

caviar and friendship

*Sensational Trials and
the Reinvention of Public Space*

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In the mid 1860s, Sydney was electrified by the trial of Louis Bertrand, a dentist accused of murder and adultery.¹ As the press and citizenry furiously debated Bertrand's guilt and motivations, a curious assortment of bigotry and superstition entered public discourse. Explanations for the dentist's putative crime were sought in his ancestry, his gender and his reading habits. Thus Bertrand was rumoured (falsely) to be the son of a mixed marriage between a Jew and a Turk, to be an unmanly character prone to sentimentality and cross-dressing and to have a deplorable taste for frivolous French fiction. He was, as the judge summed it up, 'not a human being in feeling'.²

The mix of racism, cultural snobbery and imputations of effeminacy that surfaced during the Bertrand trial suggests that sensational trials are a venue for the performance of social knowledge—the kind of knowledge that does not regularly make an appearance on the front pages of national newspapers. In 1836, for example, the trial of Mr Robinson for the murder of prostitute, Helen Jewett drew both polite and impolite sectors of New York society into a debate on the sexual proclivities of young men and fallen women.³ The sensational case of Alice Mitchell who murdered her female lover in 1892 introduced the mainstream daily press of America to the figure of the 'mannish lesbian', giving form and visibility to a type of same-sex relation that had not previously received public acknowledgment.⁴ Yet if sensational trials routinely catapult private matters into the public sphere, it is less such exciting revelations that concern me here, than the dross kicked up in their wake. Sensational trials, I contend, are a point of entry into everyday life, that far more elusive zone of ordinary beliefs and practices situated between the institution and the bedroom, in the interstices of the scripted and chronicled domains of private and public life.⁵ To address the

everyday is to confront those undocumented procedures and forms of knowledge that exist beyond the realm of official discourse, practices that cultural theorists are increasingly eager to explore and increasingly sceptical of finding. As Barry Sandywell recently observed, 'Like the omnipollent term "community", "everyday life" is in continuous use within lay and theoretical discourse and yet continuously evades definition. Perhaps ... we should ask "where is everyday life"?'⁶ This paper argues that one answer to this question lies in the study of sensational trials.

Return for a moment to the case of Louis Bertrand, the Sydney dentist accused of murder. The discussion surrounding his case is suggestive not only of contemporary standards for gender adequacy, but also of the way judgements of gender and sexuality may be linked to a man's taste in books. Nor is this uncommon. Discussion of a crime in a sensational trial is regularly upstaged by scrutiny of the defendant's compliance with the unwritten codes of the quotidian. The trial of the Menendez brothers for killing their parents produced the information that Mr Menendez once forced a dinner-party guest to eat caviar. The trial of OJ Simpson for murdering his wife yielded endless speculation on the meaning of his visit to buy ice-cream for his children following his acquittal. And when we learn that Mr Menendez was considered a bad parent because he was cold, tyrannical and verbally abusive, and that Mrs Menendez failed as a mother because she 'had an unusual body odor' and appeared dishevelled on a school visit—we become conscious of how such everyday behaviors contribute to social hierarchies, producing in this case quite different standards of parental success for men and women.⁷ Sensational trials, in other words, teach us about the banality of power, the political freight carried by the commonplaces of daily life.

To propose that sensational trials have anything to teach us runs counter to the overwhelming consensus that sensational trials corrode standards of media reportage and corrupt public discourse. The American obsession with the trials of OJ Simpson and the Menendez brothers produced countless jeremiads from local pundits, characterising the trial coverage as de-politicising junk food for the mind, candy for the prurient appetites of a public trained in soap-opera viewing. One reason for the persistent dismissal of sensational trials may be precisely the mix of trivia and significance that typifies coverage of a sensational case. Discussion of family dynamics in the Menendez affair comes complete with information on Lyle Menendez's 'authentic toupee'.⁸ The sought-for rational deliberations of OJ Simpson's guilt are regarded as irreparably compromised by the detailed scrutiny of his emotional demeanor during the funeral of his ex-wife.⁹ It is, however, exactly these scraps of speculation, these detours into trivia and emotional terrains, all the waste materials disgorged by a sensational trial that interest me here.

Focusing on American sensational trials of the 1990s, this paper argues that sensational trials are important for the light they shed on the concept and practice of everyday life.

I begin by exploring the increasing importance assumed by everyday life as a site of theoretical investigation and indicate the historical role played by sensational trials in the formulation of everyday life as a conceptual area. The following section takes an inventory of sensationalism in order to suggest that sensational trials differ from ordinary criminal trials in precisely calling into question the status of what is ordinary, permitting in this way the detritus of everyday life to come into public view.

If sensational trials open a window onto everyday life, what exactly are the benefits of being able to take a fix on a domain usually perceived to be below the radar of theory? In the second half of this paper I propose that sensational trials are tools to expand our analytic models of identity by taking account of unofficial beliefs and practices that structure responses to other people in everyday life. What Appiah calls the 'bureaucratic' categories of identity,¹⁰ the recognised markers of difference, rarely operate in daily life with the same force and clarity imputed to them in public debate on identity politics. Because sensational trials throw up information that exceeds the frameworks conventionally used to understand other people, they permit ways of knowing and behaving to surface that are typically hidden from view. To support this idea, the third section of this paper looks at the way sensational trials continually undermine attempts to organise the meaning of events and the motivations of the chief protagonists through generic templates drawn from fiction. The burgeoning identity complications of the Simpson trial, for example, frustrated attempts by both journalists and scholars to reduce the action to a story in black and white.

