



JUDICIARY OF
ENGLAND AND WALES

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-v-

Dennis McGrory

Huntingdon Crown Court
Sentencing Remarks of Mr Justice Bryan
13 January 2023

1. Dennis McGrory, you have been found guilty of the rape and murder, some 47 years ago in 1975, of Jackie Montgomery, a 15 year old child, and niece of your former partner Josie Montgomery. I must now sentence you for these abhorrent crimes.
2. Jackie was found lying on the floor in the ground floor living room of 119 Offord Road London at around 02.15am on 2 June 1975. She had been fatally stabbed with a knife through her heart, and through her stomach and liver. There had been an attempt to strangle her with the cord of an iron which was still wrapped around her neck. She had a burn on her leg. There was a scene of disarray. The phone was off the hook, a chair was overturned, there was a lock of pulled hair three feet from her body close to her discarded tights and knickers. Her blood-stained diary (with part of a page ripped out of it bearing the address at which Josie had recently been staying) also lay nearby. Her skirt was pulled up, as was her jumper. She was on her period and a used sanitary towel lay close to her body. She had clearly been murdered, and the circumstances strongly suggested that her murder had been preceded by her rape but, in 1975, the post mortem did not yield the evidence to justify such a charge.
3. You were the prime suspect for Jackie's murder from the start. Her aunt Josie had recently left you due to your violence towards her, and you had even more recently learned that she had started a sexual relationship with another man, and even worse than that, he was a close friend of yours. You were enraged, and desperate to find Josie to inflict violence upon her. You were also willing to inflict violence upon anyone to extract information as to Josie's whereabouts. Jackie was just such a person, and what is more, you had an unreciprocated sexual interest in her.
4. In interview you denied that you had any sexual interest in Jackie, consensual or otherwise, you denied attending 119 Offord Road the previous day, and you denied murdering Jackie. In the light of the circumstantial evidence against you, you were charged with Jackie's murder on 15 July 1975.

5. On 26 January 1976 (when you were 28) you stood trial at the Central Criminal Court before Mr Justice Melford-Stevenson and a jury for the murder of Jackie. At the close of the prosecution case, which was largely based on circumstantial evidence, the judge withdrew the case from the jury and directed the jury to find you not guilty. You were therefore acquitted of the murder.
6. In the decades that followed you must have thought that you had got away with your heinous crimes and that you would never face the justice you deserved for what you had done. So how is it that your offending has caught up with you? First, the passage of the Criminal Justice Act 2003 which allows an acquittal to be quashed, and a defendant retried, in the event of new and compelling evidence, and secondly advances in medical science, and the technique of DNA analysis, which did not exist in 1976.
7. A cold case review identified that upper and lower vaginal swabs had been taken at the post mortem of Jackie, and those swabs had been retained for over 45 years. Samples were taken from those swabs and DNA analysis was performed.
8. In relation to the upper vaginal sample, a mixed DNA profile was obtained that indicated the presence of DNA from at least two persons, and the result would be fully accounted for by a mixture of DNA from Jackie and yourself. In relation to the lower vaginal swab a mixed DNA profile was obtained that indicated the presence of DNA from at least two persons, possibly more. The profile also indicated that the majority of the DNA present had originated from one male and one female. Jackie's DNA profile was represented such that she could be the prominent female contributor. Your DNA profile was also represented such that you could be the prominent male contributor.
9. A likelihood ratio assessment was done in relation to the various samples. By way of example, in relation to the lower vaginal swab sample, the forensic scientist Mr Beaumont progressed the interpretation based on the premise that DNA was present in the sample from Jackie and two other persons and had considered the following alternative propositions (1) DNA from Jackie, you and one other individual was present and (2) DNA from Jackie and two individuals was present, but none of the DNA had originated from you. Based on the calculation performed, the findings would be at least one billion (that is one thousand million) times more likely if the first proposition were true rather than if the second proposition were true.
10. And so it was that your acquittal was quashed and you have stood trial for the rape and murder of Jackie before this jury on the entirety of the evidence which included, but was not limited to, the DNA evidence. You chose not to give evidence in your own defence, which was your right, but as a result you did not give evidence in the trial to contradict or undermine the evidence of the prosecution witnesses. I am sure that your reason for doing so was that you did not have an answer that would have stood up to questioning, not least given your inconsistent contemporary accounts, and incredible suggestions as to how you came by your own injuries.
11. Nor were you able, through your counsel, to explain away how DNA, consistent with your DNA profile, came to be found inside Jackie. The reality, as the jury has found by their

verdicts, is that you raped Jackie, depositing your DNA in the process, before murdering her.

