

# Desperately seeking **JUSTICE**

To be wrongly accused of murdering your own child is devastating. David Cohen talks to the parents who are the victims of an 'expert' witness's unreliable evidence

**T**wenty bittersweet minutes is all that she had alone with her baby. For almost immediately after a tear-drenched Karen Haynes had given birth to her daughter, two policemen, waiting outside the door of the labour ward, took her away. Karen and her husband, Mark, a systems analyst, returned to their five-bedroom home in a middle-class Birmingham suburb empty-handed and broken-hearted, while their newborn daughter, Sarah, was taken into care.

The reason for this course of action was a single devastating line in a medical report, commissioned by Birmingham Social Services, into the death of Karen's first baby, Robert, some 13 months previously. It read: "I believe that smothering was the probable cause of the severe illness events and death".

Later, in family court, other medical specialists would disagree with this highly controversial conclusion, but with it, the

damage was done and a ball was set rolling that would lead to Karen and Mark losing their daughter forever.

The man responsible for this report – Sir Roy Meadow – has sensationally been in the news lately as the world-renowned expert on cot deaths whose evidence and whose maladroit use of statistics wrongly sent Sally Clark and Trupti Patel into the dock, accused of murdering their babies. Trupti Patel was found not guilty but Sally Clark was sent to prison for three years. After being freed on appeal, Clark's lawyer made the point that there were half a dozen other women who have been wrongfully imprisoned for killing their babies on the basis of Professor Meadow's flimsy 'expert' evidence, and that each case needed to be re-opened.

But it has since been revealed that, in addition to these women who have faced criminal prosecution, there are scores of other mothers who – like Karen Haynes – have never been charged by the police, but who have had their subsequent babies taken away from them in family court hearings as a result of Meadow's evidence. Like Sally Clark – and Karen Haynes – many of these mothers have no previous history of child abuse. And like Clark and Haynes, they continue to protest their innocence.

The concern arises that the ordeal of Karen Haynes is just the tip of the iceberg. For it

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alerts us to the distinct possibility that the Sally Clark case reveals not just a single grotesque miscarriage of justice. But rather, that it lifts the lid on serial miscarriages of justice that run perhaps into the hundreds, ever since Meadow began giving evidence in such cases more than 20 years ago.

For there is one incontrovertible fact to take on board – if Meadow’s evidence has often been persuasive in the criminal courts, it has been much, much more so in family courts. Unlike criminal courts, where the threshold of proof is “beyond reasonable doubt”, in the family courts the burden of proof is lower, merely “on the balance of probabilities”. To compound the problem, family court hearings are usually held in secret, behind closed doors, away from public scrutiny and once concluded the families involved are usually prevented, by an injunction, from ever discussing the case in public.

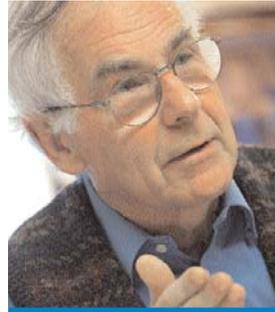
Karen Haynes is unusually fortunate in this regard – her case was held in open court. It means that, unlike other gagged mothers, she is able to tell her story without breaking the law. However, to honour the judge’s ruling that nothing be published that could lead to the identification of either child concerned, we have changed the names of the family.

Karen Haynes, now 37, gave birth to her son, Robert, in September 98. The pregnancy was planned, the baby was very much wanted, and she gave birth normally and without complications to a healthy boy weighing a bonny 6 pounds 8 ounces. The boy, doctors said, was expected to thrive. And he did. As the judge later acknowledged, “There were many visits by the midwife and it was noted that there was an excellent relationship between mother and child”.

Sitting on the sofa of her living room more than four years later, Karen, who used to work as a bookkeeper, gives a rare smile and describes her life at that moment. “I had everything I wanted – a beautiful healthy baby, a loving husband, a nice home, money

in the bank. I loved motherhood. Mark said it was the happiest he’d ever known me.”