As an instance of the capacity of sensational trials to raise new questions about identity, I conclude by focusing on the central role accorded to emotion in both legal and media deliberations—deliberations that raise questions about what it means to call someone a friend, a lover or a neighbour. I posit that the information yielded during a sensational trial offers insight into the feeling rules and affective practices of daily life and, as such, uncovers the public face of emotion and its role in shaping our imagination of other people. The last section of this paper pursues this point through a study of the ways in which the concept of friendship was interrogated during the trial of OJ Simpson.

— THE CONCEPT OF EVERYDAY LIFE

The everyday is what we are first of all, and most often: at work, at leisure, awake, asleep, in the street, in private existence. The everyday, then, is ourselves, ordinarily ... Accordingly, it will be a question of opening the everyday onto history, or even, of reducing its privileged sector: private life. This is what happens in moments of effervescence—those we call revolution—when existence is public through and through.

Maurice Blanchot¹¹

Samuel Kinser traces the emergence of everyday life as an object of historical attention to the mid-nineteenth century, when two kinds of histories began to be produced.¹² On the one hand, the sweeping cultural histories of Ludwig Friedlander, Gustav Freytag and Jacob Burckhardt documented how the doings of ordinary folk contributed to the building of great empires. Everyday life in these popular histories was ‘less ... an antithesis or obstruction to state glory than ... its complement’.¹³ On the other hand, the work of Marx and Baudelaire surveyed the daily lives of ordinary people with a more jaundiced eye, warning of the alienation and estrangement lurking in the cultures forming among the masses inhabiting the modern city.

Thus from its inception, the concept of everyday life registers a substantial ambivalence. The status of the everyday in the work of historians alternates between an affirmative vision of the masses participating in the destiny of nations and the darker perception of the ways capitalism dupes its everyday consumers into passive acceptance of governing ideologies. This alternation is reworked in the twentieth century into two currents of work that depict the everyday as either the place where hegemonic structures seize us most powerfully, and/or as the place where disguised forms of resistance and invention are most likely to be found. The tension between these two approaches may be captured in the juxtaposition of two figures whose work has profoundly shaped current thinking on modernity. In a classic essay on mass culture, Walter Benjamin drew attention to the revolutionary potential of film, stressing its ability to probe deep into everyday routines to illuminate the miniscule operations that inform routine actions: ‘Even if one has a general knowledge of the way people walk, one knows nothing of a person’s posture during the fractional second of a stride’.¹⁴ By exploring commonplace milieus, Benjamin observed,

[film] manages to assure us of an immense and unexpected field of action. Our taverns and our metropolitan streets, our offices and furnished rooms, our railroad stations and our factories appeared to have us locked up hopelessly. Then came the film and burst this prison-world asunder by the dynamite of the tenth of a second, so that now ... we calmly and adventurously go traveling.¹⁵

The possibilities for expanded vision that Benjamin contemplated with such hope become a cause for horror in the hands of Foucault, as the prosthetic eye of the camera is replaced by the panoptic eye of surveillance. Where Benjamin celebrated the capacity of film to enhance our knowledge of routines as familiar as walking, Foucault sees an increased opportunity for regulation of the body, through injunctions such as the French ordinance of 1796 that prescribed every detail of the soldier’s walk down to the length of the stride and the lifting of the heel.¹⁶ If Benjamin revelled in the chance to illuminate the commonplaces of city life and ‘burst this prison-world asunder’, Foucault warned that daily life was a trap, its

insidious disciplines encroaching on freedoms of thought as well as action to imprison us in routines of self-monitoring.

These two perspectives on everyday life as both a site of insidious domination and creative resistance recur in the studies of everyday life that followed. Benjamin's affirmative vision underwrites the situationist movement in France with their calls for a revolution in everyday life, as well as Dick Hebdige's influential exploration of working-class subcultures and their expression of resistance through commonplace practices of clothing, music and transport.¹⁷ Hebdige's foray into the semiotic warfare of youth on the streets is complemented by Michel De Certeau's no less optimistic account of the artful tactics of ordinary people. Like the secretary making personal phone calls on company time, De Certeau discloses everyday life as a rich warehouse of practices used by the disenfranchised to scavenge scraps of time, space and power from under the noses of those who oppress them.¹⁸ Conversely, Foucault's darker vision of the everyday as a field where we become vulnerable to the grasp of power continues in a number of studies that find banality an apt vehicle for domination. Alice Yaeger Kaplan's study of the spread of fascism in France, for example, argues that fascist ideologies were embedded in household commodities and everyday technologies, causing them to attain rapidly the status of things taken for granted.¹⁹ Everyday life has thus assumed increasing prominence in theoretical work as a critical site of power and resistance, the place to look for practices that both consolidate and unsettle hierarchies.

An additional impetus driving inquiries into everyday life is the idea that the view from below may not always match the view from above. Alf Ludke's introduction to 'Alltags-geschichte' (everyday history) suggests that exploring everyday life can determine whether the analytic categories developed in macro-level investigations fit the lived experience of ordinary people.²⁰ One can apply this insight to the formal categories of identity, the axes of race, gender and class that are widely perceived to be inadequate, blunt instruments that underdescribe the complexities of people's lives. 'In the everyday', writes Maurice Blanchot, 'we have no name, little personal reality, scarcely a face, just as we have no social determination to sustain or enclose us. To be sure, I work daily, but in the day-to-day I am not a worker belonging to the class of those who work.'²¹ In this view, the everyday is a powerful creative resource for intellectuals, a place to contest modes of thought grown stale, revamp vocabularies and spy out new processes of identification not previously recognised in theory.

Yet the very quality that renders the everyday fertile, simultaneously makes it hard to see. If in daily life we engage in behaviours, negotiate identities, and interweave mindsets and attitudes in ways that have not been captured or formalised into discursive categories, by the same token everyday life is that which leaves few traces for the theorist to follow. Precisely because the everyday is composed of so much that is considered trivial, it is unlikely to be documented, preserved or enclosed in institutional structures or social determinations.