12. But why rape and then brutally murder a 15 year old child in her own home? I am certain that you did so for two reasons. First, I am sure that you had an unreciprocated sexual interest in Jackie. The year before her death you had tried it on with her whilst she was sunbathing on the roof of Stean House, trying to grab and kiss her, which you sought to down-play in your interview saying that “we were just mucking around”. There was also an occasion when Jackie was babysitting for your then partner Josie, you came in drunk, and you tried to kiss Jackie and put your hands up her skirt. Most chilling of all, was the oral evidence of Kathleen Montgomery junior, which I accept, that you said to her and Jackie that “you would, like to rape her and her sister, Jackie”. Whilst taken in jest, she concluded that you would do so if you could, as I, and the jury, are sure you went on to do to Jackie.
13. Equally, the evidence before the jury, which I accept, is that you had been violent towards Josie Montgomery and used to hit her, which is why she left you. This was testified to by Josie herself, and was also witnessed by Mary White whose read evidence was that she saw you punch Josie on a number of occasions, which was also consistent with the read evidence from Linda Devlin and David Ballantyne who reported that Josie had told them that you had beaten her in the past. Even more disturbingly, it was the read evidence of James Reid and David Ballantyne that on the Sunday morning (and after Jackie had been murdered) you referred to Josie’s relationship with your friend, and you said that you were going to find Josie and “give her stripes” – as Reid says – or “cut her face off” – as Ballantyne says.
14. I am satisfied, so that I am sure, that you were, indeed, violent to Josie Montgomery in your relationship and that on the night Jackie died you were looking for her, having found out that she had been having an affair with your friend, you were enraged and looking to attack her and inflict violence upon her, and were willing to inflict violence upon Jackie in order to obtain details of her whereabouts, which is precisely what you did.
15. You attended 119 Offord Road that night. It is clear that there was a violent struggle between you and Jackie. As I have already noted, furniture was turned over, the phone was off the hook, there was a pulled lock of hair. There was a violent struggle, you raped Jackie, and your violence culminated in you murdering her, literally stabbing her to death.
16. You raped Jackie, a 15 year old child, because you had an unreciprocated sexual interest in her, carrying into effect your previous threat to rape her. You meted out violence upon her during the course of her ordeal, and this culminated in you repeatedly stabbing her with a knife, including through her heart, and also through her diaphragm penetrating through her liver and stomach. I have no doubt whatsoever that you intended to kill her in your brutal attack upon her. Sadly, and as the expert evidence testified, Jackie could have survived, and been capable of movement, for between one and ten minutes after suffering such fatal wounds, knowing that she was going to die.
17. You put Jackie through an horrific, violent and sustained ordeal in her own home – a place where she was entitled to feel safe. She must have been terrified as you inflicted violence

upon her and as the realisation dawned upon her as to what you intended to do to her, and having gone through the ordeal of being raped by you, she would have realised, as you inflicted further and increasing violence upon her, including with a knife, that you intended to kill her. How any man could inflict such sexual and physical violence upon a 15 year old child who had done them no harm beggars belief.

