

**Gertie's Law
Episode 12, Reporting the Court – Part 1**

Peter Gregory

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Justice Riordan

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Karen Percy

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Betty King

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Greg Muller

Decisions are made in the Supreme Court which can trigger outrage. While those same decisions leave others feeling empowered.

They can engender trust in the justice system and make others question it. The vast majority of Victorians will never have any direct contact with the Supreme Court, but that doesn't stop most people having an opinion about it. Predominantly, these opinions are formed from the media.

It's a fundamental principle of the Common Law that justice has to be done in an open court. Journalists therefore serve as the guardians of an open justice system.

I'm Greg Muller. This is Gertie's Law

This episode is about the long and ever changing relationship between the media and the court. From the outrage when a TV camera was first allowed into a courtroom 25 years ago to the ongoing discussion about suppressions orders. And traditionally, journalists and judges have very little interaction - if any.

In this episode we'll hear from them both, and then in part two we'll put eight of them in a room together -and record it.

Journalists covering this court serve two masters and it can be a difficult balance to get right. Peter Gregory covered the courts for The Age Newspaper between 1988 and 2010. He now teaches journalism and media law at LaTrobe University. Peter puts it this way.

Peter Gregory

There are different assumptions made by the law and by your employer when it comes to being a court reporter.

So part of court reporting is giving practical effect to open justice. So the way most people, it's said, see the legal system in action is by either reading or seeing or listening to court reports, because they can't get there themselves. And from the viewpoint of your employer, most journalists work for commercial businesses. So they're looking for interesting stories for the public to read.

Greg Muller

So what do judges think about the way their cases are reported? Principle Judge in the Commercial Court, Justice Riordan.

Justice Riordan

Most lawyers will say that when they read a report of a case that they were in, they tend to read halfway through the article before they recognise it as their case.

And there's no doubt, if you only listen to one party's side of the case – let's say the losing party – as you may have if you have ever listened to some friends describing what happened to them in court it seems terribly unjust, and that's why we tend to listen to both sides of the story before we make a decision because we get very convinced by one party only to find, "Oh my God, there's a completely different slant on it from the other party".

Members of public don't get that. So that tends to lead to us being thought of as out of touch because they say, "Well, these judges must be out of touch to make such stupid decisions as these."

Justice Bell

I'm Justice Kevin Bell from the Supreme Court of Victoria and I sit in all division of the court including the criminal division and the common law division.

Greg Muller

There seems to be a fair bit of animosity between media and the courts. Do you think there is and if so, where do you think it comes from?

Justice Bell

I think there is institutional tension between the media and the courts. Why do I say institutional tension? It's because of the different roles the media and the courts discharge. The court's function is to conduct fair and public hearing and to produce an impartial and just outcome. The institutional role of the media is to publish what occurs in court. Those two objectives can rub up against each other - important as they both are. It's sometimes necessary for courts to make suppression orders and to restrict the availability of information or make pseudonym orders because it really is necessary in the interests of justice to do so - albeit for a short time after due notice has been given. Naturally media organisations would prefer that that not occur and I think it's perfectly understandable that those tensions might exist.

Peter Gregory

Court reporting is a bit like parenthood, in that the greatest experts are the ones who don't do it."

Greg Muller

Peter Gregory again.

Peter Gregory

And, if you look on social media, which I have the misfortune to do from time to time, you'll find that there are people who will discuss all sorts of things that reporters should do. And it always occurs to me that decisions – particular in the Supreme Court – are up pretty quickly online. So if you really

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wanted to demonstrate how flawed court reporting is, you could always write your own story and publish it, as opposed to making helpful suggestions about, “Well, you missed this bit” or “You didn’t say this” and “Why didn’t you do this” and “I’m outraged by it”.

If you look at the way people critique court reporting, and I’m probably one of them now – where I would be critical of stories which only say, you know, either, “soft judge”, “terrible sentence”, you know, “evil monster committed crime”.

If you’re writing 15 paragraphs based on a whole day’s evidence and submissions, it’s pretty hard to get everything in. But you can at least give people a reasonable view of what’s gone on.

