BBC News, 10 December 1998, updated January 12 2004.

[28] "I was set up, says Nickell detective", *the Guardian*, 2 September 1999, Michael Gillard, Laurie Flynn and Geoff Seed. As well as DC Blackman, another senior police officer in the Pedder prosecution, DCI Battye, was being investigated by the CIB, according to Gillard and Flynn. Gillard and Flynn had themselves been the victims of police attempts to stop them investigating Jonathan Rees, the private investigator who spent more than two decades either under suspicion or under arrest for the murder of Rees' partner Daniel Morgan. Rees' most lucrative client over the same period was the *News of the World*, which paid Rees over £100,000 a year. After Rees' arrest on an unrelated charge in 1999, Commander Andy Hayman wrote to the editor of *the Guardian* on 2 August 2000 demanding that Gillard and Flynn should be stopped from investigating police corruption as it was imperiling the Rees prosecution. Gillard and Flynn stopped writing for *the Guardian*, but their 2005 book "Untouchables" remains

Mr Justice Ognall's ruling; it was serialised in the *Daily Mail* under the heading "How British Justice Betrayed Rachel's son."[29]

The *Daily Mail* revealed in 2008 that the police had leaked an internal report attacking the trial judge:

> "A leaked internal CPS report on the collapse of the trial made an astonishing attack on Mr Justice Ognall, the judge who threw out the case against Mr Stagg after criticising the honey-trap operation involving a blonde undercover policewoman known as Lizzie James.
>
> Mr Justice Ognall told the Old Bailey the tactic was 'a substantial attempt to incriminate a suspect by positive and deceptive conduct of the grossest kind'.
>
> But the CPS report said the judge had an unfairly 'disciplinary approach' towards the police and, after hearing how they gathered their evidence, was 'determined to stop the prosecution'."[30]

Attacks were not limited to Mr Justice Ognall; the attack was on the criminal justice system generally. There was a relentless media campaign to get Colin Stagg to admit he was guilty to the media, which involved many tabloids. Some of the highlights were:

- A lie detector test he took for *News of the World* (which Mr Stagg passed) shortly after the verdict in 1994. Next, the *Cook Report* (a television programme) arranged for Mr Stagg to be interviewed and to take a second lie detector test; when he passed this, they wanted him to take truth serum. Mr Stagg refused, although he did agree to undergo hypnosis.[31] However, *News of the World* continued to ask him to take truth serum, so he did. *News* claimed to find a discrepancy that meant he had lied to the police.[32]

- Proposals that Mr Stagg undergo a second "trial", this time before the cameras. This programme, to be called "The Trial that Never Was", was "pitched" by a documentary maker to Anglia Television, and would include witness statements, a retired judge and barristers, with a verdict by viewers' phone-ins.[33] Fortunately, it never went ahead. Mr Stagg appeared in a much more restrained documentary for ITV, playing himself, in June 2001.

- In October 1996, the *Mail* published an article by Chester Stern, a former Scotland Yard press officer, based around quotations from supposed evidence that the police would have used against Stagg, had his trial not been stopped at an early stage by Mr Justice Ognall. Another article in the same month, which repeated these matters, added that "Stagg cannot stand trial for Rachel's murder again, even if new evidence came to light which

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a landmark expose not only of the murder of Daniel Morgan but of the improper close relationship between police and the tabloids generally.

[29] Nick Cohen, *loc. cit.*

[30] http://www.dailymail.co.uk/news/article-494764/Broadmoor-patient-charged-killing-Rachel-Nickell-15-years-brutal-death.html#ixzz28ssFVWxp.

[31] Colin Stagg, "Pariah", pp. 185 – 6. When articles about Mr Stagg appeared, they usually referred to him as being "cleared by a judge", the inference being that a jury would have seen the truth (pp. 201 – 2).

[32] *Ibid*., p. 198.

[33] *Ibid*., pp. 189 – 92.

incriminated him".[34] The *Mail on Sunday*'s article "The Case Against Colin Stagg a jury never heard" included witness statements and other confidential material. The justice system, and the double jeopardy rule, were repeatedly criticised.