Moments later, her body racked with convulsions, she sobs as she recounts the story of Robert’s decline, four months to the day after he was born, and his death in



The evidence of Sir Roy Meadow (left) led to many parents having children taken from their care. Even now they are now unable to speak out because of legal restrictions

hospital two days later. “Robert had been playing happily all morning,” she begins. “He fell asleep on our double bed at around 12.30, and shortly after, I heard him make some strange noises, so I picked him up. He was very cold and he seemed to be gasping for breath. I held him and his breathing calmed down. But it was still worrying – he had had two similar attacks two months previously that had required him to be admitted to hospital – and so I phoned the GP.”

The GP arrived two hours later and noted that Robert, “had a slightly feeble, high-pitched cry and intermittently his lower limbs were shaking a little but he appeared to be breathing relatively normally”. He called for an ambulance classing the call as ‘doctor’s urgent’ rather than an emergency, and when the ambulance arrived an hour later, the paramedic noted that “Robert smiled when his foot was tickled”, and that “there were no external signs of injury and no trace of blood or vomit”.

Robert was examined at Birmingham Children’s Hospital at 4pm, but his condition deteriorated rapidly. A CT scan at 5.45pm demonstrated a swelling to the brain, by



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6.15pm he was admitted to intensive care and the next morning, Karen and Mark were told that if he survived, he would have severe brain damage. For the next 36 hours, as Robert slipped into a coma, Karen and Mark sat by his bedside, swamped by grief. Then, at 4.30pm, two days after he was admitted, the doctors turned off the life-support machine. “I just held his little body in my arms,” says Karen, “and sobbed.”

One week later, as is normal in the case of unexplained child deaths, two policemen came round to take statements on behalf of the coroner. Karen and Mark were interviewed separately, each for four hours. “The police were very sensitive,” says Karen. “There was never any indication that they were treating the death as suspicious.” They never heard from the police again.

Karen and Mark decided that the best way to move forward in their lives was to try for another child, and Karen duly fell pregnant

four months later. They were healing and grieving, when “out of the blue”, says Karen, eleven months after Robert’s death, they received a letter from Birmingham Social Services requiring them to attend a child protection conference for their unborn child. “The day the letter came, Mark and I just stood there, looking at each other, in total shock. We didn’t understand it at all.”

But things were to get worse. Unbeknown to Karen and Mark, Birmingham Social Services had already commissioned two leading paediatricians to sift through the medical evidence and to report into the mostly likely cause of Robert’s death. There would be a meeting of experts, followed by a hearing in the family court, they told the expectant mother and father, and if it was found that “the mother had smothered her child”, then the new baby would, in all likelihood, be taken away from them. In the meantime, an emergency protection order

Getty, PA Photos, Rex Features, Bob Collier. Opening picture posed by models

was obtained so that Karen's child could be taken into care within minutes of being born.

"My whole world fell in," says Karen. "I felt disbelief, anger, sadness. It was hell." The last months of her pregnancy proceeded under this terrible nightmare. In the midst of this almost unimaginable inner turmoil, she had to somehow find the focus to give birth. The elation Karen felt when she caught sight of her little girl and held her for the first time was matched by the utter despair she felt

the "more likely" cause of Robert's death was "metabolic abnormality" and that "imposed airway obstruction" – intentional suffocation by the mother – was "less likely".

But the second paediatrician – Professor Roy Meadow – came to the exact opposite conclusion. He said that "a natural cause is a lot less likely and smothering is much more likely". At no time, was anyone "certain" of anything. All conclusions were couched in language that talked only of "less" or "more"

that the mother had murdered her baby. In the words of the judge, "all three experts agree that from the pathology alone it is not possible to state what causes led to Robert's collapse and subsequent death".

Meadow was the only one willing to stick his neck out and say that he thought the most likely cause of death was that Karen had suffocated her baby. But, such is the esteem with which Meadow's evidence is held, that the judge 'preferred' his evidence

two years after the judgment, Karen's pain is still an open wound. The sound of what she has lost is all around her. Instead of a toddler pulling at her sleeves, or chasing her round the house, you can hear a pin drop.