Karen Percy

I’m Karen Percy, I’m a journalist with the ABC. I’ve been doing court reporting on and off for four or five years.

Love the job. It’s great. You’ve got lots of interesting people around you. There’s intellectual discussion, there’s grime there’s crime. It’s a really interesting job where stuff literally unfolds in front of you. You can be the only reporter sitting in a courtroom and suddenly a couple of terrorists decide to plead guilty to charges, so it’s really great. There aren’t a lot of jobs in journalism where stuff happens right in front of you all the time.

Greg Muller

How hard is it to squeeze what can be up to an hour or 45 minutes sentence into a two to three minute story?

Karen Percy

It’s tough. At the ABC I’ve got the added pressure of putting it into a 30 second radio voicer, so you miss a lot of detail. But the beauty of the ABC too is that I have this multiplatform. So, sure, I have to put it in a minute-fifty television package and I’ve got the difficulties of what are the pictures I’m going to use for that - so that’s a real mind spin at times but I’ve also then usually got the ability to do a longer online piece where I can use some nice background, I can use some nice colour that you might have seen or witnessed in the court and then there’s that down and dirty 30 second, 35 seconds for radio so it’s tough to get your head across all of those but that’s the beauty too is that you’re actually serving a lot of audiences.

Greg Muller

Someone who’s spent a lot of time watching and writing about this court is award winning novelist and journalist Helen Garner. Helen’s written numerous books and feature articles set in this building.

Helen Garner

I think I actually became addicted to the place after a while. When I walk past it, I feel a tremendous magnetism, and I’ve spent probably some of the most interesting hours and years, really, of my working life in that building, and I learnt so much in there. I find it endlessly gripping and fascinating, and I never get bored there.

I notice when I used to go there a lot, you’d see people come in, and they’d bring in whole classes of kids, and you’d see them come tiptoeing in and looking round with round eyes, and – I’d always watch them to see how long it would take until they started to get bored. And with school kids, it’s usually about 20 minutes and they start to shift in their seat, because I suppose they’re expecting it to be like on TV, with judges banging gavels, and which they – we don’t have in this country.

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But there is a lot of talking in low voices in courts, and that can be very dulling to the spirit, I think. But I got to the point where even that – those parts didn't bore me. Even the boring bits, the bits that were objectively boring, I don't find boring.

Because after you've been there long enough, you become aware of all the little subtexts that are going on underneath what's actually being said, and the movements of people, changes of position, and ripples of feeling that go through the jury, and things like that. I was completely hooked on that, and still am, really.

I love the formality of the way the tipstaff says at the beginning of the day, "All persons having business before this honourable court are commended to give their attendance and they shall be heard."

"And you shall be heard!" That's the bit that I love. I mean, just even saying it now gives me a shiver. Oh, it's like something in church, really. It's like a grand statement of why we're there, and of how serious it is, and that it's the society itself which is going to judge – make a judgment of you.

Greg Muller

What cases attract you?

Helen Garner

I'm most interested in cases where a person is accused of having done something that seemed out of character. I'm not interested in gang stories, and I'm not interested in serial killers, or that kind of story. I'm very interested in stories about somebody whose, under the pressure, the unbearable pressure of their life circumstances, that their foot's gone through the floor. They've gone into that other realm where most of us don't go to, which is where you do something absolutely dreadful that you would never have thought yourself capable of doing. And suddenly you've done it, and you're out the other side. And then you've got to answer for it.

Usually I would read about something in the paper, and I would think, "'What sort of man would beat a two year old child to death? Wonder what he looks like.'

And then I'd hop on my bike and ride down to the court just to have a look at the person. And then I'd sit down, and I'd think, "I think I'll stick around for a while." The very first piece I ever wrote about - a trial was about a guy who – the little boy who died was called Daniel Valerio, and this would have been in mid-90s.

And he was a little two year old boy whose mother's boyfriend had bashed him to death. And I went down to have a look at that, I wrote about that for TIME Magazine....

Greg Muller

This article resulted in the first of Helen Garner's two Walkley awards.

Helen Garner

I learnt a lot from that trial, too. I learnt how slowly evidence can be laid out, and how it just gets darker, and worse, and more horrendous.