- When Mr Stagg married (and then separated from) a woman who had started writing to him in prison, she gave an interview to the *Sunday Express* under the headline: "STAGG TOLD ME; I KILLED RACHEL". The *Express* never replied to Mr Stagg's complaints so he sought a ruling from the PCC; the PCC said they could not deal with the matter while it was under investigation by the police (Mr Stagg was being investigated for making a threatening phone call to his estranged wife). Mr Stagg claims that the *Express* and PCC were privy to discussions between the police and prosecutors about whether Mr Stagg would be the subject of further charges.[35] The PCC later found there had been no breach of the Code.

- A neighbour of Mr Stagg sold a story that he had stalked her on Wimbledon Common.[36] "Alisha Russell", a disturbed prostitute who later committed suicide, sold a story to *News of the World* that she was Mr Stagg's girlfriend, and that he liked to have sex near the scene of the murder("Weirdo Stagg's Sick Lust in Rachel Murder Woods").


WEIRDO STAGG'S IN RACHEL MURDER

He liked sex close to scene of death

EXCLUSIVE

The leaders of the pack were, according to Nick Cohen, the *News of the World* and the *Daily Mail*:

> "The worst of it was that the police and media persuaded the family of Rachel Nickell that the crucial difference between Stagg and Hindley was that Stagg had got away with murder. The

[34] For more information about the campaign the *Daily Mail* ran against Colin Stagg, see *Obsolete* 21 June 2006 and *Private Eye* 1120.
[35] Colin Stagg, "Who Really Killed Rachel?", 1999, p. 330.
[36] Colin Stagg, "Pariah", p. 157.

> News of the World ran lipsmacking pieces on how the 'weirdo' demanded 'bizarre sex' with his 'terrified' girlfriend yards from where Rachel Nickell was murdered. The Daily Mail quoted Andre Hanscombe, father of her son, saying he was '99 per cent certain' that Stagg was guilty and the government should remove the double jeopardy law so he could be tried again. It also ran a serialisation of a self-justificatory book by the officer in charge of the case, Detective Inspector Keith Pedder, headlined 'How British Justice Betrayed Rachel's Son'.
>
> All the harassment and the tub-thumping, the misleading of Rachel Nickell's family and the denigration by the judge was in vain; a vast exercise in distraction left the real killer free to commit other crimes."[37]

There was a cold case reopening of the investigation in 2001. Police compared DNA samples and found other forensic evidence which identified Robert Napper, the murderer of Samantha Bissett and her daughter in 1995, who was currently in Broadmoor serving a life sentence for these crimes. Police also identified Napper as the Green Chain rapist, who over an 8-year period committed up to 40 rapes on the Green Chain Walk.

Mr Stagg applied for, and was awarded, compensation, the precise details of which were later leaked to the press. The tabloids were critical of the fact that the amount he received was so much more than the victim's family.

The trial judge

I now return to Mr Justice Ognall, who had to endure over a decade of being pilloried as a liberal (or incompetent) judge who had let a guilty man go free. Attacks on judges for being "soft on crime" have long been a staple of tabloid journalism[38], but this was a sustained attack, largely by innuendo, on both him and on the criminal justice system. After all, without the ruling given by Mr Justice Ognall, the trial would have proceeded and, given the prejudicial nature of this evidence, Stagg could have been convicted. Rodney Castleden comments:

> "But for the probity of Mr Justice Ognall, police and press prejudice would have sent Stagg back to prison – by the law of the lynch mob."[39]

How bad was the attack on Mr Justice Ognall? Boris Johnson, at the time the MP for Henley, and now the Mayor of London, wrote in the *Telegraph* on 22 June, 2006[40]:

> "It is not fashionable these days for politicians to extol the judiciary, but then this column is not meant to be fashionable. Today I salute the genius of a judge. If I had anything to do with the honours system I would be advising that the next list should contain a special medal for Mr Justice Ognall, and that the citation should recognise his conspicuous gallantry under fire…

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[37] Nick Cohen, "With police and tabloids in cahoots, Colin Stagg became a sacrificial lamb", *The Observer*, 25 June 2006.

