

## Flinders University and Monash University

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### **Troubling narratives of true crime: Helen Garner's *This House of Grief* and Megan Norris's *On Father's Day***

#### Abstract:

The story of three little boys who drowned in a dam on Father's Day in 2005 is sad and shocking. After two long trials, Robert Farquharson was found guilty of the murders of his three sons and imprisoned for 33 years. This paper will examine works by two authors who tell this same story, each in a different way and from different perspectives. Helen Garner and Megan Norris both explore this tragic true crime by presenting two quite different grief narratives. Both are courtroom narratives that simultaneously question and explain the court system, but their respective examinations of grief, despair and fractured lives have resulted in two very different approaches. The article examines the narrative choices made by each author. It suggests that writers of such narratives bear a heavy responsibility towards the characters they portray as well as towards their readers, many of whom are not familiar with court processes and the criminal justice system.

#### Biographical note:

Associate Professor Rachel Spencer is the Director of Monash Law Clinics in the Faculty of Law at Monash University. Rachel has broad experience as a barrister, solicitor and legal educator. Her academic experience includes teaching and research in: legal ethics; civil procedure; clinical legal education; practical legal training; law, art and literature; lawyers and the media; law and popular culture; life writing; and crime writing. Her publications include book chapters, peer-reviewed journal articles, an academic text book, newspaper columns and training videos. Rachel also writes creative non-fiction and has a particular interest in life writing and true crime. She is a PhD candidate in creative writing at Flinders University.

#### Keywords:

Creative writing – true crime – grief narrative – murder – ethics – biography – Garner, Helen – Norris, Megan

## Introduction

‘School remembers dead brothers’ (Berry 2005). ‘Anguish as town mourns treasured kids’ (Cunningham and Butler 2005). ‘Tributes for three brothers drowned in dam’ (O’Connor and Chandler 2005). These were some of the headlines of the many newspaper reports about a tragic event that the criminal justice system later determined was a premeditated crime. The story of three little boys who drowned in a dam on Sunday 4 September 2005 is sad and shocking. Jai Farquharson, 10, and his brothers Tyler, 7 and Bailey, 2, drowned when the car driven by their father ended up at the bottom of a dam off the Princes Highway at Winchelsea, a little town about 40 km southwest of Geelong in Victoria, Australia.

Two established and respected journalist authors, Helen Garner and Megan Norris explore this tragic true crime by presenting two quite different grief narratives. This article examines two works of creative non-fiction by these authors who each recount this same story, but each in a different way and from different perspectives. Both authors write about the first trial as it unfolds and reaches the conclusion of a guilty verdict, and then both follow the decision of the Supreme Court of Victoria which hears the appeal against the conviction. The Supreme Court of Victoria finds that the trial miscarried for several complex legal reasons. The appeal against the conviction is allowed and a re-trial is ordered. The final guilty verdict from the second trial renders the unthinkable real when a jury decides that Robert Farquharson deliberately planned and carried out the most heinous of crimes: filicide.

Garner’s approach is through an analysis of the legal process. In *This House of Grief* Garner does not write from the vantage point of having made a decision regarding Farquharson’s guilt but instead she takes the reader with her on a personal quest to explore the complexity of this tragedy. Garner explains her understanding of court procedure and sets her narrative within the geographical locality of the Victorian Supreme Court. Garner confines her point of view to her observations of the legal process and the peripheral quotidian rituals of those who come and go from the courtroom. Her recounting of discussions at the coffee cart on the street outside the court are just as poignant as the drama that unfolds from the witness box.

A different attitude is taken by Norris whose view that Farquharson murdered his children is clear from the beginning of *On Father’s Day*. Cindy Gambino is the focus of this narrative, from her introduction as a devoted mother, and head of her domestic fiefdom, then grief-stricken and bereaved but supportive of her ex-husband and his story of a terrible accident, and then to a fragile, reclusive figure, addicted to painkillers, but suspecting that ‘Jai, Tyler and Bailey were pawns in a heinous payback plan calculated to ruin the rest of her life’ (Norris 2013: 264).