Greg Muller

Court reporters have to be familiar with rules around what can and can't be published. These rules are predominantly there to maintain the presumption of innocence and protect a fair trial.

Peter Gregory again.

Peter Gregory

The golden rule is – in a jury trial - is to report what's said in front of a jury. And my perception is that judges are concerned that juries do make their decisions based on what's put in front of them in court, and not on what's from outside. So, mentioning something like an accused person's previous convictions is the exact thing you don't do, because it would be feared there's a tendency for someone to say, well, if he's done it before, clearly he's going to have done it again, and it may affect a verdict.

Greg Muller

In episode six of Gertie's Law, the episode on juries, there's a longer discussion on what juries can and can't have access to.

The issue which causes most controversy is suppression orders. A suppression order is when a judge prohibits the publication of certain information about a case. The challenge with suppression orders is finding that balance between a transparent justice system on the one hand, and protecting the privacy of victims and witnesses and preserving a fair trial on the other.

We'll hear what journalists think about suppression orders shortly, but first, why are they used?

Chief Justice Anne Ferguson.

Chief Justice Ferguson

Essentially they're protecting the justice system so at the heart of every case is the person who's on trial - particularly a criminal case - has a fair trial. So suppression orders are really focussing on ensuring that the issues are decided on the evidence before the court. It's not influenced by other factors external to what the evidence is in the court.

So there is that tension of the balance between people's right to know and a fair trial and I think that when the two clash, fair trial has to win out.

If you put yourself in the position of the accused person, what would you want?

You'd want a fair trial. Who does it matter to? It matters to the accused, essentially. They're the one which is going to be locked up.

Greg Muller

According to the Open Courts Act - 2013 - Suppression orders can be made if they are necessary to:

- A) Prevent a real and substantial risk of prejudice to the proper administration of justice that cannot be prevented by other reasonably available means;
- B) Prevent prejudice to the interests of the Commonwealth or a State or Territory in relation to national or international security;
- C) Protect the safety of any person;
- D) Avoid causing undue distress or embarrassment to a complainant or witness in any criminal proceeding involving a sexual offence or a family violence offence;
- E) Avoid causing undue distress or embarrassment to a child who is a witness in any criminal proceeding;

One of the most memorable examples of a suppression order from the Supreme Court was in 2008 during what was known as Melbourne's Gangland Wars.

Former criminal judge, Betty King.

Betty King

Well, I'd banned Underbelly, and that caused what I can only describe as the greatest sensation I've ever seen. I was amazed at the overreaction to it. It was, after all, a television show, and it could have been shown a bit later, but it just seemed to blow the entire mind of the population.

And then not long after that, I had to ban another television show. So when I was trying to explain to the jury what I was doing, I was just being a bit flippant and trying to make them feel relaxed and I said, "You know me. I'm the queen of banning things". They all laughed and I then went into my explanation about what I'd done and why I'd done it, to them. And they understood, but the only thing the media liked out of all of that explanation was the line, "Queen of banning things".

Greg Muller

Just to take you back to Underbelly, why did you ban it?

Betty King

Because, I think the best description I can give is I had to watch it overnight. I had another trial coming up, which was the trial of a fellow called Goussis, who was up for the Brunswick Club murder, that is, the murder of Moran Senior - Lewis Moran. And I was told it depicted this really well. So the Crown came along and said, "Look, we really are a bit concerned about this, because the trial was about six weeks away. So I took it home that night – this was the Monday, because they wouldn't give it to us. They were very reluctant to hand it over. So I took it home that night and watched it overnight and it was about episode five, and I turned to my tipstaff and I said, "I didn't know that happened". That's how realistic it was.

And what would have happened was, I would have had a jury just watching this on – I think it was going to be a Monday night, and then hearing the evidence possibly the next day, which confirmed what was in there. So, whatever they saw in Underbelly would have just been reinforced by the evidence and made it – would have made it very difficult for Goussis to get a fair trial, because it was very pro the police doing it correctly and they were the heroes. And so it just reinforced the police view. And all they needed to do was wait a couple of months and they could have shown it, but when I hit episode five and made that comment, I thought, "Oh, there's no choice about this". It was so accurate.