[38] See the review of articles attacking judges as "soft on crime" set out in E Bell, "New Guests in the Corridors of Power : the decline of the liberal élite and the forging of a new penal consensus", <http://osb.revues.org/452> (paragraph 15). See also <http://www.thesun.co.uk/sol/homepage/news/3496327/Judges-No-jail-for-dealers-caught-with-50-heroin-wraps.html>.

[39] Loc cit., at p. 526.

[40] http://www.telegraph.co.uk/comment/columnists/borisjohnson/3625868/Colin-Stagg-shows-why-trial-by-judge-not-by-media-is-right.html .

To understand the bravery of this judge's action, you have to cast your mind back to that murder, in 1992, and the mania that engulfed the media…

The awfulness of the killing provoked the press to paroxysms of outrage. So deafening were the calls for retribution that the police were driven quite out of their wits…

We can only understand what happened if we remember that day in, day out, the tabloid press was providing a barrage of covering fire, with pictures of Stagg looking goofy and deranged, pictures of his sweaty-looking singlet and his malodorous flat; and so all the time the police knew that if they failed to land this man, if they let him off the hook, then the wrath of the press would be turned on them.

They went ahead. They took the honeytrap nonsense to court, and of course Mr Justice Ognall dismissed the whole operation as "deceptive conduct of the worst kind", and threw the case out, a move which did indeed leave the papers furious. They blamed the police. They blamed the Crown Prosecution Service. They blamed the undercover honeytrap operative “Lizzie”, and caused her such distress that she was later to sue the police force and win damages of £135,000.

They blamed the police psychologist who had worked out, on the basis of "profiling", that Stagg must be the man. And for years afterwards, slyly or openly, they blamed Stagg himself, and continued to hint at his guilt…

Whom shall the media blame? The tabloids should realise that they are very largely at fault for the disaster. They decided not so much that Stagg had done it, but that this was what their readers wanted to hear, and they hammered away at it so vociferously that the criminal justice system was driven almost to insanity.

The Stagg case is a perfect example of why we should not allow ourselves to be ruled by tabloid editors. The Daily Mail's MMR panic has brought us an increase in measles, and the general panic over paedophiles has all but driven men from primary school classrooms.

It needs brave politicians to resist this kind of nonsense, and brave judges to tell the media when they are wrong.”

Sir Harry Ognall wrote, modestly, on 18 December 2008 in *The Times:*

Sir Harry Ognall: Commentary

“Robert Napper’s guilty plea yesterday to the manslaughter of Rachel Nickell completes a remarkable legal circle. When Colin Stagg was charged with that same brutal killing I was the judge appointed to try a case that excited enormous media coverage. Before the trial in 1994 three things were apparent.

First, the police were faced with overwhelming pressure to identify the killer and establish a compelling case. Second, they were faced with a desperate lack of evidence of any quality against Mr Stagg - their exclusive candidate for the murder – let alone evidence sufficient to establish guilt beyond a reasonable doubt. Finally, it was obvious that the judge would need to be especially wary of the real risk that the jury might be swept along by the tide of widespread hostility to the accused and return a guilty verdict notwithstanding the absence of effective proof.

The second of those features led the police to set up the so-called honey trap, using an undercover policewoman to seduce Mr Stagg into a confession. It proved to be a fruitless initiative. The high-water mark of the material thereby obtained was a single comment by him that might, on one view, have been construed as betraying an awareness of details of the attack that could only have been known to the perpetrator. There was nothing else in the prosecution’s locker. There was no identification, no scientific evidence, no circumstantial evidence and no subsequent incriminating behaviour. Neither was there DNA available either to implicate or to exonerate him. In the event, I ruled that the evidence derived from the