18. Quite apart from the fatal stab wounds that brought about Jackie's death, you also inflicted considerable violence upon Jackie during the course of your sustained attack upon her as evidenced by the injuries found at the post mortem that were before the jury, including injuries to her head and mouth, and a strangulation mark on her neck. The attack upon her was both physical and sexual. There was a continuum of events, and I have no doubt that your sexual conduct and the violence leading to Jackie's death were inextricably interwoven, with the sexual activity increasing the ordeal of Jackie and the depravity of her murder. This was, on any view, as the defence accepts, a murder involving sexual conduct (aggravated by the fact that it was murder involving sexual conduct with a child) and as such the seriousness of your offending is particularly high within the meaning of Schedule 21 to the Sentencing Act 2020 (with an appropriate starting point for a minimum term, for a murder committed after 18 December 2003) of 30 years.
19. I have to ask myself whether in fact your murder of Jackie, as a child, not only involved sexual conduct (as it undoubtably did) but whether it involved a sexual motivation or a sadistic motivation. If it did then the seriousness of your offending would be exceptionally high, within the meaning of Schedule 21 of the Sentencing Act 2020, and with the appropriate starting point, at least for a murder committed after 18 December 2003, of a whole life order.
20. Had your unreciprocated sexual interest in Jackie been the only reason for your fatal violence that night I would have concluded that the murder of this child involved a sexual motivation as you carried out your sexual fantasy to its fatal conclusion. However, I am satisfied that another motive was also in play in your actions, namely that on the night in question you were enraged and looking to attack Josie and inflict violence upon her, and were willing to inflict violence upon Jackie in order to obtain details of her whereabouts, which is precisely what you did, and which was also part of the continuum of events culminating in Jackie's murder. In such circumstances I step back from concluding that the murder involved a sexual motivation, as opposed to sexual conduct (which it undoubtably did).
21. I have thought long and hard as to whether your murder of Jackie, as a child, involved a sadistic motivation. She was found with the cord of an iron around her neck, and with a grooved bruise on one side of her neck consistent with an attempt at strangulation (though the groove did not go all the way around her neck). She also had a recent burn on her leg that could have been caused by someone placing a hot iron on her bare flesh. In circumstances where Jackie knew where Josie was, and you were willing to do whatever was necessary in an attempt to extract from Jackie information as to Josie's whereabouts, there arises for consideration the possibility of whether you tortured her, to extract, or to attempt to extract, such information and the question would arise in such circumstances as to whether in inflicting the associated pain and suffering that you would have caused and

would have been aware of, you derived great, and sadistic, pleasure from that. However, in circumstances where I cannot be sure that the use of the cord was other than an attempt at strangulation, or that you did indeed burn Jackie's leg, or that you did the acts you did with a sadistic motivation, I put such possibilities out of my mind.

22. What I am sure of is that, whilst fuelled by alcohol, and driven by rage as well as lust for Jackie, you raped her, and thereafter took away the life of, a young girl who had her whole life ahead of her. You did so to satisfy your own perverted desires, and at a time when you were willing to inflict violence upon Jackie for your own ends, including to extract information as to Josie's whereabouts.
23. From that moment on, and far from confessing to what you had done in the cold light of day, you made up a cock-and-bull story about being jumped by "4 geezers" allegedly set upon you by Josie, in an attempt to explain away your injuries, including scratches consistent with Jackie attempting to fight you off.
24. You persevered in your denials even when presented with the damning DNA evidence against you, and for which you have no explanation, because there is no innocent or credible explanation for what was found on the high and low vaginal swabs. You proffered, through counsel, scenarios as to possible sources of contamination, transfer or presence which were as fanciful as they were desperate, and which only had to be considered to be dismissed. You made witnesses, including Josie, go through the ordeal of reliving events that they no doubt hoped were behind them, and through the ordeal of being cross-examined, and accused of being liars in relation to your sexual interest in Jackie, and your violence meted out to Josie. You have shown not one iota of remorse or compassion for Jackie or Jackie's family, or for what you have done.
25. We have heard the moving victim impact statement from Kathy Montgomery, Jackie's sister who was only 13 months older than Jackie when Jackie was murdered. We have heard that Jackie enjoyed all the things 15 year old girls would enjoy, listening to pop music from the likes of Donny Osmond and David Cassidy, and she wanted a decent home life and someone to love her.
26. But you cut short that life, and deprived her of her life and all that she hoped for in that life. It is clear that her death had a devastating effect on her family, with Kathy herself taking an overdose in consequence. Unsurprisingly, your trial, and the ordeal through which you have placed those who have given evidence, has caused pain and distress for the family as they have revisited painful memories of Jackie's death. I can only hope that your conviction, and the sentence I pass, will provide them with some closure, safe in the knowledge that you have been brought to justice, and will hereafter live out your days in prison whatever minimum term I set.
27. You were not of previous good character before your rape and murder of Jackie, and you have offended further in subsequent years, albeit nothing as serious as that for which you stand to be sentenced. Your subsequent offences are for assault occasioning actual bodily harm in 1977 and possessing an offence weapon and using violence to enter premises in 2009. The facts of that latter offending in 2009, nearly 35 years on, offers a glimpse of your