It was such a winner of a show. It really was, it was accurate, it was current, it was of the time and people were quite fascinated by it.

And I don't know how you'd ever remove that image they had of who the killers were that shot Lewis Moran. It was all there, and it just would have been reinforced by the evidence. So, they would have had a very good argument for this being put off and off and off, and the longer you put a trial off, the more unfair it becomes generally, because people can't keep going back so far.

Greg Muller

It's interesting because one of the reasons it was banned, or you banned it, was because it was so good.

Betty King

Yes. Oh, I think I said it at the time. It was so good. It was accurate to a frightening degree and I couldn't work it out until – I think it was the last – there were two episodes in it that were a bit of a

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giveaway. One, there was a scene outside the police station just when they form the taskforce, and they take a group photo. And, I looked at it a number of times, back and forth, and it appeared to me to have a number of the actual Purana police force members in the photo. And then in the shot when they arrest Carl and the walking over the hill, in the background I could see the Purana police. And I thought that's why it's so accurate. I think they had everything I had, and then some.

Greg Muller

But while suppression orders are there to protect a trial, they undoubtedly make it more difficult for a journalist - whose job it is to accurately relay what happens in court to the public.

ABC reporter, Karen Percy.

Karen Percy

They're not always bad. I know as a journalist I'm probably not supposed to say that but they're not all bad, I get that but they do make it difficult for me to do my job.

Especially in the context of a split trial. And that's happening more and more is that two, three people might have been charged with the same crime but they split the trials. That makes it really difficult because contemporaneous reporting of a trial is crucial.

While it's happening you're witnessing it. You've got an understanding. You know what you're going to report. You know what's important. If you've got have any concerns or queries you can follow up with the prosecution, follow up with the defence lawyers, even the judge's associate. You can clarify anything that you don't understand or you're not sure of.

If you're reporting later because of a suppression - going back through transcripts, days and days or weeks and weeks of transcripts is really problematic. It's very easy to miss something.

There are actually I think likely to be fewer mistakes, fewer problems with contemporaneous reporting than the other way around.

Greg Muller

Recently Justice Bell was asked to make a ruling on a suppression order.

Court recording - The Queen Vs Ali Chaouk

...proposition could be that you honour could make such an order...

HIS HONOUR: I think you need to appreciate the gravity of the Open Court principle.

Mr BOURKE: Yes.

HIS HONOUR: You know, this is a very big deal. So let's - however in circumstances, as I've ordered in other cases, where necessary because the Statutory criteria are satisfied, I'll close the court or make a suppression order, as the case may be. Make the application so I can get some understanding of the circumstances and what it is that agitates you.

Me BOURKE: Yes Your Honour.

HIS HONOUR: So the two applications that I am making your honour are for a proceeding suppression order and a closed court order. And I might begin your Honour...

Greg Muller

So what sorts of things do you have to consider when you get a request for a suppression order?

Justice Bell

Well the first thing we have to consider whether notice has been given to media organisations because that's one of the safeguards in the act. The main thing we have to consider is the very strong test in the act which is whether it is necessary - not just desirable but necessary - to make an order to prevent a real and substantial risk to the administration of justice. And there's no other way to address that risk than to make an order. The next thing we have to consider is the purpose of the order, just why it is necessary and we have to confine the order to that purpose.

Then we have to specify the order with clarity and make sure it goes for no longer than necessary.

Greg Muller

What's the difference between a pseudonym order and a suppression order?

Justice Bell

A pseudonym order is a very useful way of dealing with a specific issue which is the identity of a party. Now it may be that the party is a child. It may be that the party is a woman who has been a victim of serious sexual assault - perhaps rape or the party may be for other reasons may have very legitimate grounds for not wanting their identity to be disclosed in court proceedings.

The court in that kind of situations according to strict tests has the capacity to order that that person be referred to only by, for example, the name PQR. In other words, a string of letters or a real pseudonym like John or Jane Doe. The order is not a suppression order because it does not prevent information about a proceeding from being published and that's why a pseudonym order can be really useful because it does not prevent information about the proceedings from being published. But it does prevent the name from being published and therefore the identity of the person being linked with the proceedings itself.