> entrapment should not go before the jury. It is a graphic measure of the frailty of the prosecution case that, bereft of the foothold offered to them by that rotten plank, they elected to drop their case, and Mr Stagg was acquitted.
>
> Since then a campaign of innuendo has been mounted in sections of the press that has repeatedly invited the public to conclude that Mr Stagg had literally "got away with murder". The truth, of course, was that he had not got away with anything. He had been singled out because he was a soft target. His appearance, his lifestyle and the libidinous exchanges with the policewoman painted him in singularly unattractive colours.
>
> The police closed their minds to any other possibility than that of his guilt. That cardinal error corrupted the whole of their investigation. They were wrong. I claim no special credit for ruling as I did. I am certain that any other judge in my position would have recognised that proof of guilt was simply not there. To leave the entrapment evidence to the jury would be to open the door to the wholly unacceptable risk that prejudice would replace proof.
>
> There will no doubt be suggestions that there are obvious lessons to be learned from this 14-year saga. I am not so sure. Media hysteria, an embattled police force and the duty of a criminal trial judge to ensure inherent fairness of the process are not novel…"

These were prescient words, for the same process of media hysteria, in the course of a series of media-tinged investigations and trials over more than a decade, coupled by inaction by the Press Complaints Commission, would lead to the Leveson Inquiry. The Rachel Nickell murder investigation and trials, and the way Colin Stagg was treated, was one topic (albeit a very minor one) on the Inquiry agenda.

The Leveson Inquiry

Alexander Tribick, Mr Stagg's solicitor since 2002, provided the Leveson Inquiry with a statement outlining three occasions when information about Mr Stagg had been leaked or improperly obtained:

- The *Daily Mail*'s 6 September 2003 article about a DNA breakthrough.
- Sky TV's and the *Daily Mail*'s coverage of the 3 March 2004 visit by Mr Stagg to police to offer to give a DNA sample.
- The *Daily Mail's* 10 June 2007 article stating how much compensation had been awarded to Mr Stagg, before Mr Tribick himself knew how much compensation had been awarded.

These claims were put to the Associate News Editor for the *Daily Mail*, Steve Wright. He said the DNA breakthrough article came from a tip from a freelance journalist, that Mr Stagg had called Sky TV himself, and that Mr Tribick had forgotten how the *Daily Mail* had obtained the compensation information (the inference being that it had come from Mr Tribick himself)[41].

[41] This is incorrect. The *Daily Mail*'s article, which was published the same day Mr Tribick received the letter confirming Mr Stagg's eligibility, stated Mr Stagg was to receive 250,000 when in fact compensation had yet to be assessed. Mr Stagg points out in "Pariah" at p.241 that media obsession with his making a "killing" in compensation resulted in a series of articles attacking and potentially undermining both the compensation process and Mr Stagg's application for compensation, which had still not been assessed a year after the letter his solicitor received advising Mr Stagg was eligible.

No material was put before the Inquiry about the long history of leaks (going back to the *Sun* exclusive "WPC 'traps' Rachel man", where confidential prosecution evidence was published the day after Mr Stagg's arrest), including the *Daily Mail*'s own 2008 revelation of a leaked internal CPS report attacking Mr Justice Ognall, or the many tabloid articles which I have set out above which accuse Mr Stagg of murder and Mr Justice Ognall of incompetence, or worse. Nor was there any reference to the *Guardian* 2 September 1999 article about the collapse of the charges against Mr Keith Pedder, or of the investigation of a corrupt relationship between a journalist and the police officer making allegations against Mr Pedder. To the contrary; retired police officer Bob Quick informed the Inquiry that the two *Guardian* journalists who wrote about this corrupt arrangement were themselves "placing misleading stories" in the *Guardian* "to influence the jury" in another criminal trial, and after representations by himself and Commander Hayman they had been sacked from the *Guardian*[42].

Mr Wright not only considered his reporting of the Rachel Nickell murder fair; he took credit (at paragraph 34 of his statement) for solving it. He identified his assistance to the police in solving murders as including:

" The DNA breakthrough that eventually led to the Rachel Nickell's real killer being identified, thereby removing the stigma associated with the former prime suspect, Colin Stagg" (statement, para 34.1)".

He went on to explain:

"For example, in 2001 I conducted a five page interview with Rachel Nickell's partner in which he issued an emotional appeal for the police to catch her killer. It was a very poignant article, as I was the first journalist to meet Rachel's son, who had witnessed her murder. I later alerted a very senior police officer to the article which, I believe, may have helped restart the inquiry which eventually led to the conviction of a man already in Broadmoor for a brutal double killing of a young mother and her daughter."