## Helen Garner’s approach

Garner begins her narrative in the fashion of a fairy tale:

Once there was a hard-working bloke who lived in a small Victorian country town with his wife and their three young sons. One day, out of the blue, his wife told him that she was no longer in love with him. She did not want to go on with the marriage. ... The

sad husband picked up his pillow and went to live with his widowed father, several streets away...

Up to this point you could tell the story as a country-and-western song, a rueful tale of love betrayed, a little bit whiny, a little bit sweet.

But ten months later, just after dark on a September evening in 2005, while the discarded husband was driving his sons back to their mother from a Father's Day outing, his old white Commodore swerved off the highway, barely five minutes from home, and plunged into a dam. He freed himself from the car and swam to the bank. The car sank to the bottom, and all the children drowned (2014: 1-2).

Within one further paragraph, Garner sweeps the reader from whiny-sweet banality into horror and tragedy. Garner then reveals how this tale will be told: through her own eyes.

I saw it on the TV news. Night. Low foliage. Water, misty and black. Blurred lights, a chopper. Men in hi-vis and helmets. Something very bad here. Something frightful.

Oh Lord, let this be an accident (2).

Garner's ambiguous title 'The story of a murder trial' shows that this event was not regarded by everyone as an accident. I am of the view that the retention of the word 'murder' but the inclusion of the word 'trial', is deliberate for two reasons. The first reason is that the title retains the ambiguity of any criminal trial in its adherence to the presumption of innocence which is the cornerstone of our criminal justice system. Was it an accident, or was it murder? This question is what a criminal trial is required to decide and it forms the thesis of Garner's book. The second reason is that Garner makes clear from her sub-title that this narrative is about the trial process. The focus is not on the guilty verdict, nor on the deaths of the boys. The blurb on the back explains that this book 'describes the theatre of the court – its actors and audience all gathered to bear witness to an elusive truth – in an extraordinary account of the quest for justice' (back cover).

Truth is shown to be elusive through the theatre of the adversarial system, reliant on lawyers to represent the parties and their respective cases. The adversarial system elicits a narrative which is based on strict rules of evidence which disallow witnesses from voicing their recollections in the witness box unless they are cognisant of the information from their own knowledge or they actually participated in (or were present at) the conversations they recount. The introduction of 'hearsay' evidence is strictly prohibited. Former Chief Justice of the Supreme Court of New South Wales James Spigelman asserts that there are three views about the relationship between truth and the adversarial system. The first view is that 'the adversarial system is not concerned with truth, but with 'procedural truth' or 'legal truth', as distinct from substantive fact.' An alternative view is that 'the adversarial system is the most effective mechanism for the discovery of truth.' And the third view is that 'the adversarial system seeks truth, but that search is qualified when the pursuit of truth conflicts with other values' (Spigelman 2011: 748). Spigelman's views about the adversarial system are of particular import, given his long and highly distinguished career in the law as a barrister of the highest seniority (Queen's Counsel) and then the highest-ranking judge of one of

the most important and influential courts in the country. Spigelman's observations are particularly relevant to this case and to these two narratives.

Garner grapples with this search for truth as she discloses the process through which a jury decides (twice) that Robert Farquharson is guilty of the murder of his three sons. Juries are not required to decide on the truth of what happened, but rather whether there is a reasonable doubt about the Prosecution's allegations. If there is a reasonable doubt about those allegations, it is a jury's duty to acquit.

However, while this work is 'the story of a murder trial', the main title exposes the essential theme of grief. The placement of the word 'house' in *This House of Grief* is multi-layered. Garner quotes Dezso Kosztolanyi's novel *Kornel Esti* at the beginning: 'this treasury of pain, this house of power and grief'. Garner has spliced off the word 'power' from the quotation and left only 'grief' in her title. Doyle and Burke note that the 'house' in the title refers to the Supreme Court of Victoria (2015: 129). The term 'house' in *This House of Grief* also denotes 'family', in the way that aristocratic English houses are described. The House of Windsor, for example, encompasses the immediate British royal family and everyone who marries into it, and all of the ancestors and descendants. Garner's title invites us to recognise that the tragedy that befell the three little boys affects not just the man on trial, but everyone connected to him, not only now, but in the past, and also into the future. Grief will overshadow them all. Grief is at the heart of this story – not blame, not punishment, not explanation, not restitution, not revenge, but overwhelming and all-inclusive grief. For example, Garner's first impression of Cindy Gambino when she first arrives at the court is of a

woman whose loss was beyond imagining, yet who would not lay blame ... Her smooth face with its large, heavy-lidded eyes showed no expression, but her skin was the pale greyish-brown of a walnut shell, as if grief had soaked her to the bone (2014: 28).