true personality, which has some chilling similarities with events in 1975. Time would not appear to have mellowed your personality. The facts are that you and your ex-wife were arguing. You said that she had to choose between you or her son. You said of the son, “I’m going to [expletive] kill him, I don’t care how long I spend in prison”. You went to a pub then returned home drunk in the evening. You forced your way into the house after being told that you were not welcome. After further argument you picked up a kitchen knife. The others ran outside. You said to your stepson, “I’m going to kill you” again accompanied with expletives. You chased your ex-wife and stepson into the street with a knife in your hand.

28. There is only one sentence that the law allows to be passed for the offence of murder, and that is a mandatory sentence of imprisonment for life.
29. I am, however, required to specify the minimum term which must elapse before you could be released on licence.
30. It would be open to me to impose a determinate or indeterminate sentence in relation to the rape conviction to run consecutive to the minimum term for the life sentence. The maximum sentence for rape prior to 21 December 1976, and now, is life imprisonment. Any such sentence would have to be consistent with the case of *R v Forbes* [2016] EWCA Crim 1388 and applying current sentencing guidance.
31. However, it is common ground that the most desirable approach is to impose a minimum term in relation to the offence of murder that properly reflects the totality of your offending, and to impose no separate penalty in relation to your rape conviction which is the course I will adopt.
32. Where a convicted murderer is sentenced on or after 18 December 2003 for an offence that took place before that date the Court will set the minimum term. The correct approach for the Court to take was made clear in *R v Sullivan, R v Gibbs, R v Barry Elener, R v Derek Elener* [2004] EWCA Crim 1762, [2005] 1 Cr. App. R. (S.) 67 and is set out in the Criminal Practice Direction (“CPD”) at VII Sentencing N. The CPD has not been updated to change references to the Criminal Justice Act 2003 to the Sentencing Act 2020, but there is no material difference between the two as far as this is concerned.
33. The position is also set out in paragraph 12 to the Schedule 21 of the Sentencing Act which states:

“12(1) This paragraph applies where the offence was committed before 18 December 2003.

(2) If the court makes a minimum term order, the minimum term must, in the opinion of the court, be no be greater than the period which, under the practice followed by the Secretary of State before December 2002, the Secretary of State would have been likely to notify to the offender as the minimum period which in

the view of the Secretary of State should be served before the prisoner's release on licence.

(3) The court may not make a whole life order unless it is of the opinion that, under the practice followed by the Secretary of State before December 2002, the Secretary of State would have been likely to notify the prisoner that the Secretary of State did not intend that the prisoner should ever be released on licence.”

34. The purpose of such an approach is to ensure compliance with Article 7.1 of the European Convention on Human Rights that a heavier penalty shall not be imposed than the one that was applicable at the time the criminal offence was committed.

35. Accordingly the following assessment is to be undertaken:-

(1) Determine the appropriate starting point according to the Sentencing Act 2020 and then determine the minimum term to impose having considered any aggravating and mitigating features that are not incorporated in the Sentencing Act minimum term starting point;

(2) Then determine what the decision of the Home Secretary would have been by applying the applicable letter and/or practice direction;

(3) Impose the minimum term determined at (2), if it is lower than that in (1).

36. I will consider each of these matters in turn.

(1) The minimum term according to Schedule 21 of the Sentencing Act

37. The prosecution submit, and the defence concede, that on the jury's verdicts, the offence involved “sexual ... conduct”, and therefore the offence is of particularly high seriousness and the appropriate starting point, in relation to the minimum term under the Sentencing Act 2020, would be 30 years. I am satisfied that the murder did indeed involve sexual conduct for the reasons that I have already given, with there being a very close temporal proximity between the rape and the murder.