Greg Muller

Give me an example when a pseudonym or suppression order was essential?

Justice Bell

A pseudonym order is essential where for example you might have an undercover police officer as in cases that I've heard where he goes into a prison cell in order to have a conversation, undercover with a suspect and the suspect confesses. This happens in cases of very serious crime. If the identity of that police officer were to be revealed then the police officer would be subject to a risk of death.

So, I couldn't emphasize enough the importance of a pseudonym order in that kind of situation as much as I emphasize the importance of open justice and free communication of information in others.

Greg Muller

In 2013, The Victorian Government passed the Open Courts Act - with a further review in 2017.

Greg Muller

What's your understanding of the Open Courts Act -what's it designed to do?

Justice Bell

It's designed to give effect to the fundamental principle of open justice and free communication of information which is a principle which has been applied by the courts traditionally over 100s of years and is fundamental to the role of courts in democracy.

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It's also a human right of great importance, recognised in our charter of human rights.

Greg Muller

Why is it a human right?

Justice Bell

It's a human right because we can't be truly free unless we can communicate information. We can't be truly free unless we can express ideas. We can't be truly free if we can't receive information from others and impart information from others so the human right of freedom of expression and to obtain and seek to give information is about that which makes us human.

I cannot emphasise strongly enough the importance of the role of media in maintaining public confidence in the rule of law.

Greg Muller

Despite all the reporters here every day, we don't hear directly from judges. They never talk about cases and despite the important decisions they make - are rarely seen.

Chief Justice, Anne Ferguson

With judges, we don't hear from them much.

Chief Justice Ferguson

No, you don't very often hear from them.

Greg Muller

Why is that?

Chief Justice Ferguson

I think that for a long time, judges felt that their judgments had to speak totally for them, and there's a good reason why you only want the judgment. How would you feel if you came to court and the judge tells you that you've won the case for these three reasons and then you go away - or you've lost the case for three reasons, perhaps more importantly, and then you go away from the courtroom and you hear the judge talking about the case, and they are giving different reasons, or they're elaborating on what they've said.

So, you're trying to confine the reasoning for the decision that's reached. And there's another reason why they don't talk about specific cases and that's because we have an appeal system.

So the fact that a judge of this court might make a decision, it might be going from our trial division up to the Court of Appeal. You don't want to have a whole lot of commentary around the original decision.

Betty King

In my time, there was an absolute rule that you did not explain anything, except in the courtroom. There was no comment to be made by any judge about any sentence, conviction, acquittal, role of the judge, position of the judge, at all.

Greg Muller

Retired Criminal judge, Betty King.

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Betty King

The view was the Attorney-General was the spokesperson who would come in and protect judges and make any comment. And so, as judges, we never made a comment to anyone.

Greg Muller

Principle judge in the Common Law division, Justice Dixon

Justice Dixon

Judges are reluctant to speak about the cases that they have been involved in while they are still serving judges because we take the view that our reasons as to why we made decisions are expressed, often in great detail, in the reasons that we give, which are all available on the internet.

You don't see the judge writing into the newspaper saying, "Look, the reason why that article is completely misleading is that it doesn't understand the following things about what occurred" and explaining it.

We don't engage in that form of debate.

Greg Muller

One of the main differences now when it comes to reporting the courts is that anyone can do it.

The internet has given rise to the 'citizen journalist', someone with the curiosity, a blog or social media profile but not the training.

Andrea Petrie is a former court reporter and is now researching the effect of social media on the courts.

Andrea Petrie

There are huge differences with what you can see online as opposed to what's reported in the mainstream media. I guess, the most important is the fact that those reporting cases and trials in the media have some form of legal training so they're aware of what can and can't be reported. They know that they're not allowed to report someone's prior convictions from the moment they've been charged.

Whereas these days with the advent of the internet and blogs, social media in general, anyone can publish any information online so we've got all these citizen journalists, if you like, out there who might think they're doing a great job keeping their friends and family and the wider community up to date, yet they're reporting and publishing information that it may not have been before the jury. It may have been, for instance, something said during argument when the jury is out of the room. It might be something that's entirely prejudicial and therefore hampers an accused's right to a fair trial.