The title is also suggestive of the gothic bleakness of Edgar Allan Poe's *The Fall of the House of Usher*. The awful recurring motif of three terrified boys trapped in the smothering darkness of a muddy damn is frighteningly gothic, as is the deeply disturbing taboo of filicide, a concept so terrible that the reader almost wants 'Farquharson to be innocent and the deaths of the children a result of a blackout at the wheel, not a premeditated, ruthless act. Not necessarily because we believe him to be innocent, but because the alternative is just too terrible to contemplate' (Mah 2014). During the first trial, when Gambino supports her former husband's accident narrative, Garner describes the harrowing scenes in court as 'two broken people grieving together for their lost children, in an abyss of suffering where notions of guilt and innocence have no purchase' (2014: 37).

Garner's investigative process including an analysis of the evidence and the information she gleans independently outside of the court are essential elements of her narrative. The scope of this article does not extend to analysing this as a specific and common element of Garner's non-fiction *oeuvre*, but it is acknowledged that Garner's particular style and tone in *This House of Grief* is reminiscent of the similar narrative role that she plays in *Joe Cinque's Consolation* (also about a murder trial) and *The First Stone* (about a sexual assault case). It is through the lens of her own experience that her narratives are projected.

Garner presents her point of view in telling this story, including her impressions of witnesses, her thoughts as the trial progresses, and her own sense of unease about the adversarial system as a means of reaching for the truth. The author also discloses her defiance about her choice to write this story, notwithstanding the fact that '[w]hen I said I wanted to write about the trial, people looked at me in silence, with an expression I could not read' (2014: 6).

Within Garner's narrative are two threads. One loose, meandering thread draws together the evidence that the jury is permitted to see and hear. The other thread of self-awareness wraps around the evidence in an ever-tightening knot of speculation that derives from personal experience and a subjective understanding of the events that are unfolding, like Garner's description of a photograph of Farquharson leaving the court with his sister:

she is hauling Farquharson across the pavement. He trots beside her. She has an impatient, double-fisted hold on his left wrist that yanks his hand like a toddler's across the front of her hips. As the eldest of six children I recognised that hold: it was a bossy big-sister grip (2014: 19).

From time to time, Garner alerts the reader to the thoughts expressed by Louise, 'a pale, quiet sixteen-year-old with white-blond hair and braces on her teeth, dressed in jeans and a sky blue hoodie' (2014: 7). Garner is a senior journalist, writer, mother and grandmother whose view of the world is necessarily coloured and tarnished by the vast experiences and emotional peaks and troughs that make up a life. Louise, however, with her youth and inexperience, provides a different perspective and voice. Louise speaks impulsively. Her views are not tempered with nuance although Garner is 'grateful for her company, and for her precocious intelligence' (2014: 7). Garner makes it clear that she is searching for nuance. Whether Farquharson planned the deaths of his children out of anger at his former wife, or whether the car ended up in seven metres of water through a terrible accident is the question that the jury has to answer. Could a man kill the children he loved? Garner focusses on the admissible evidence but is side-tracked by her own cogitations which in turn raise points of supposition and conjecture for the reader that are not allowed by jury members. A poignant example of this derives from an interaction with her own grandsons when Garner is shocked to recognise that love can turn to rage.

My third grandchild came wandering round the side of the house ... I lifted him on to my lap. He was only a few months younger than Bailey Farquharson had been when he drowned ... the little boy sat on my knee ... relaxed his spine against my chest ... spread his right hand like a fan, inserted a delicate thumb into his mouth, and tucked his head under my chin.