"A few months ago, on the day that Sarah turned three," she says, "I stood at the window and watched the kids next door playing out and cried my eyes out." Later, Karen wrote Sarah a birthday card: To our dear Sarah – happy third birthday. Miss you constantly. We'll meet again soon. She signed it Mummy and Daddy.

"We couldn't post it to her, because we don't know where she lives," says Karen, who is crying so hard now, I can barely hear her speak. "So we put it in a box with the rest of her birthday and Christmas cards. One day, when she is older, she might want to contact her birth parents. Then I will give her the box of cards. Proof that, although she was stolen by the state, she was never forgotten."

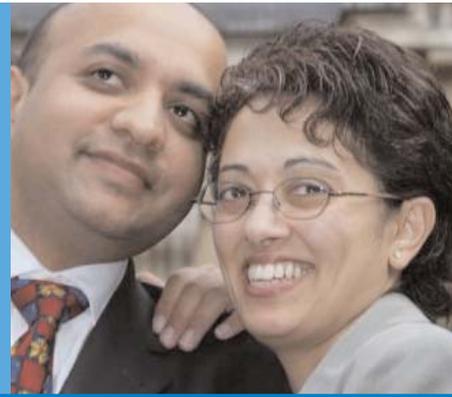
The success of Sally Clark's appeal and Trupti Patel's release has bestowed a ray of hope where hitherto there has been only hopelessness. Caroline Spelman, one of Karen's local MP's has said that families who would like a retrial should contact her. Karen has already written to her to ask whether she would include family court judgments as well. Yet other experts in the field are calling for Spelman to go further: they want a full public inquiry in all cases where Meadow's evidence has been involved.

For instance, John Batt, Sally Clark's solicitor, is scathing of the work of Meadow. "People don't realise how many women are involved in cases like this. The law is standing the natural rights of mothers on its head," says Batt. "Somehow it has to be stopped."

Following the Trupti Patel and Sally Clark cases, the Crown Prosecution Service is said to be ordering a review of every past case that has relied on the evidence of Professor Meadow. For Karen Haynes such a welcome development cannot come soon enough. ■



The trials of Sally Clark (left) and Trupti Patel (right) brought the validity of Sir Roy's evidence into the media spotlight and has re-opened the debate on hundreds of other similar cases



moments later, as two uniformed policemen picked her up and took her away. But she still had hope. She and Mark had been told they could visit Sarah under supervised access for a few hours every day, pending the court case, and she was convinced that no judge would take her daughter away from her.

Four months after Sarah was born, the family court sat. At stake was nothing less than whether Karen and Mark would get their daughter back. But the judge had a difficult case on her hands as the two paediatricians commissioned by social services had sifted the evidence and come to starkly opposing conclusions.

On the one hand, the judge heard that Peter Fleming, professor of infant health and developmental psychology at the Institute of Child Health in Bristol, had concluded that

"likely". Professor Meadow noted that Karen had been alone with Robert on each of the three occasions where her son had had 'episodes' of gasping for breath. Her motive? That would be Munchausen Syndrome by Proxy – the subject of his famous 1977 paper in *The Lancet* that made Meadow's name and brought him a knighthood – and which described a perverse malady in which a depressed mother harms her baby in order to draw attention to herself.

The judge noted that Meadow had been criticised by other medical experts for "fitting the evidence into a diagnosis". In other words, that he cherry-picked those facts which suited his case, but discarded others that fitted less well.

Other medical experts gave evidence too, including three pathologists, but none found

to Professor Fleming's. This despite the fact that only Professor Fleming had taken the time to interview and form an impression of the couple in person. Professor Meadow never took the trouble to meet or speak to Karen or Mark before writing his report. Yet he himself states, "The opinions of those with close and prolonged knowledge of the parents is of great importance". The facts are that, unbeknown to Professor Meadow, Karen has had the unwavering total support of her husband, family, neighbours and friends.

Meadow's words had carried the day, and at a second hearing convened five months later, it was judged that social services would put Sarah up for adoption. Neither Karen nor Mark have seen her since. Should Karen have any future children, it was made abundantly clear, they too will be taken away. More than