'Whatever its other aspects', Blanchot remarks, 'the everyday has this essential trait: it allows no hold. It escapes. It belongs to insignificance, and the insignificant is without truth, without reality, without secret, but perhaps also the site of all possible signification.'²² Carlo Ginzberg, whose brilliant exploration of the life of a sixteenth-century miller made him one of the most influential proponents of a 'microhistory' of everyday life, notes the difficulty of achieving a historical vantage point from which to view how the commonplace details and modest doings of ordinary people become the site for eventfulness and change.²³ In a move that recalls Walter Benjamin's reflections on film, Ginzberg compares microhistory to the film close-up in order to claim that microscopic views of reality may yield insights that are not duplicable on a larger scale. Yet while Ginzberg could applaud the ambition of a writer such as Leo Tolstoy to tell the story of a war so as to bring forth 'the numerous relationships that linked Napoleon's head cold before the battle of Borodino, the disposition of the troops and the lives of all the participants in the battle including the most humble soldiers', he is rightfully wary of claiming such an omniscient point of purchase for the historian.²⁴ For theorists of everyday life, the question is how to recover the moment when the commonplace and the extraordinary connect. How do we make the everyday visible?

For Blanchot, as the quotation heading this section suggests, there are certain moments when the everyday is suffused with light, made public through and through. His example is the French Revolution and the collective paranoia that made every citizen and every subject into the subject of intense scrutiny. On a smaller scale I would emphasise how often investigations of everyday life have been sought in the neighborhood of a sensational crime. Carlo Ginzberg's exposition of microhistory is conducted through the study of a trial of a miller for heresy.²⁵ Gumbrecht's genealogy of the concept of 'everyday world' finds the Alfred Dreyfus trial to be seminal in bringing to light a range of competing, subjective realities.²⁶ Even Dick Hebdige's excavation of mundane objects transformed through subcultural appropriations begins with the story of the arrest of Jean Genet for homosexuality, an arrest that endowed every object in Genet's world with a criminal (because sexual) significance, including a tube of vaseline found by the police. Foucault sums it up best, in a reference to the popular broadsheets that circulated in the wake of a sensational crime in nineteenth-century France with titles like 'Particulars of a horrid crime of jealousy committed on the person of a Polish woman'. We should pay attention to these accounts, Foucault claims, because

the words that were so often repeated in the titles of the broadsheets, 'particulars, circumstance, explanation' ... denote very plainly the function of this discourse ... to make narrative accessible to the everyday, to introduce into the narrative the elements, personages, deeds, dialogues and subjects which normally had no place in them, because they were undignified or lacking in social importance.²⁷

Yet what accounts for the quality of obsessive interest in everyday trivia displayed during a sensational trial? Indeed what makes certain trials into the sensational juggernauts that dominated the American media of the 1990s? A closer look at the meaning of sensationalism indicates that at the core of the term 'sensational' is a suspension of our ability to distinguish between what is banal or routine, and what is extraordinary.

— THE PROSAICS OF SENSATIONALISM

Do the Menendez Brothers Reside in Many of Us?

Thomas R Hersh²⁸

Much of the work on sensationalism has emerged from the study of the sensation novel, a subgenre of novels that became popular in Victorian England in the 1860s. Although sensationalism is in lay terms a catch-all term of abuse for any form of media reportage considered inappropriate or tasteless, several theorists have argued persuasively that the sensation novel developed a distinct aesthetic practice.²⁹ Three characteristics of this subgenre have a particular bearing on sensational trials: the role of banality, the law and the absence of authorial control.

A seminal feature of the sensation novel is the implication that ordinary life is stretched like a thin membrane across a cauldron of simmering desires and scandalous events. As an anonymous critic wrote in 1863,

[p]roximity is, indeed, one great element of sensation. It is necessary to be near a mine to be blown up by its explosion; and a tale which aims at electrifying the nerves of the reader is never thoroughly effective unless the scene be laid in our own days and among the people we are in the habit of meeting.³⁰

If sensation novels nest their tales of scandalous murder in a thicket of domestic and routine detail, the intent was not merely to provide realistic settings, but to hint to the reader that the bland face of daily life is deceptive, and the familiar may erupt at any moment with unforeseen significance. Paranoia about everyday life produces a compensatory emphasis on the role of the law. Commenting on how often sensation novels focus on the workings of the legal apparatus, David Miller sees a desire to extend the legal apparatus to extralegal terrains of personal relationships, a project 'that makes sense only in a world where suspicion and inquiry have already become everyday practice'.³¹ The sensation novel thus describes a paranoid world where suspicion is directed at the humblest of practices, the minutest of gestures, the most trivial of feelings.

A second key feature is the propensity for sensation novels to cede authorial control in favour of proliferating narrators, multiple and shifting perspectives, and a plot that is endlessly

duplicated, complicated and modified. A sense of these complications is suggested by Mascariotti's brief summary of the plot of *Lady Audley's Secret*, a popular sensation novel, which introduces us to the 'daughter of a simultaneously sane and insane mother married to a brother who is simultaneously like and unlike his sister who is being investigated for the supposed murder of her first husband by the nephew of her second husband'.³² Such a tangled set of narratives differentiates the sensation novel from the realist novel. Unlike the realist novel, sensation novels never offer the reader the satisfactions of a closing, panoramic view that would make order out of this chaos.