Mr Wright conceded, in his oral evidence, that this was "a bit too strong" (evidence p.90) because all he had done was to show police his interview with the victim's partner "crying out for justice", and that the police, not Mr Wright, had in fact solved Rachel Nickell's murder (evidence p. 92).

Mr Wright did not mention the article the *Daily Mail* published in 1995 following the conviction of Robert Napper (revealed a decade later to be the actual murderer of Rachel Nickell) claiming that he could have participated in the crime with Mr Stagg: "DID HE MURDER RACHEL TOO?"[43], or that Barry George, wrongly imprisoned for the murder of Jill Dando, could have been responsible[44], or their criticism of the amount of compensation Mr Stagg was awarded on the basis that the victim's family received less.

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[42] The statement of Bob Quick, paragraph 14, has the names redacted, but they were published in the next edition of the *Sunday Times*; see also the introduction to Michael Gillard and Laurie Flynn, "Untouchables", 2nd ed., 2012, p. 9.

[43] "Did he murder Rachel too?" ,*Daily Mail*.

[44] "Jill's killer to face Rachel Quiz", *Mail on Sunday*, http://www.dailymail.co.uk/news/article-109611/Jills-killer-face-Rachel-quiz.html. Mr George successfully appealed this conviction. The Jill Dando investigation has not been included in the Leveson Inquiry, although it is notorious that Ms Dando's electric, water and phone accounts were "blagged" a month before her death by a journalist pretending to be her brother James: Scott Lomax, "Justice for Jill: How the Wrong Man was Jailed for the Murder of Jill Dando", 2007, pp 66 – 67.

Another senior editor, James Murray, giving evidence on 19 March 2012, thought the press had been concerned about the weakness of the Stagg prosecution even at the time Stagg was first charged in 1993. He stated that during press briefings "at the time when Colin Stagg was arrested" there was "a lot of concern among the press, some members of the press, that the evidence didn't stack up against Mr Stagg" (transcript 19 March 2012 p. 6). Mr Murray covered "some of the remand hearings" and noticed the evidence "just wasn't there". He took "the unusual position" of saying to some of the officers "Are you sure you have the right guy here?"

Mr Murray was complimentary to the police, about their persistence in finding the real killer. He said that "to their great credit they stuck with that and they continued to look at the case and examine the evidence", and that they should be "congratulated" (transcript p. 8). However, the timeline shows that the police did not further investigate, from the September 1994 acquittal, until there was a cold case reopening 7 years later, in 2001.

Murray was one of the journalists who wrote about a Mr Christopher Jefferies (another "loner" investigated for looking guilty rather than on the basis of evidence) in the blanket media coverage following Jefferies' arrest[45] for the murder of Jo Yates. Once again, Mr Jefferies was entirely innocent of everything, except for being an eccentric, which made good copy.

As Leveson LJ put to Mr Murray: "what was the business of the press getting involved in this debate at all?" (transcript p. 38). Leveson LJ went on to say, in relation to an article where Mr Wright considered he had dealt with Mr Jefferies fairly:

> "The point is all that had happened was that [Mr Jefferies] had been arrested, and a whole series of articles had been generated about how odd he was and a lot of prejudicial material which might put people off who would be prepared to stand up to help him. You decide to put something into the, and suddenly there's a big debate going on about somebody who has not been charged or anything." (transcript p. 40).

Concluding remarks

The Colin Stagg case, despite its well-documented history as a travesty of justice, has been referred to only in passing at the Leveson Inquiry and in the many articles and books about "phone hacking" and other illegal newsgathering means. Cases of this kind are generally excused as a "one-off". However, Brian Cathcart, writing about the Christopher Jefferies case, sees a pattern:

> "For years, editors have been telling us that every outrage was a one-off: from Gorden Kaye, Princess Diana, Barry George, Russell Harty, Anne Diamond and Colin Stagg in the past, to Robert Murat, the McCanns, the Dowlers, Sienna Miller and Christopher Jefferies more recently. They are not one-offs, they are evidence of serial abuse, unchecked over decades."[46]

Ian Burrell, writing in *the Independent* on 24 January 2011, prior to the Leveson Inquiry, made similar comments about tabloid attacks on innocent persons who "look" guilty:

[45] http://www.express.co.uk/posts/view/220620/Jefferies-not-a-killer-says-former-head-Jefferies-not-a-killer-says-former-head-Jefferies-not-a-killer-says-former-head .
[46] "Michael Grove: another sign of desperation", Hacked Off, 29 February 2012.