38. The deceased was 15 years of age at the time and a child for the purposes of Schedule 21 (see Paragraph 1 of Schedule 21). Schedule 21 draws a distinction between a murder of a child with a sexual motivation (potentially a whole life order) and a murder with sexual conduct (whether with a child or not) (likely to be a 30-year starting point). The fact that it is the murder of a child with sexual conduct may be treated as an aggravating feature if the age of the child properly reflects such aggravation.

39. The prosecution submit, however, that it was not a murder of a child done with sexual motivation, and further submit that the use of the flex of the iron as a ligature and potentially the iron itself to burn would not amount to sadistic motivation. The defence agree. I have set out my own reasons above as to why I cannot be sure that this murder of a child involved sexual or sadistic motivation. It is not suggested, and I do not consider, that a starting point of a whole life order is appropriate in such circumstances.
40. I am satisfied that the seriousness of the offending was particularly high and that the appropriate starting point minimum term under Schedule 21 is 30 years. It is then necessary to consider the aggravating and mitigating features.
41. I am satisfied that there are a large number of aggravating features (not implicit in the starting point) present in this case:-
- (1) The murder and rape of Jackie were committed in Jackie's own home where she was entitled to feel safe.
 - (2) Jackie was a vulnerable victim by reason of a combination of her age and the offending being committed at night.
 - (3) There was the use of a weapon, a knife, to commit the offences.
 - (4) Very significant suffering before death as evidenced by the scene at 119 Offord Road, and the continuum of events, with the facial injuries that Jackie suffered, the stab to her back, and the use of the cord of the iron around her neck which itself inflicted an injury. Such suffering goes beyond that inherent in the offences concerned.
 - (5) The offending was committed whilst you were intoxicated;
 - (6) You destroyed the clothing that you had worn during the offending.
42. For completeness, and whilst I have no doubt that you attended 119 Offord Road that night with an intent to inflict violence on Jackie if necessary, I cannot be sure as to whether either the rape or the murder as such, was premeditated (which would have been an additional aggravating features), nor as to whether you took the knife to the scene (though the use of a knife, as noted, is in any event an aggravating factor).
43. The aggravating features I have identified justify a significant increase from the 30 year starting point. I then have to consider whether there are any mitigating features which would then justify a downward adjustment when identifying the minimum term.
44. There is precious little by way of mitigation that is, or can be, advanced on your behalf. You have shown no remorse, contrition or insight into your offending. What is prayed in aid is your age (75), poor health, and delay, as well as a lack of evidence of premeditation. I sentence you on the basis that I cannot be sure that your offending was premeditated.
45. I accept that your age, poor health and diminished life expectancy, and the prospect that you will die in prison are factors to be taken into account, but only in a limited way since they

must be balanced against the gravity of your offending, the harm you have caused and the public interest in setting appropriate punishment for serious crimes (see *R v Clarke* [2017] EWCA Crim 393 at [25]). I confirm that I am well aware of, and have had careful regard to, all the medical conditions from which you suffer, and which will no doubt make your life in prison more difficult, as well as reducing your life expectancy. I also bear in mind that the offending took place many years ago (but the prosecution has been advanced with due expedition following the new and compelling evidence). I make allowance for your age and medical conditions and the fact that the offending took place many years ago (with limited, and sporadic subsequent offending), but such allowance can only be limited having regard to the overall and principal purposes of sentencing in a case as serious as this (see *Attorney General's Reference (No. 14 of 2015)* [2015] EWCA Crim 949 at [16]; and *R v H* [2011] EWCA Crim 2753). The mitigation available to you justifies a modest downward adjustment to take account of such mitigation, which adjustment I make.

46. Taking into account the aggravating and mitigating features of your offending the appropriate minimum term (assuming a 30 year starting point) would be 35 years.