As the trial of OJ Simpson unfolded, it was endowed by reporters with a plot and a cast made for a sensation novel. Adding to the initial protagonists, the tabloids produced endless surrogates for Nicole Brown Simpson, including at one point Marcia Clarke, the prosecuting attorney who was rumoured to be a battered wife; Paula Barberi, second girlfriend of OJ who slept in Nicole's bed and who was fearful of suffering a similar fate; and Denise Brown, who looked like her sister, and who was reported to have followed Nicole in having an affair with another black football star, Al Cowlings. Court TV, an American cable network set up to meet the public demand for trial coverage that became evident during the Menendez case, ended each session of its coverage of the Simpson trial with pictures of Marcia Clarke and OJ Simpson, a choice that seems intended to confirm the casting of Clarke as a surrogate for Nicole. OJ in turn had his own doubles, such as Marcus Allen, yet another black football star with whom Nicole was alleged to have had a relationship.

One obvious effect of these narrative complications is to drain the affair of moral significance. In a sensational trial, the allocation of guilt and innocence becomes problematic as the number of protagonists multiplies and as the main narrative is increasingly challenged by a plethora of equally gripping sideshows. In the Menendez trial, for example, the tale of a dysfunctional family was for a while partially upstaged by the tale of the psychiatrist to whom the brothers allegedly confessed, the psychiatrist's girlfriend and a welter of accusations concerning breach of confidence, eavesdropping and brainwashing.³³ A certain loosening of roles takes place, in which key players begin to swap parts and those who initially narrate the story of the crime, the attorneys, are drawn into the frame to become actors within the story. In a notorious spat, Leslie Abrahamson, defence attorney for Lyle Menendez, accused the judge in the first trial of acting like the psychiatrist, whereupon the judge retorted that Abrahamson had taken on the part of the girlfriend.³⁴

A second effect is an incapacity to distinguish between what is routine and what is exceptional, a feature mirroring the sensation novel's paranoid preoccupation with the potential dangers concealed in the most innocuous regions of daily life. Shoshona Felman's analysis of 'forms of judicial blindness' brilliantly homes in on this point.³⁵ For Felman, the trial of OJ Simpson was a chance to expose the routine racism within the police force, and the

violence harboured by the institution of marriage, an opportunity that was never realised in the trial. Instead, Felman suggests, the trial became an exercise in judicial blindness. The Simpson jurors appeared to heed Cochran's closing argument, which successfully reduced evidence of domestic violence into signs of routine marital strife. Since the jury looked but did not see the battery of Nicole Simpson, Felman concludes that it is to literature that we must look to uncover the truth that could not be made visible in the courts. To find this truth, Felman turns to a novella by Tolstoy in which a man acquitted of murdering his wife confesses to a stranger on a train that the murder he committed was secondary to the routine violence that men inflict on women in a 'normal' marriage.

Although the Simpson trial may indeed have rendered portions of reality invisible to the jurors—those portions where the banal intersects with the bizarre—the same cannot be said of the trial coverage. A trial becomes sensational for the same reasons that Tolstoy's story about marriage turned into a nationwide scandal in turn-of-the-century Russia. The scandal in both cases inheres in the ceaseless translation of aberrations into everyday commonplaces and back again, as though the crime set a pendulum swinging wildly, unable to resolve decisively the location of the crime. Where exactly does the danger lie—in the criminal individual or in the corrupt routines of society? 'This is no longer a country of Cleavers', noted a spokesperson for Court TV, a statement typical of the way journalists used the massive interest in the trial of the Menendez brothers to comment on the state of family relations in general.³⁶ An article in the *Los Angeles Times* interviewed inmates of a nursing home to make a case for viewing the Menendez murder as a metaphor for the more insidious slow deaths to which children commit their neglected parents.³⁷ Numerous commentators read the extraordinary case of Lorena Bobbitt, who cut off her husband's penis, as symptomatic of more general tensions animating the sex wars between ordinary men and women, an example being the *Washington Post* editorial entitled 'Grin and Bobbit: What We Men Learned from Lorena & Co. in 1993'.³⁸ For every news story that emphasised OJ Simpson's unique position as a celebrity, and the unusual trial his money afforded, there were an equal number ready to say, as one person interviewed for a *Time* cover story on domestic violence said, 'That could have been me'.³⁹ 'How could she do it?' blared headlines following the disclosure of Susan Smith's confession to the murder of her two small sons. Yet the efforts of journalists to convert Susan Smith into a monster of mythic proportions, a Medusa for the 1990s, were set alongside articles that documented the statistical abuse of children by their parents, posing a different question: How could *we* do it?⁴⁰

Felman's recourse to a literary parallel (Tolstoy's story) in order to decode the Simpson trial is symptomatic of the many attempts made to impose a narrative order on the mass of information and rumour that characterised the Simpson trial. During the week of the Simpson verdict, various news outlets mounted an effort to reduce the complications of the trial to

a tale of racial conflict between whites and African Americans. Stories about the continuing hostilities between African-American defence attorney Johnny Cochran and white defence attorney Robert Shapiro contributed to this effort. The effort to reduce the trial to 'a verdict in black and white' seems designed to contain the race and ethnic complications that were introduced during the course of the trial. If the verdict directed our attention to just two racial worlds, this was surely more easily grasped than the messier state of affairs during the trial, where the Asian press found significance in Shapiro's comments about fortune cookies, and Jewish public figures had something to say about Cochran's choice of bodyguards from an Islamic movement associated with anti-Semitism and his comparison of a racist police detective to Hitler.⁴¹ The debate between blacks and Jews continued for some time, helped along by the presence of Dershowitz on the defence team and the remarks of Fred Goldman, father of one victim, on the subject of the Holocaust. Thus the racial and ethnic contours of the trial went far beyond the chasm between black and white America that so many reporters wanted the verdict to represent.