> "Having had dubious roles in the character assassinations of the London misfits Colin Stagg and Barry George, the press demonised the innocent "school nerd" Tom Stephens in stories about the Ipswich vice murders. He "always wore tight trousers", a former school-friend told The Daily Telegraph. Even the award of £600,000 damages paid by 11 titles to Robert Murat – who was compared to the child killer Ian Huntley after aiding the search for Madeleine McCann – has not discouraged the press from trying to finger the local weirdo for murder.
>
> Christopher Jefferies, landlord of the Bristol murder victim Joanna Yeates, was variously described by The Sun as "weird, posh, lewd and creepy", a "blue-rinse, long-haired bachelor", who was "very unkempt and had dirty fingernails" and was "fascinated by making lewd sexual remarks". The comments were attributed to unnamed students of the highly-regarded former member of the English department at Clifton College. The Daily Mirror quoted another "ex-pupil" asserting that Mr Jefferies, 65, was "obsessed" with Oscar Wilde and his "favourite" work was "The Ballad of Reading Gaol". The paper noted that this poem "tells the story of a man who was hanged for cutting his wife's throat". The Daily Mail wondered if Mr Jefferies could "hold the key" to a murder case in which the victim's flat showed no signs of a forced entry."

A more likely reason is that it is all simply too long ago, the excuse Vos J accepted in the phone hacking litigation (*Various v News Group Newspapers Ltd & Anor* [2012] EWHC 2692 at 76ff). It is also one of the excuses proffered for the continued, and disgraceful, failure to hold public inquiry into the investigations and criminal proceedings in relation to the Daniel Morgan murder in 1987, the most expensive failed prosecution in British criminal justice history.

It seems unlikely that the Leveson Inquiry will offer information or advice for lawyers and judges about how to ensure protection of the trial process from the kind of press bullying that marked the 20-year Colin Stagg saga. At present the tabloid media faces only "minimal legal repercussions"[47] for serious matters such as interfering with justice by payment of witnesses in criminal trials[48], and the penalties for phone hacking have been demonstrated to be inadequate, by the Operation Motorman reports[49]. Contempt of court prosecutions, such as those commenced over the merciless media attacks on Christopher Jefferies, are shutting the gate after the horse has bolted.

Lawyers, as well as judges, need to come to terms with these problems, which examples like the Amanda Knox trial in Italy[50] and the McCann investigation in Portugal[51] demonstrate are of

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[47] Borrie and Lowe, "The Law of Contempt", Pt IV at [10.32]

[48] See Borrie at [10.37] (the Gary Glitter trial) and [10.38] (the Beckham "kidnap" trial). Prior to the Code amendments, there were concerns in the 1996 appeal from the Fred West trial; 19 witnesses received payments from the media. The prosecution and trial judge dealt with these meticulously and the convictions were unaffected. Borrie notes that the amendments to the Code were opposed by Lord Wakeham, head of the PCC, who claimed there had only been 4 such cases in a hundred years (at [10.32]). When Lord Wakeham had to resign because of the Enron scandal, this position was supported by the acting PCC chairman, Professor Pinker. Clauses 16 and 17 of the Code were introduced in 2003 to ban or minimize the practice. The degree to which payments to witnesses and family members of criminals or victims have been made in other common law jurisdictions such as the United States and Australia has been frankly acknowledged by newspaper articles (Bill O'Reilly, "We Pay for News. We Have To", *The New York Times*, February 26, 1994; A Hornery, "Cashing in on the Corby Clan", *Sydney Morning Herald*, 8 October 2011; Gossips' war of shock and awe", *Telegraph*, March 7, 2010) and in academic articles such as Professor Smolla (loc. cit.).