(2) What the Home Secretary's determination would have been

47. I then have to determine what the decision of the Home Secretary would have been at the time by applying the applicable guidance at the time. Before December 2002 minimum terms, then often referred to as "tariffs" or "punitive terms", were set by the Home Secretary following private recommendations from the trial judge and the Lord Chief Justice.

48. On 10 February 1997 a letter was sent by Lord Bingham to all judges who made recommendations as to the appropriate term in murder cases. That letter is unreported, but is set out, almost in full, at paragraph 28 in *R v Sullivan* (supra) and is summarised in the CPD. That letter provided, amongst other matters, as follows:-

"While I would not, therefore, wish to seek to bind trial judges in any way, I think it may be helpful to outline my personal approach. My current practice is to take **14 years** as the period actually to be served **for the "average", "normal" or "unexceptional" murder.** This is longer than the period (12 years) which Lord Lane took as his norm 10 years ago. I take this higher norm because I think the level of sentence may in the past, with some reason, have been considered too low; I think the recommended level has risen over the last decade; it is necessary to keep an eye, for the purposes of comparison, on sentences for other offences (such as the worst drug offences); and I think the deliberate taking of human life must continue to carry a very heavy penalty.

I regard a number of factors as capable, in appropriate case, of mitigating the normal penalty. Without seeking to be comprehensive I would list the following factors:

- (1) Youth
- (2) **Age (where relevant to physical capacity on release or the likelihood of the defendant dying in prison);**

- (3) Sub-normality or mental abnormality.
 - (4) Provocation |(in a non-technical sense), or an excessive response to a personal threat.
 - (5) The absence of an intention to kill.
 - (6) Spontaneity and **lack of premeditation** (beyond that necessary to constitute the offence: e.g. a sudden response to family pressure or to prolonged and eventually insupportable stress).
 - (7) Mercy killing.
 - (8) A plea of guilty, or hard evidence of remorse or contrition.
- ...

Without again seeking to be comprehensive **I would list the following factors as likely to call for a sentence more severe than the norm:**

.....

(2) The killing of a child or a very old or otherwise vulnerable victim.

(3) Evidence of sadism, gratuitous violence, or sexual maltreatment, humiliation, or degradation before the killing.

.....

(9) The use of firearms or other dangerous weapons, whether carried for defensive or offensive reasons.

.....

Whilst a recommendation of a punitive term longer than say 30 years will be very rare indeed, I do not think one should set any upper limit. Some crimes will certainly call for terms very well in excess of the norm.

(emphasis added)

49. It will be seen, therefore, that the letter advocated 14 years as the “normal penalty” for the “average”, “normal” or “unexceptional” murder before taking aggravating and mitigating factors into account. I should make clear that the emphasis added above at (2), (3) and (9) is agreed between the prosecution and the defence as factors listed by Lord Bingham which may apply in this case. I confirm that I am satisfied that they do apply in this case. I address within these remarks the mitigating features that apply. For the avoidance of doubt, I am in no doubt whatsoever that you intended to kill Jackie when you inflicted the fatal stab wounds.

50. Further guidance was issued in July 2000 which also referred to 14 years as a starting point for adult murderers – *Practice Statement (Juveniles: Murder Tariff)* [2001 WLR 1655. On 31 May 2002 the Lord Chief Justice handed down a Practice Direction for fixing the term for offences of murder committed after that date (*Practice Statement (Life Sentences)* [2002] 2 Cr App R 287, subsequently incorporated as part of the *Consolidated Practice Direction* [2002] 2 Cr App R 533. The murder here was committed before 31 May 2002 and therefore that Practice Direction does not apply. However, it is clear that the Practice Direction was not intended to and did not represent any change from the content of the letter of 10 February 1997.

51. Whilst that Practice Direction does not apply given the date of the murder under consideration, in that Practice Direction Lord Woolf CJ stated, amongst other matters as follows:-

“49.10 Cases falling within this starting point [12 years] will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 49.13. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph. [We have emphasised the use of the word ‘exceptionally’. Its presence following the Advice of the Panel provides some support for the view that the 12 year starting point is meant to deal with less serious cases than Lord Bingham’s 14 years. The word is there to avoid an offender receiving credit twice for the same mitigating factors, which could happen with the selection of a 12 year starting point and then again in the form of a further mitigating factor.]