And yet only two hours later, when he and his four-year-old brother disobeyed me at bedtime and went crashing and yelling like maniacs down the hall ... rage blinded me. I ran after them, grabbed the nearest arm, and yanked its owner round in a curve. Before I could land a blow, I got a grip on myself ... In a cold sweat I leaned against the cupboard door and took some trembling breaths (2014: 113-4).

Garner doubts her opinions and gut feelings sometimes. Louise gives voice to them, providing approval for Garner's views, as if to say, look, this teenager agrees with me;

these are more than the scribbles of a jaded, cynical old woman. At first Garner holds her views back, deliberately disallowing assumptions from clouding her view, waiting for the expert witnesses to give their evidence about tyre marks and a condition called cough syncope which the accused says caused him to black out and when he woke up his car was in the dam.

‘Coughing fit my arse’, says Louise (Garner 2014: 26).

### **Megan Norris’s approach**

*On Father’s Day* by Megan Norris is starkly different in focus; both its title and narrative style are deliberately less ambiguous. The front cover makes it clear that this is not about ‘elusive truth’. ‘Cindy Gambino’s Shattering Account of her Children’s Revenge Murders’ in bold typeface overlaying a bleak photograph of three diminutive white crosses foregrounding an ominous murky dam is unequivocal: this is a book about blame. The cover tells the whole story. The children were the victims of ‘revenge murders’. This is not a subtle quest for an elusive truth. This is a ‘shattering account’. Norris tells a tale of revenge and suffering.

In the foreword by Dr Deborah Kirkwood, researcher at the Domestic Violence Resource Centre of Victoria, the phrase ‘fathers kill their children’ is repeated eight times within two pages. The theme of this narrative is forthright and confronting. This is a book about a father who deliberately killed his children. The book is important because there is a lack of understanding about this type of crime and in ‘sharing her experience ... we can equip ourselves to prevent further deaths’ (Norris 2013: x). This contrasts with Garner’s authorial resolve to weigh each piece of evidence and to decide on the credibility of each of the witnesses. The point of view is squarely through the eyes of the author. Norris, on the other hand, opens her story with a third person narrative, from the point of view of Cindy Gambino, the boys’ mother.

Jai and Tyler were racing in and out of the bathroom with their hair still wet, flicking each other with towels. It was the day of Tyler’s birthday party, and they’d been running on adrenalin from the moment they’d opened their eyes that morning. But their mum was on a mission.

‘Come on, this won’t take long,’ Cindy promised, ushering them into the lounge, where she’d placed a 2-year-old Bailey in the middle of the blue sofa. The older boys leapt on the cushions either side of their baby brother, giggling and pulling faces, trying to get him to belch out the belly laugh that made everyone else laugh too (Norris 2013: 1).

The opening scene is of domesticity and ‘the hint of future happiness’ (Norris 2013: 9). Verbs like ‘bounded’ (11), ‘chatting’ (12), ‘laughed’ (13) and ‘giggled’ (13) contribute to a portrait of a happy mother and her sons compared to her ex-husband who was ‘[s]till smarting from his wife’s decision’ (3), ‘still struggling’ (5) and ‘complaining bitterly around town that he’d come out of the marriage with the “shit car”’ (5). It is a point in time before the terrible events of Father’s Day, rendered poignant because the reader recognises that the scene being described is in preparation for the photograph that was reproduced over and over again in newspapers and on television after the boys

had died. The photograph is still depicted on the Wikipedia entry for Robert Farquharson (2017).

The opening scene is all the more poignant because of the very ordinariness of this suburban family moment. Readers readily identify with the towel flicking, the birthday excitement, and the benign intimacy of a family photograph. The banality and innocence are shattered even before Norris describes the car being hauled out of the dam some thirty pages later.

Like Garner, Norris tells of the marriage breakdown between Cindy and Rob Farquharson by the end of page two, but Norris's account deliberately names all the characters and places Cindy's emotional state at the centre of the story. Norris's tale is not about the theatre of the court but the emotional and psychological impact of a marriage breakdown and a family tragedy.

Even on her wedding day, she'd had doubts about her relationship with Rob ... By the time Bailey was born, two years into the marriage, Cindy had begun to feel that nothing could plaster over the cracks.