[49] Some of the information obtained by journalists from private investigators was not for journalistic purposes at all but for personal interest or vendettas: Nick Davies, "Operation Motorman: the full story revealed" (*The Guardian*, 31 August 2011)

[50] "From senators to judges and PR experts – Knox's case galvanised a nation", October 4, 2010, *Sydney Morning Herald;* "Amanda Knox 'raped' by media reports", *Herald Sun*, September 30, 2011. The prosecutors complained to

international concern. Lawyers in other common law jurisdictions have expressed concern at media intrusion, particularly tabloid journalism, for over a decade. These points were well made as long ago as 2000, in relation to the "named and shamed" campaign by *News of the World.* Alan D Gold, President of the Ontario Criminal Lawyer's Association, wrote in the August 2000 newsletter about his observations of this campaign during his visit to England:

> "13. So our (and the intelligent public's) only hope is the judiciary. If the judiciary ever stops doing what is right and just and fair, then we are truly lost and the lynching mentality will hold sway. That is why judicial independence must be protected and why the defence bar must be vigilant to speak out and thwart even the slightest attempt to influence any member of the judiciary. The judiciary, silenced by tradition, has historically had two allies and sources of defence. The Attorney General, as chief law officer, was constitutionally charged with protection of the independence of the judiciary. The defence bar shared that responsibility.
>
> 14. It looks like for the present we have to go it alone. The importance of the responsibility cannot be overstated. The English judges who imposed suspended sentences had those decisions criticized by some of the media (though not all). As might be expected, the critical press was the same newspapers that fuelled the mobs. English barristers spoke up in response. As well, other media outlets understood the important point that the only way to "criticize" particular judicial decisions, especially criminal sentencing decisions, is to appeal them to a higher court. There is nothing wrong with vigorous debate of correctional issues, or legal issues, or issues of legal policy. In fact, it would be a pleasant change to see intelligent discussion of such issues in our media. Even the new fad imported from the United States of insipid play-by-play analysis of criminal trials simply proves that the right of free speech sometimes has a painful price..."

What can be done to protect the trial process from the media frenzy such as that which the Rachel Nickell murder has inspired over the last twenty years? There are no answers likely to come from inquiries such as the Leveson and Finkelstein Inquiries, which are restricted (some might say unnecessarily restricted) to media ethics reform rather than protection of the judicial process. It is just too much of a political "hot potato" for governments to try to discourage this kind of public relations manipulation of (and by) the media in relation to trials where the public's right to know the titillating facts ends up outweighing the need for a fair trial. As Mr Gold so presciently put it, lawyers and judges are going to have to "go it alone" if they want to preserve judicial independence and the entitlement of any accused – no matter how eccentric or unlovely - to due process. The question is – what are we going to do about it?

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the judges hearing the appeal about the "media fascination" with Amanda Knox and said the prosecuting officials were subjected to "systematic denigration of a political and media nature." The prosecution denounced the "armchair detectives who give their opinions from remarkable superficiality and approximation from 5,000 kilometres (3,000 miles), 10,000 kilometres (more than 6,000 miles) away." (*New Zealand Herald*, 24 September 2011). The defence made even stronger complaints, since Knox had been almost demonised. The Knox trial is one of the worst examples of tabloid journalism damaging the trial process. Despite this obsessive interest, the *Daily Mail*'s report of the trial result was so incompetent that they reported Knox being found guilty when she was found not guilty: for a screen shot of the *Daily Mail's Mail Online* "Guilty: Amanda Knox looks stunned as appeal against murder conviction rejected" see http://www.malcolmcoles.co.uk/blog/daily-mail-guuilt/ . The *Daily Mail* story goes on to say: "Prosecutors were delighted with the verdict and said that 'justice has been done' although they said on a 'human factor it was sad two young people would be spending years in jail'. These statements and other "facts" reported about the trial (including Ms Knox being escorted back to prison on suicide watch) were complete inventions.

[51] For a review of the media vilification of Mrs McCann, see C Bainbridge, "They've taken her!", Studies in the Maternal, 2(1) 2010, www.mamsie.bbk.ac.uk and C Greer, "Media Justice: Madeleine McCann, intermediatisation and "Trial by Media"", 17 *Theoretical Criminology* 1.

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