...

49.14 Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case.

...

49.19 A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases, the result might even be a minimum term of 30 years (equivalent to 60 years) which would offer little or no hope of the offender’s eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term, can state that there is no minimum period which could properly be set in that particular case.

49.20 Among the categories of case referred to in para 49.13, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate.’

52. A further practice statement issued in 2004 (*Mandatory Life Sentences (No.2)*) [2004] 1 WLR 2551 described Lord Bingham’s letter as the “best guide” for how to sentence old cases.

53. In *R. v. Sullivan* at [29], Lord Woolf, LCJ, stated:

“Lord Bingham only identified two periods, a higher period than 30 years which would only be recommended in very rare cases and the 14 years “norm”. He did not, in relation to the 14 years, explain what was an “average”

or “normal” or “unexceptional murder”, but an indication of what he was including in those terms is provided by his description of the factors he identified as being capable of mitigating and aggravating the normal period. In particular the reference included in mitigating factor (5) to the absence of an intention to kill and in mitigating factor (6) to lack of premeditation suggest that the 14 year period was intended to cover more serious murders, since if intentional and premeditated murders were not included (5) and (6) would be inappropriate mitigating factors.”

54. I bear in mind that Lord Bingham referred to his starting point for the “average murder” as longer than the period (12 years) that Lord Lane took as his norm ten years earlier (so in 1987, albeit Lord Lane had been Lord Chief Justice since 1980). It appears, therefore, in the absence of any further guidance, that a lower starting point in the 1970’s of 12 years would have been adopted for an “average murder” before having regard to aggravating or mitigating factors.
55. However, it is common ground between the prosecution and the defence that this was not an “average murder”, the defence conceding that being so given that there was a rape and having regard to the aggravating factors that have been identified. Nor, I am satisfied, can it be regarded as a “normal” or “unexceptional” murder.
56. It is again common ground that (in the words of the defence) “Plainly a substantial increase from there [a 12 year starting point in the 1970s] is required” having regard to the rape and to reflect the aggravating factors identified. Ultimately the defence submit that an appropriate minimum term had you been sentenced in the 1970’s is in the order of 18-20 years. In this regard the defence submit that “Very few of the aggravating factors listed in Lord Bingham’s letter are present”.
57. For its part the prosecution submit that far from being an “average” or “normal” murder, the murder can be regarded as exceptionally serious (albeit not within the meaning of that term in Schedule 21 to the Sentencing Act 2020), meriting a far longer term than an average or normal murder, and in excess of 20 years. The prosecution also submits that it would be open to the Court to conclude that this is one of those rare cases where the Home Secretary would have imposed a term of around 30 years.
58. The consideration of the minimum term is in one sense likely to be academic. Whatever the minimum term, and whether as advocated by the defence or the prosecution, or as passed by me, in all probability you will die in prison given your current age. However I must be true to the applicable sentencing principles and the seriousness of your offending in fixing the minimum term.
59. I cannot accept the defence submission that very few of the aggravating factors listed in Lord Bingham’s letter are present. On the contrary, no less than three of those factors are present (as was, in fact, common ground), namely the killing of a child, evidence of sexual maltreatment (and of a child at that), and the use of a knife. The circumstances of your offending were also humiliating and degrading. Each of those factors would be likely to “call for a sentence more severe than the norm”, but here a number apply, and cumulatively

they call for a sentence very substantially more severe than the norm (or to put it another way a very substantial increase from the starting point).