'We're going nowhere,' she told her neighbour. 'It's a mortgage, not a marriage. I don't love him – I'm over it' (Norris 2013: 2).

Norris includes details that Garner's narrative does not touch. Whether or not these details are infused with speculation is unclear, but Norris's description of past events at which she was not present provides an intimacy that is absent from Garner's narrative, such as the harrowing task of the identification by Cindy Gambino's new partner Stephen Moules of the bodies of the three drowned boys.

Stephen followed, steeling himself for the grim task ahead. But with each step he sensed a growing strength, as if someone had just answered his silent prayers ... telling him he was strong enough to do this ... Tyler's body was lying in the gap between the seats. His lower legs and feet were on the centre console, his upper body resting face down, across the back seat. Stephen crouched to see the boy's face more clearly. He said a prayer. 'God will look after you now,' he whispered' (Norris 2013: 47).

The language and syntax in *On Father's Day* is simpler, less 'literary' than in *This House of Grief*. Norris tells her story through the minutiae of the characters' lives. Her style has been described as 'conversational, as if you were sitting at the kitchen table with a cuppa listening to the story' (Bozorth-Baines).

Norris's narrative follows Gambino's life across the seven years of the trial process, including two pregnancies and the births of two babies which are not mentioned at all by Garner. Garner takes her reader on a quest for the origins of evil, musing on the question of why some people succumb to evil and others do not. Norris asserts unambiguously that Farquharson is evil, providing a powerful account of the effect of his criminality on the lives of those who were close to him. Norris's linear narrative takes us from shopping for gifts, taking photos, carrying out mundane everyday tasks, to waving goodbye for the day, and then to the terrible unfolding of the events that led to the deaths of the three boys. Norris openly sides with Cindy Gambino in contrast to Garner's deliberate reservation of judgment. This is clearest in the contrasting ways that these authors describe how Cindy's supporters wore her favourite colour purple to

court. Norris recounts Cindy's 'request for ... everyone who attends court to wear something purple' and that the Prosecutor's wife 'handed each member of the prosecution team a purple ribbon with three knots in honour of three little lost lives.' (2013: 221). Garner describes her realisation that Cindy 'had run a purple rinse through her long brown hair ... she was not the only person in the room wearing purple ... I whipped off my faded lavender cardigan and stuffed it into my bag' (2014: 221).

Norris takes us inside Cindy Gambino's thoughts, sharing her initial anguish and grief and her acceptance of her ex-husband's explanation of a coughing fit and an accident. Then, Norris describes the torture of a mother coming to terms with the monstrous understanding that he deliberately killed their children as an act of revenge for the marriage break-up. From the first page, Norris's premise is that Farquharson is guilty. This authorial approach contrasts sharply with that of Garner whose reason for writing the book is encapsulated through Louise who, recounting how she told friends that she has been watching the trial, says, '[t]he only thing they wanted to know was, "Well? Did he do it?" The least interesting question anyone could possibly ask'. Whether or not Louise actually exists and whether she did in fact accompany Garner to court is less important than Louise's view on this question which is Garner's point. Garner wrote a book about the capacity of the criminal justice system to deal with the unpredictability of human behaviour. Norris wrote a book about domestic violence and its emotional impact.

### **Trial narratives as 'troubled' narratives**

The Farquharson case was widely publicised and it is likely that readers of both books will be familiar with the facts and know what happens at the end. *The Age* newspaper described the 'window cleaner from Winchelsea' as 'one of the most gossiped about men in Australia' (Petrie 2010). After two long trials, Robert Farquharson was found guilty of the murders of his three sons and imprisoned for 33 years.

These two books tell the wider public what the juries heard, but also what they did not hear: hearsay, supposition, subjective interpretation, and gut instinct. This is why such stories cannot be published while the matter is *sub judice* (before the court). To do so would potentially pervert the course of justice and be a contempt of court. The publication of prejudicial material has the potential to 'poison the fountain of justice before it begins to flow' (Wills J, *R v Parke* 1903: 438). But after it is all over, these trial narratives are ripe for the telling.