The quest to find a fictional template is an effect, I suggest, of the profoundly ageneric disorder of the everyday life that surfaces during sensational trial coverage. Commentary on the sensational trials of the 1990s was marked by an awareness that the kind of reality on display could not be organised by the frameworks that fictional genres typically provide. Anna Quindlen, for example, wrote in the *New York Times* to remind readers that whereas fiction can produce victims wholly blameless and villains suitably monstrous, life is more recalcitrant. In the case of the Menendez parents it offered to us victims who were not 'as story and song would have Mom and Dad: no heart-to-heart talks, no cookies baking in the kitchen'.⁴² The point is a commonplace one, the Menendez parents were not storybook parents—nor were they obvious villains, no matter how many times Mr Menendez forced caviar on his guests. What is interesting is the reason why such reminders are necessary. They hint at the degree to which we expect fiction to serve as a guide into the realities of other people. 'Erik Menendez feared life like "Elephant Man" psychiatrist says', announced one headline in the *Los Angeles Times* as experts and journalists rushed to find fictional coordinates to map the strange happenings in the Menendez household.⁴³ Before Jose Menendez was a known figure, newspapers commonly referred to him as the executive 'in the company that produced Rambo', as though proximity to a violent movie could help explain the shotgun blasts in the Menendez living room.⁴⁴ When faced with a crime allegedly perpetrated by a man whose racial positioning was ambiguous, American journalists turned for a while to the gothic melodrama to discern a Mr Hyde beneath OJ Simpson's smooth exterior.⁴⁵ Coverage of the different reactions to the verdict in the first Simpson trial made ample use of literature, citing James Baldwin in an effort to comprehend the celebratory mood among some black communities.⁴⁶ The sheer number of narratives produced to make

sense of the Simpson case might suggest the degree to which no one story-line was sufficiently adequate to cope with the proliferation of plots and subplots that multiplied as this trial took over the media. Yet there is a more compelling account of the limitations of fiction in dealing with the ordinary. For the disappointment when those fictional guideposts fail us is the governing motif behind one of the most famous statements on banality: Hannah Arendt's controversial reference to the 'banality of evil' in her report on the trial of Adolf Eichmann.⁴⁷

As Arendt explains in the postscript to her report, her famous statement that Eichmann exposed the 'banality of evil' referred to 'the fact that stared one in the face at the trial. Eichmann was not Iago and not Macbeth.'⁴⁸ Clearly, Eichmann failed to live up to the Shakespearean dimensions of villainy for which the scope of his crimes cried out. His physical appearance was the first sign of a man poorly cast as a principal in the apparatus of genocide. Eichmann is described by Arendt as a man with a receding hairline, ill-fitting teeth and a middle-sized body, a man undergoing all the routine decay of middle age. A second and graver problem with Eichmann is that his emotions and beliefs consistently fail to match the bloodthirsty killer that the prosecution wanted to put on trial. Rather than disclosing a man of fanatical hatred for Jews, the far more explosive discovery of this trial is that a man motivated by petty ambition, self-righteous obedience, and no more than bureaucratic zeal could be capable of such actions. Eichmann's sentiments are in poor taste, continually inappropriate for the circumstances of his crimes, to whit his astonishing expectation that the Jewish policemen who interviewed him prior to trial should sympathise with the difficulties he experienced in rising through the ranks, and his all but apology for the two occasions when he neglected duty and allowed a few Jews to live. Eichmann does not merely fail to portray the satanic figure this horror story called for, his words and presence willfully mix genres, as though he were playing a part in a comedy—it was difficult, Arendt writes, not to suspect him at times of being a clown. On the other hand, he could not quite be dismissed as a fool either. Eichmann quotes from Kant at one point, a Kant he says 'for the little household man', and to Arendt's astonishment he gets it almost right.⁴⁹ What disturbs Arendt is that Eichmann is bad art—he mixes genres, cannot stick to a part that is written for him. The banality of evil is summed up for Arendt in Eichmann's final oration before execution. In his last words, as Arendt reports with disgust, Eichmann's attempts at grandeur produce a 'grotesque silliness' that is damningly unoriginal:

'Long live Germany, long live Argentina, long live Austria. I shall not forget them.' In the face of death, he had found the cliché used in funeral oratory. Under the gallows, his memory played him the last trick; he was 'elated' and he forgot that this was his own funeral.⁵⁰

Running through Arendt's report on the horrors of Eichmann's crimes is a profound, aesthetic distaste for the everyday reality exposed in the courtroom in which philosophy mixes with mindless clichés, tragedy with shallow sentiment and where monstrosities can be motivated by the cheapest and smallest of emotions, such as the story of the German officer who joined an SS regiment because he loved horseback riding. Arendt's report duplicates the constant shifting in scale described by Carlo Ginzberg—from Napoleon's head cold to troop dispositions, from the horrors of the gas chambers to the self-interested machinations of a bureaucrat. This merging of the routine with the extraordinary is what sensational trials irritatingly persist in bringing to light, against all desire or expectation that the lives we live should be possessed of more dignity.

The confrontation with banality can be productive. By disturbing the logics through which reality is decoded and governed, the public staging of everyday life can force new types and new ideas into view. During a sensational trial, the courtroom cameras, doubled and redoubled by the eyes of the media, function like a vast and continuous close-up on every facial tic, body movement and item of apparel of the key participants in an endless inquest on meaning. The effect is to extract from the anonymous behaviours of everyday life practices that normally have no articulate presence in institutional discourses.⁵¹ An example is the way in which the OJ Simpson trial elevated 'friendship' into a formal concept. By putting friendship on trial, this affair offers insight into the disparity between the emotions that are accorded significance publicly, and the feelings that may be more important in the conduct of everyday life.