So, this has created huge problems for the justice system because citizen journalists don't have the training, they don't know what can and can't be reported.

Greg Muller

So regardless of how well intentioned someone may be, their actions can jeopardise a trial.

Andrea Petrie

It can and does lead to juries being discharged and, you know, trials being aborted all over the world which, of course, comes at huge expense to the public.

I remember the case that got me interested in this topic. The judge in question mentioned that this person who had commented on Facebook had cost the Victorian community in excess of \$50,000.

So you can imagine if you've got a five week trial, you're nearing the end of the trial, and then it's brought to the judge's attention that somebody in the public gallery has published information that is not meant to have been published then it costs an absolute fortune.

Peter Gregory

It was a big deal at the time. And I think probably because it was a pretty awful murder as well so it was a case that would have had prominence anyway.

Greg Muller

In 1995, a TV camera was invited - for the very first time - into the Supreme Court.

It was the case of Nathan Avent who murdered a 10-year-old boy with an axe and sexually assaulted the boy's mother.

Peter Gregory was working as a reporter for The Age newspaper at the time.

Peter Gregory

It's like anything, you know? When someone does something new, there's a lot of concern. Will this work? How will this go? And one of the lawyers in the case suggested – they were concerned about how it would be regarded by someone in the front bar of a particular hotel. And I know *The Age* sent someone along to the front bar of that particular hotel when the broadcast was made just to see what the reaction was. So yes, it – at the time, it was a big deal.

Greg Muller

The issue of TV cameras inside a court was hotly debated.

Even the then Victorian Premier Jeff Kennett weighed in and was quoted as saying, "it threatens the independence of the judiciary rather than preserves its independence."

It was Justice Teague who permitted a camera into his court for the sentence of Nathan Avent. But there were conditions.

- Sentence to be filmed by one camera.
- Camera to record Justice Teague at the bench as he delivers sentence.
- Judge will edit videotape before it is given to TV stations.
- Broadcast of judge's sentencing remarks must be at least two minutes long.
- Material can only be used in news programs; current affairs not included.

Greg Muller

The ABC said these conditions were "too onerous" and did not use the footage.

Basically they could not accept any outside influence when it came to shaping the content of their news. But other networks did televise the sentence.

Avent was sentenced to life with a non-parole period of 25 years. This sentence was then appealed and eight reasons were given for the appeal. Number two was:

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“In exercising his direction to allow the sentencing of the applicant to be televised the learned sentencing judge fell into error by imposing a sentence which was excessively harsh and not in accordance with legal principles of sentencing.”

Greg Muller

While the appeal did result in a reduced sentence, The Appeal Court did not accept the presence of TV cameras as relevant.

Here’s an actor reading from the Appeal Court’s judgement which was handed down on 22 November, 1995.

Actor

After giving this application due consideration I agree with the other members of the court that it is necessary to address only ground one.

As to the other grounds, none raises, as has been suggested in some sections of the media, the question of the future televising of Court proceedings in Victoria.

Peter Gregory

When you think of it now, it’s done routinely. And I think Justice Michael Kirby at the time made a similar type of a point that, yes, these types of cases – this sort of televised court – causes a big fuss, but, in time, we’ll see this as relatively commonplace. And he was right.

Greg Muller

In previous episodes we’ve talked about vicarious trauma and the effect it can have on judges and juries - sitting through very violent and disturbing material day in - day out.

Same goes for journalists. Karen Percy again.

Karen Percy

It’s affected me a number of times.

I recall during the Gargasoulas victim impact statements there were 40 plus victim impact statements, all as heart wrenching as the next and that room that day - as we were watching in an anteroom, video - most of the reporters - and there were a lot of glum faces. That was a tough one.

Greg Muller

Gargasoulis killed six people and seriously injured 27 people when he drove his car through pedestrians in Melbourne’s Bourke Street Mall in 2017. He was sentenced to life in prison with a non-parole period of 46 years.