Neither the law nor the courts are above criticism and authors who focus on crime and criminal justice provide essential commentary on the effectiveness of these essential elements of our society. Both of these works are not only grief narratives, but they are also crime and courtroom narratives. Authors of texts about real criminal cases – writers of 'true crime' – are obliged to make narrative choices. True crime writers carry a responsibility to consider the ethical ramifications of their choice of subject matter. They also have a duty to their readers to produce well-informed commentary.

Trial narratives can be classified as 'troubled' life narratives. Criminal trials represent the human response to what can be the darkest of human behaviour. A murder trial is



the ultimate societal response to the very basest of criminal activity. The scope of this article does not permit an analysis of why books about murder are so popular and why 'crime pervades every type of modern popular culture: television programs, crime fiction, true crime, crime movies, 'news' in newspapers, television, radio and social media' (Spencer 2015: 81). However, it is important to acknowledge that Robert Farquharson is now in prison. Some would argue that this man deserves to be publicised as a murderer of children. This is the prevailing tone of Norris's book. However, true crime writers must respect the ethical dimensions of using real people as 'material'. First is the obligation not to prejudice a fair trial, any appeal or any re-trial. Farquharson was re-tried, so neither of these books could have been published before the case had concluded and all avenues for appeal exhausted. Any jury member reading either of these books would have been in breach of their duties as jurors not to be influenced by external commentary. Both Garner and Norris respected this duty.

The ethics of true crime writing are complex and beyond the scope of this paper but it must be acknowledged that an 'ethical brake needs to be applied to true crime writing to prevent acceleration into the territory of giving offence and reviving pain for those whose lives have been affected' (Spencer 2017). In addition, 'true crime' writers carry a supplementary burden of responsibility towards their readers, many of whom are not familiar with court processes and the criminal justice system. Writers of trial narratives have an obligation to explain their subject matter, describe court processes accurately and explain what each step means. Readers who are not familiar with the procedural complexities of criminal trials may read these books to learn about court procedures, and are entitled to expect that descriptions and explanations are accurate, so writers and publishers have a duty to get it right.

Garner acknowledges this duty. She outlines her relationship with the justice system very early on in her story, when she describes the first day of Farquharson's first trial in the Supreme Court of Victoria on 20 August 2007:

As a freelance journalist and curious citizen, I had spent many days, solitary and absorbed, in the courtrooms of that nineteenth-century pile in central Melbourne, with its dome and its paved inner yards and its handsome facade along William and Lonsdale Streets. I knew my way around it and how to conduct myself in its formal spaces, but I could never approach its street entrance without a surge of adrenalin and a secret feeling of awe (Garner 2014: 6).

Garner reminds the reader that she is not a novice; she knows her way around, she knows what she is doing. Garner has the confidence of one familiar with the milieu but with the advantage of independence. She owes no allegiance to any newspaper or media organisation. She points out that she has spent 'many days' at the court, but her time here has been 'solitary'. She has developed her familiarity with court procedures by herself. For example, cross-examination is an integral aspect of a criminal trial that enables each party to challenge the evidence of the other within the confines of strict rules. Garner's interpretation of the process is cynical:

The whole point of it is to make the witness's story look shaky, to pepper the jury with doubt. So you get a grip on her basic observations, and you chop away and chop away, and squeeze and shout and pull her here and push her there, you cast aspersions on her

memory and her good faith and her intelligence till you make her hesitate or stumble. She starts to feel self-conscious, then she gets an urge to add things and buttress and emphasise and maybe embroider, because she knows what she saw and she wants to be believed; but she's not allowed to tell it her way. You're in charge. All she can do is answer your questions (2014: 244).

Garner also acknowledges her limitations. For example, during the legal argument before the Court of Appeal, she admits that she 'lost [her] grip on the technical details' (2014: 210-11). Norris's commentary of the legal process is more descriptive than analytical. Norris approaches the Appeal by providing three pages of explanation of the gist of the arguments and then reverts to her main subject, showing how the appeal outcome affects Cindy Gambino.

'What am I going to do now?' she wailed ... Her fleeting Christmas joy had evaporated. There would now be a whole new trial where she'd have to relive her nightmare again (Norris 2013: 258).