— LOVE, FRIENDSHIP AND WHAT AMERICANS WILL NOT DO

In early February 1995, audiences for the OJ Simpson trial watched for four days as a former LA police detective, Ronald Shipp, was grilled on the subject of friendship.⁵² In a controversial ruling, Judge Lance Ito had allowed into evidence Shipp's testimony that Simpson had had dreams about killing his ex-wife, an admission alleged to have taken place in Simpson's bedroom the night after the murder. Because Shipp's relationship with the Simpson household extended back twenty-six years, he also had information to offer on the domestic abuse of Nicole Brown. He was thus an important witness for the prosecution. Problems emerged almost immediately, however, as the prosecution attempted to establish that Ronald Shipp was a close friend of OJ Simpson. Had he ever had personal and intimate conversations with the defendant, Shipp was asked? 'Yes.' Did he understand the meaning of the terms 'personal and intimate'? 'Yes.' Unfortunately it appeared that this understanding was not shared by the court, because the next set of questions designed to elicit examples of these 'personal and intimate' matters were wide of the mark. Had Shipp ever discussed his health

with Simpson? 'No.' Had he ever discussed his relationship with his wife with Simpson? Again 'no'. Finally, in frustration, the prosecuting attorney (Chris Darden) asked Shipp for examples of 'personal and intimate conversations', but this question was ruled too vague and a new line of questioning ensued.

The strange ad hoc set of rules formulated by the prosecution to prove that a friendship existed is a striking example of how the judiciary was straying into territory where had it appeared to have no business, and certainly no expertise. Friendship, unlike other relational modes requires no legal contracts, nor are the social norms and conventions of friendship so clearly demarcated as to make it possible to distinguish with certainty between a friend and an acquaintance, a false friend and a true friend, or even, as it appeared, between a friend and a lover. As the prosecution and their witness approached the bedroom, the setting for Simpson's remark about dreams, Shipp explained that Simpson was undressing for bed when they had their dangerous conversation. 'Did you watch the defendant as he undressed and prepared to get ready for bed?' Darden asks Shipp. 'Well, I mean, I didn't just stare at him', Shipp replied. An embarrassed chuckle spreads through the courtroom as the attorney realises that 'personal and intimate' is in danger of acquiring other overtones and he moves quickly onwards.

The opacity of friendship to the court, the vagueness and flexibility of its borders permitted the defence team to make some inroads into Shipp's claims to be a friend. During cross-examination, Shipp agreed that he and his wife had never gone to dinner, to the movies or to a football game with OJ Simpson and his wife. According to this new set of impromptu rules for friendship devised by the defence, Shipp agreed that perhaps he was not a friend. Shipp explained 'I was like one of his servants, doing things for him, running license plates'. But if this was a retraction, it was only of limited help to Simpson's attorneys. The force of the climactic question posed by the defence attorney—'You weren't the kind of friend he [Simpson] would share some private secret information with, were you?'—was mitigated by the knowledge that 'private' and 'personal' could well include police business, and that whether Shipp was looking up licence plates of the women OJ Simpson wanted to date, or talking to him about the charge of murder, the sphere of intimacy could not be pinned down to matters of personal health and recreation.

Why was it so important to establish or disprove Shipp's friendship with Simpson? The tactics adopted by both prosecution and defence attorneys made the claim of friendship pivotal to the validity of Ron Shipp's testimony. Contra Aristotle, friendship and justice were here presumed to be inversely related. Shipp's testimony would, it seemed, have greater credibility if it could be shown to violate his affective bond with Simpson. Truth is produced not in the absence of emotion, but in despite of emotion, needing to be forced out, gaining

in value insofar as it is slowly coaxed to appear, battling at every step the weighty demands of a prior friendship.

A similar ambiguity runs through the media coverage of sensational trials, which accords emotion an unusually prominent place. To commentators on the sensational trials of the 1990s it appeared that emotion had taken over the courtroom and perverted the proceedings. Numerous editorials read the verdicts in the Bobbit case and the deadlocked juries in the Menendez case as signs that an excess of empathy had superseded the claims of justice. Many blamed the emergence of a 'culture of feeling' that was driving out rational thought. 'How did we go from ... a society that distinguished right from wrong to one that understands all and punishes nothing?' asked Margaret Carlson in *Time* fantasising a time when emotion and thought could be dissociated.⁵³ Somewhat paradoxically, Carlson entitles her essay 'That Killer Smile', suggestive of the way that accusations of an improper dependence on emotional cues on the part of the jury frequently gives way to the implicit claim that they read the cues wrongly. If the jury was fooled by the 'mask of misery' that Lyle Menendez wore during his testimony, Carlson takes his 'thin smile' as the verdict is pronounced to be a transparent sign of his guilt.

In sensational trials, the emotional credentials of the accused regularly become central to judgements of guilt and innocence. In 1892, Lizzie Borden was put on trial for allegedly hacking her parents to death with an axe. Debate both inside and outside the courtroom quickly zeroed in on Borden's dispassionate demeanour.⁵⁴ She showed, it was argued, too little emotion for an innocent woman newly bereaved of her family.⁵⁵ If Borden cried too little, the Menendez brothers, on the other hand, cried too much. Attention to the brothers' 'tearful testimony' was so pronounced in the media as to at times upstage the crime of parricide for which they were on trial. Exhibiting the contradictory logic that pervades Western discourse on the emotions, the tears of the Menendez brothers were read as both weakening and feminising on the one hand, and possessed of a tremendous contagious power on the other, prompting jurors and reporters to cry in sympathy.⁵⁶ Just how far the Menendez brothers had offended against the emotional etiquette of manhood may be judged from descriptions like this one in the *New York Review of Books* in which the author imagines Lyle Menendez 'inspecting his hair purchase ... looking like a coquette at his transformation in the mirror, pondering the color, the curls, a bit of trim here or there?'⁵⁷