Karen Percy

And I have my peer pill, my people, my peers that I go to and very often have a little cry and ‘this is what was said. This is what was done.’ And usually that’s enough to get me to the next stage which is to write the next story.

And part of being an ABC journalist and filing across platforms is this - you do it for radio, you do it online, you do it for TV and that deeply embeds a story because you’re going over it again and again and again and maybe you’re doing a live cross for the news channel and maybe you’re doing a live cross for local radio so it gets embedded very, very deeply these days so that can be tough.

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But, understanding what trauma can do to you is really important - that it will affect your mood, that it might affect your sleeping. It might affect your eating. You might be grouchy and a whole lot of things. And you might not. So, sometimes you have to step away and not do courts for a while which I think is a healthy thing to do, is to step away every now and again.

Greg Muller

Helen Garner immersed herself in a trial which took years to conclude - for her book *The House of Grief*. It was the case of Robert Farquason who drove his car into a dam - killing his three children.

There was a trial. Then an appeal. A second trial. Another appeal, and then an attempt to go to the High Court.

Helen Garner

It was awful, just awful, and also, a trial like that, which is about the murder of children - you get filled up with the sort of poison of it, and I used to go home at the end of the day, and I had three little grandchildren that I lived next door to, so I'm with them a lot, and I had this awful, creepy feeling that I was going to contaminate them when I got home with what I'd been hearing in the court, and they'd run up and want to sit on my knee, and cuddle me, and sit and watch TV, and had this awful - it was kind of a crazy feeling. It makes you a bit crazy, sitting through those long ones.

It was so miserable that I thought, "I just can't go on. I can't - can't keep going with this." And I thought in between - I don't know which of the hearings it was between, but I just thought, "I can't stand this," because obviously I couldn't start writing it, a final form of it, until it was over.

So I thought, "Oh, I've had this. I haven't got the strength to go on, so I'll just stop." I packed it all up. I packed everything up, and I put it in folders and stacked it up, and cleared the decks on it, "Right, that's it. I'm not writing a book about Farquharson." And for three days, I was so happy. I was skipping through the daisies. And then, I don't know, this darkening feeling came over me, and I thought, "I'm never going to be able to get this out of my head unless I write about it."

I've gone in so far that the only way out is through, so I had to keep going, and afterwards, I was a real mess.

That's another thing about daily journalists that I felt. I feel that - I think they've - they're just much more sort of hard boiled than I was back then. I mean, they had a lot more experience, and they'd had to write about one case, and bang, come back the next day and be ready to write about a different one. Whereas I was soaked in this one for seven years. There's some terrible, destructive force in those stories, and in a sense, the court is what enables you to bear it; the formality of the proceedings.

I used to feel sorry for the daily journalists because they had to come up with something at the end of every day that was going to make sense to someone who didn't know the whole story.

And I would watch the journalists rushing out at the end of the day, and rushing out to file, and I'd think, "Oh, thank God it's not me." Because I've got time to think about it. I can go and have a drink in a bar, and talk to a friend and see what they think". So it's a great luxury not to be a daily journalist like that. Although, by the same token, I envy them terrifically, because they were they're in a gang. I mean, it's very lonely working by yourself.

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But they had that little room that they always used to retire to. And sometimes they'd say, "Oh, come into the room," when it was cold. And at break, and I'd go in there. But they were all so busy on the computers, and I just used to sit there sadly like someone's grandmother.

Greg Muller

There's a perception that reporters and judges rarely see eye to eye. In a recent review of the Open Courts Act a joint submission from various media organisations stated:

"Judicial officers had a hostile and distrustful attitude towards some media organisations."

So to get a sense of what this relationship is really like, we've assembled a panel consisting of four Supreme Court judges and four working court reporters.

We're pretty excited about this because as far as we know - it hasn't been done before.

Look out for this which we'll release separately later this week.

Gertie's Law is produced by the Supreme Court of Victoria. And a special thanks to our composer Barney McAll for the extra 'news' treatment of the much loved Gertie's Law theme.

And thanks so much for all your comments and everything you've been saying about Gertie's Law. If you can, please leave ratings and reviews. We'd love to know what you think, and it helps others to find this podcast.

ENDS.