Writers like Garner and Norris hold up a mirror to the legal profession and the criminal justice system. One of Garner's concerns is the fallibility and reliability of juries. She is worried about the 'mystery beyond reckoning' that is Farquharson's guilt or innocence (2014: 156). Garner ponders whether, after listening to so much evidence, did the jury members

feel this thickening of the brain, this blunting and blurring of mental capacity? ... What if I were one of those tired, frightened jurors ...? Was anybody going to explain the meaning of the words 'beyond reasonable doubt'? And if they did, would I still have the nous to grasp it? Or had those five gruelling weeks stripped me of every vestige of native wit? (156-7).

Unlike the lawyers who represent their respective clients, Garner 'wanted to think like a juror, to wait for all the evidence, to hold myself in a state where I could still be persuaded by argument' (92). Her descriptions of lawyers, witnesses and other characters who come and go, both inside and outside the court, reflect her desire to keep an open mind. Louise, the alternative voice to Garner's impartiality, often chimes in with unabashed candour. For example, Garner describes the Prosecutor, Jeremy Rapke QC, as

a lean, contained-looking man, with a clipped grey beard and a mouth that cut across his face on a severe slant, like that of someone who spent his days listening to bullshit.

'Wow,' hissed Louise. 'He looks like a falcon' (7).

Garner's success as a writer – and especially as a true crime writer – places her in a position that commands respect for her expertise from the reader but also obliges her to inform and explain the correct role of the players in her narrative. Garner grapples with 'some atavistic force in me ... trying to sabotage my intellect, to block its access to calculations that might demonstrate Farquharson's innocence' (156).

What Garner fails to explain here is that Farquharson is not required to demonstrate his innocence. He is presumed innocent until the prosecution proves otherwise. It is incumbent upon the prosecution to prove his guilt, otherwise the presumption of

innocence is not dislodged. In seeking a demonstration of innocence, Garner misleads her readers and misrepresents the purpose of a criminal trial. She also distorts the basis upon which our criminal justice system rests. True crime writers have a duty to their readers and a duty to those people who become characters in their narrative to portray these concepts accurately. Failure to do so is irresponsible.

Norris, in contrast, focusses less on the trial and more on the family, a narrative choice that demands less by way of explanation of court procedure. Garner has explicitly declared that her book is about the trial. Norris's book is about Cindy.

The two contrasting approaches are echoed in their closing paragraphs. Garner's focus is on grief:

If there is any doubt that Robert Farquharson drove into the dam on purpose, it is a doubt no more substantial than a cigarette paper shivering in the wind ... I imagine the possessive rage of their families: 'You never knew them ... How dare you talk about your "grief"?'

But no other word will do. Every stranger grieves for them ... The children's fate is our legitimate concern. They are ours to mourn. They belong to all of us now (299–300).

Norris's closing words focus on crime and domestic violence:

Cindy's story does not have a happy ending. It has been painful for her to share, and for me to write.

We both hope that her story might generate some insight into these crime ... these warning signs are difficult to respond to...will anyone really see it in the next vengeful father? (382–4).

Norris taps deeply into the complex issue of domestic violence that is not addressed in this article, except to say that this subject imposes an additional responsibility on those who write such stories which are disturbing to read, but important to tell. Equally to be considered are the people left behind – the parents, children, partners, relatives, witnesses and their families. Norris approaches this responsibility with necessary sensitivity, outlining her reason for telling this story in the dedication of the book which is to Jai, Tyler and Bailey, the three boys who died: 'Your mum promised to be the voice you were denied on Father's Day 2005, and I promised her I would be hers. This is her story and yours' (np).

## Conclusion

True crime narratives describe some of the most troubling of times for those involved. When the trial is over, everyone who was involved remains affected by it. Both Garner and Norris recognise that the troubled times that led to the courtroom continue well after the jury is discharged and they have written works that can be described as grief narratives, notwithstanding the very different approaches that each has taken. All authors of true crime must be mindful not only of the impact of their work upon the characters who populate their narratives but also that the information about the criminal justice system imparted to readers is correct. This can be an onerous task for an author who is not legally trained. An ethical true crime narrative is a well-informed and well-

researched narrative. It is incumbent upon writers to ensure that they have the capacity to explain legal processes or to inform their readers of their limitations in that regard.