In their attention to the emotional decorum of courtroom actors both on and off the legal stage, sensational trials enact the 'feeling rules' of a society, the term used by Arlie Hochschild to describe the ways in which social hierarchies are shaped through norms governing emotional display.⁵⁸ The exhaustive anticipation, rehearsal and post-game analysis of testimony in a sensational trial encourages intense scrutiny of the performance of the key players,

thereby drawing attention to the implicit rules prescribing what emotions are appropriate to which people for what reasons and in what situations. However, sensational trials do not merely reproduce these rules, they also recreate them by offering a glimpse of the workings of affect in everyday life. To elucidate this idea, let us return once more to the notion of friendship. Before the interrogation of Ronald Shipp, the question of what friends will do for each other had been raised by journalists debating whether the death penalty would be sought for OJ Simpson. 'What Americans won't do', opined Michael Kinsley in *Time*, is execute Simpson, were he to be found guilty. Why? Because 'OJ Simpson's celebrity means that for most Americans he is a flesh-and-blood human being ... in our mind, he's a friend'.⁵⁹ Despite widespread support for the death penalty, and contrary to whatever facts emerge in the case, Kinsley concludes that 'OJ's likeability ... will never be completely destroyed ... After all, this is a guy we've shared beers with—at least in our mind.'⁶⁰ The exact nature of the public's feelings for Simpson was in dispute. Several legal experts, asked to comment on the decision not to seek the death penalty in Simpson's case, suggested that 'Simpson is like a member of the family, so much a part of American life' that this is 'as close as most people will come to having a loved one facing a murder charge' and that 'people do not want to believe that their father killed their mother'.⁶¹ Conversely, juror Brenda Moran stated in an interview following the verdict 'I felt like he was a close neighbor. If I saw him out on the street in trouble, I would help him.'⁶² As the *Time* reporter observed, such expressions of kinship are a byproduct of Simpson's pre-trial status as a star football player and entertainment celebrity. Studies of stardom suggest that the appeal of a star is fuelled by the contradictory perception of the star as both extraordinary and ordinary at the same time, possessed of unusual talent, looks or wealth, yet also sporting an offstage persona that reassuringly engages in ordinary pursuits like shopping, having babies and getting divorced.⁶³ But what interests me here is the singular attention paid to friendship, and more specifically to what friendship can *do*. The claim that in this instance the bonds of friendship may offset the effects of a brutal murder and override the law raises some compelling questions about where exactly friendship ranks on the continuum of affective relations. The idea that as a friend, Simpson could provoke a loyalty appropriate to family members reverses the hierarchy of relationships suggested by the legal protections we afford to kinship relations and the absence of such protections for friends. The attention paid to friendship both inside and outside the courtroom also reverses the hierarchy of affect that is assumed by theorists. If in ordinary speech there is no greater compliment to call one's spouse or one's parent 'my best friend' indicating a relationship one would have chosen or would choose again, friendship is regularly downplayed both legally and in cultural analysis, which overwhelmingly focuses on love and desire, considering friendship as at best a way station en route to these more important passions.⁶⁴

In an interview about the type of affective ties that gay men are often compelled to invent, Foucault remarks on the power of friendship to disturb the social set of institutionalised relationships. Two men who take up friendship 'as a way of life', Foucault explains,

face each other without terms or convenient words, with nothing to assure them about the meaning of the movement that carries them toward each other. They have to invent, from A to Z, a relationship that is still formless, which is friendship.⁶⁵

This sense of having to invent a way of being friends without clear guidelines or codes to follow is something I would suggest we are well aware of in everyday life. In ordinary situations when the potential for conflict of interest arises, whether it be in the workplace or the courtroom, friendship can make us jittery, because the scope of its obligations are so vaguely defined.⁶⁶ Whereas the commitments to be expected from people who are married to one another, or related by blood, are partially codified in law and/or supported by well-developed religious and ethical discourse, manifestations of friendship can range from the casual utilitarian connection through to those intense affective ties that command a lifelong loyalty. The invocation of 'friend', 'neighbour' and 'family member' in an effort to characterise the feelings of the public towards Simpson attests to the difficulty of demarcating friendship from other relational modes, since it can inhabit them all. As the interrogation of Ronald Shipp exposed, friendship is hard to locate, its field of action nebulous, its consequences unpredictable, its power to overturn other alliances, on occasion, stunning. It is of course impossible to know whether friendship was a crucial factor in the jury's decision to acquit OJ Simpson, but in foregrounding friendship as an 'unforeseen line of force' and in making it part of the national conversation, Simpson's trial momentarily exposed the gap between administrative categories of relationship and the inarticulate movements of affect in day-to-day living.⁶⁷

The lengthy examination of Ron Shipp's claims to friendship and the explicit acknowledgement that Simpson had an emotional as well as a material bank balance to draw upon in this trial suggest the potential of a sensational trial to disturb in productive ways the boundary lines separating private from public with details from everyday life that complicate both these categories. In turning the spotlight on friendship, the sensational trial of OJ Simpson opened a portal of communication with everyday life, uncovering material for rethinking the significance of ordinary relationships. By temporarily expanding public space to accommodate the insignificant truths of daily life, sensational trials offer an opportunity for new scales of affective intensity to emerge. As the media gears up for what looks likely to be the show trial of the century, in which Saddam Hussein will be called to answer for events perhaps beyond the compass of a single individual, it may be worth turning our attention to the flotsam thrown up in the wake of this event and the opportunities yielded to watch as a society

collectively debates how and why people kill, how and why they care, and the place of the ordinary in the making of the recurring horrors of history.

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29. See, for example, Patrick Brantlinger, 'What is Sensational about the "Sensation Novel"?', *Nineteenth Century Literature*, no. 37, June 1982, pp. 1–28; GJ Masciarotte, 'Sensationalism and the Dysfunction of Emotions', *Discourse*, no. 14, Spring, 1991–2, pp. 88–125. David A Miller, 'Cage aux Folles: Sensation and Gender in Wilkie Collins' *The Woman in White*', in Elaine Showalter (ed.), *Speaking of Gender*, Routledge, New York, 1989.
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33. Alan Abrahamson, 'A Circus of Disorder in the Court', *Los Angeles Times*, 17 December 1993, p. B1.
34. Abrahamson, p. B4.
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36. See, for example, Christine Spolar, 'The Family That Slays Together', *Washington Post*, 22 December 1993, p. F1. 'Cleavers' refers to the surreally wholesome family featured on a popular American TV sitcom from the 1950s entitled 'Leave it to Beaver'.
37. Hersh, p. 7.
38. TJ Edwards, 'Grin and Bobbitt: What We Men Learn from Lorena & Co. in 1993', *Washington Post*, 2 January 1994, p. C5.
39. Cover story, 'When Violence Hits Home', *Time*, 4 July 1994, p. 18.
40. For an example of this tendency to read the criminal as both external to society and symptomatic of problems internal to society, see the article published in *Newsweek* entitled 'How Could She Do It? Why Parents Kill' (McCormick, Miller & Woodruff, 14 November 1994).
41. Michael Quintanilla, 'A Simpson Spin All Their Own', *Los Angeles Times*, 13 July 1995, p. E1.
42. Anna Quindlen, 'Public and Private: Tied to the Tracks', *New York Times*, 14 November 1993, p. 17.
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44. Robert Reinhold, 'Beverly Hills Journal: Real Life Produces Plot Fit For Movie', *New York Times*, 14 March 1990, p. A20.
45. Mark Edmundson points to the gothic framing of the OJ story in his discussion of American gothic. See Mark Edmundson, *Nightmare on Main Street*, Harvard University Press, Cambridge, 1997. However, gothic was only one of many genres that the media tried to fit to the trial. Trial coverage even in serious news outlets tended to mix genres, interrupting a gangster movie for a real estate blurb, as when the Menendez are described in the *New York Times* as 'riddled with blasts from a 12-gauge shotgun' while eating strawberries in their '6 bedroom Italianate mansion'. (Reinhold, p. A20)
46. See, for example, Mark Whitaker, 'Whites Versus Blacks', *Newsweek*, 16 October 1995, p. 24 (cover story).
47. Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, Faber & Faber, London, 1963.
48. Arendt, p. 287.
49. Arendt, p. 136.
50. Arendt, p. 252.
51. As one of the anonymous reviewers of this paper noted, such meticulous attention to gesture and emotional etiquette is a feature of other public events, such as the detailed scrutiny of electoral candidates. However, I maintain that the quality of attention to everyday life in a sensational trial is different because the stakes are higher. That is, the implicit question that motivates such scrutiny in a sensational trial is whether the extraordinary crimes of the defendant are, in fact, ordinary—to what extent is he or she like us? This produces not merely a reading of cues, but *debates* on the everyday practices that are invoked.
52. All the following quotations from the cross-examination of Ron Shipp are taken from Court TV's broadcast of the Simpson trial 1–4 February 1995.
53. Margaret Carlson, 'That Killer Smile', *Time*, 7 February 1994, p. 76. For another article representative of the media's position that the jury and the public had allowed emotion to drown out rational deliberation, see John Leo, 'Watching "As

- the Jury Turns", *U.S. News and World Report*, 14 February 1994, p. 17.
54. Edward Radin, *Lizzie Borden: The Untold Story*. Simon & Schuster, New York, 1961.
 55. There is an obvious parallel here with the more recent trial and conviction in the 1980s of Lindy Chamberlain, the Australian woman accused of killing her infant daughter on a trip to the outback. As many commentators observed, Chamberlain's conviction for murder in the absence of viable forensic evidence was based in part on her 'unnatural' composure. Chamberlain's manner (too cold) and attire (too sexual) was perceived to violate the emotional etiquette required of bereaved mothers, and for this in part she went to jail. See Adrian Howe, 'Chamberlain Revisited: The Case Against the Media', *Refractory Girl*, nos 31–2, 1989, pp. 2–8.
 56. Seth Mydans, 'Killers as Victims: Defending Menendez Brothers', *New York Times*, 19 November 1993, p. A30.
 57. Elizabeth Hardwick, 'The Menendez Show', *New York Review of Books*, 17 February 1994, p. 14.
 58. Arlie Hochschild, *The Managed Heart: Commercialization of Human Feeling*, University of California Press, Berkeley, 1983.
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 61. Rick Bragg, 'The Nation: OJ Simpson and Susan Smith; Two Crimes, Two Punishments', *New York Times*, 22 January 1995, p. 1.
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 64. For more on this point, see Peter Murphy, 'Friendship', *South Atlantic Quarterly*, no. 97, Winter, 1998, pp. 1–4, and Marilyn Friedman, *What are Friends For?*, Cornell University Press, Ithaca, 1993.
 65. Michel Foucault, 'Friendship as a Way of Life', in Paul Rabinow (ed.), *Essential Works of Foucault 1954–1984, Volume One*, Penguin Books, Melbourne, 2000, p. 136.
 66. I am indebted to Kate Bowles for this point.
 67. Foucault, 'Friendship as a Way of Life', p. 136.