The Farquharson murder trials provide material which illuminates the terrible scourge of domestic violence (highlighted by Norris) as well as the extreme difficulties faced by the criminal justice system in dealing with these cases. Fear, anger, sorrow, loss, quests for truth and quests for justice all play a part and linger within families and circles of acquaintance long after the last clerk has left the court room and the barristers have moved on to other cases.

Writers who use this type of material have obligations to be aware of the intense emotional toll that a criminal trial takes on all of the participants and the fact that their use of other people's lives as material is fraught with ethical dilemmas. The narrative choices that are made in this realm are moral choices, not just in relation to the people involved in the trials, but also with regard to the information about the criminal justice system that is conveyed to readers of the true crime genre. Explaining criminal law and criminal procedure is a mighty undertaking, and it is important that it be done accurately. Garner treads this moral tightrope with linguistic skill and the mastery of an experienced journalist who is familiar with courts and their procedures, but despite her vast experience, is sometimes challenged by the complexity of how the law works. Norris relies on the intimacy she develops with Cindy Gambino to portray the emotional and psychological toll of the criminal justice procedure. Both texts show that the troubled nature of true crime narratives engender a range of ethical choices that must be made during the writing process, whichever approach is taken to the material that is available.

## Acknowledgement

The author wishes to thank and acknowledge the two anonymous reviewers who provided valuable feedback and guidance on the first draft of this article.

## Works cited

- Berry, J 2005 'School remembers dead brothers' *The Age* 20 December, 7
- Bozorth-Baines, S 'On Father's Day by Megan Norris' *Sisters in Crime Australia*, at <https://www.sistersincrime.org.au/on-fathers-day-by-megan-norris> (accessed 30 November 2017)
- Cunningham, M and M Butler 2005 'Anguish as town mourns treasured kids' *Herald Sun* 6 September, 9
- Doyle, R and Burke, K 2015 'Book review *This house of grief*' *Victorian Bar News* 157, 129-31
- Garner, H 2014 *The story of a murder trial: This house of grief* Melbourne: Text
- Garner, H 2004 *Joe Cinque's consolation* Sydney: Pan MacMillan
- Garner, H 1995 *The first stone* Sydney: Picador
- Norris, M 2013 *On father's day* Scoresby, Vic: Five Mile P
- Mah, C 2014 'This house of grief by Helen Garner review: haunting true account of an accused murderer' *The Guardian* 20 August, at <https://www.theguardian.com/books/australia-culture-blog/2014/aug/20/this-house-of-grief-by-helen-garner-review-haunting-true-account-of-an-accused-murderer> (accessed 30 November 2017)

No author 2017 'Robert Farquharson' *Wikipedia*, at [https://en.wikipedia.org/wiki/Robert\\_Farquharson](https://en.wikipedia.org/wiki/Robert_Farquharson) (accessed 30 November 2017)

O'Connor, A and J Chandler 2005 'Tributes for three brothers drowned in dam' *The Age* 6 September, 3

Petrie, A 2010 'Farquharson – the man behind the nightmare' *The Age* 23 July, 8

Poe, E A 1839 *The Fall of the House of Usher*, at [https://ebooks.adelaide.edu.au/p/poe/edgar\\_allan/p74fa/](https://ebooks.adelaide.edu.au/p/poe/edgar_allan/p74fa/) (accessed 30 November 2017)

Spencer, R 2015 'Crime' in M de Zwart, B Richards and S Le Mire (eds) *Law and popular culture in Australia* Chatswood: LexisNexis Butterworths, 81-97

Spencer, R 2017 'Dignifying the poisoned chalice: the ethical challenges of using archival material in a narrative about death and arsenic' *TEXT: Journal of Writing and Writing Courses* special issue 45, at <http://www.textjournal.com.au/speciss/issue45/Spencer.pdf> (accessed 30 November 2017)

R v Parke [1903] 2 *King's Bench* 432

R v Farquharson (2009) 26 *Victorian Law Reports* 410, at <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSCA/2009/307.html> (accessed 30 November 2017)

Spigelman, JJ 2011 'Truth and the law' *Australian Law Journal* (85), 746-760