60. Furthermore Lord Bingham made clear, as is obviously right, that these factors are not comprehensive. I consider all the additional aggravating factors identified above, also justify, and require, a sentence substantially more severe than the norm/require a further increase from the starting point: specifically the offending being committed in Jackie's own home where she was entitled to feel safe, her vulnerability with the offending being committed at night, that she suffered very significant suffering before her death, that you committed the offending whilst intoxicated, and that you destroyed clothing that you had worn during the offending to conceal your crimes (the evidence being that your clothing would have been heavily blood stained as was Jackie's).
61. One has to stand back and look at the continuum of events and the totality of your offending that night. This was the brutal rape and murder of a 15 year child in her own home, at night, who was put through a sustained ordeal involving a physical struggle, physical violence, sexual conduct including pulling up her top and skirt, removing her sanitary towel and raping her, an attempt at strangulation with the cord of an iron, and culminating in you knifing her to her back, through her heart, and through her stomach and liver.
62. I am in no doubt whatsoever that such offending, in the 1970s, applying Lord Bingham's guidance, with the brutal rape and murder of a child in her own home and in the further aggravating circumstances I have identified (whilst also recognising your available mitigation such as it is), called for a sentence very substantially more severe than the norm/the starting point, and one that was in excess of the 18-20 years advocated on your behalf. Such a sentence would not reflect the seriousness of your offending which was particularly high.
63. I consider, having regard to the aggravating and mitigating features of your offending as already addressed, and having full and careful regard to totality, that your offending was so serious that in the 1970's a minimum term of no less than 26 years was justified and required for what was the brutal rape and murder of a 15 year old child in her own home, an abhorrent occurrence that would have been regarded as justifying and requiring such a sentence. I am satisfied that any lesser sentence would not have reflected the seriousness of your offending, and would not have reflected the recommendation of a trial judge, or the decision of the Home Secretary in the 1970s.
64. I turn to consider whether the totality of your offending was in fact so serious as to require an even greater minimum term, or is one of those very rare cases where a punitive term of some 30 years or more is justified, there being no upper limit. I have pulled back from reaching such a conclusion for the following reasons. First sentences of such lengths were very rare, and would have been reserved for exceptionally serious cases and sadly, heinous though your crimes were, it is possible to envisage residual cases of even greater, and exceptional, seriousness so as to require such sentences. Secondly, it appears that in the 1970s the starting point was lower than in the late 1980s, and I consider that is a further reason why it is likely that in the 1970s a minimum term for such serious offending as yours, whilst not less than 26 years, would not have been higher. Thirdly, in reaching the

conclusion I have, I have had careful regard not only to the principles in *R v Sullivan* but also the cases, and associated sentences, there under consideration. Fourthly, I have taken the view that if there is any doubt in my mind as to the minimum term that would have been recommended in the 1970s, I should err on the side of caution, so as to ensure that no heavier penalty is imposed than the one that would have been applicable at the time, so as to be compliant with Article 7.1 of the EHCR.

65. Accordingly I am satisfied, and find, that the period which, under the practice followed by the Home Secretary before December 2002, the Home Secretary would have been likely to notify to you as the minimum period which in the view of the Home Secretary should be served before your release on licence is 26 years. That being lower than the minimum term I have identified under the Sentencing Act 2020 (had your offending occurred after 18 December 2003), I set the minimum term on count 1, in accordance with the principles in *R v Sullivan*, and Schedule 21 paragraph 12 of the Sentencing Act 2020, as 26 years subject to consideration of the time you have spent on remand.
66. Whether your time on remand in relation to the first trial would automatically be credited or not (about which there is some debate), I consider it appropriate to give you credit for the overall time you have spent on remand in setting the minimum term, an approach to which the prosecution do not object, and which I am told amounts to 207 days between 11 July 1975 and 2 February 1976, and 32 days between 12 December 2022 to 12 January 2023 a total of 239 days. Accordingly the sentence I actually pass on count 1 is life imprisonment with a minimum term of 25 years and 126 days.
67. It is important to emphasise, so that you and the public can understand the position, that the minimum term is just that - a minimum period which cannot be reduced in any way. After it is served, there is no guarantee that you would be released at that time, or at any particular time thereafter. It is then only if the Parole Board decided that you were fit to be released that you would be released (after which you would remain subject to licence for the remainder of your life). It is in these ways that a life sentence protects the public for the future. The reality, however, is that you will, in all probability, die in prison, before the minimum term is reached.
68. In relation to count 2 (rape), and having already taken that offending into account in setting the minimum term in respect of count 1 based on the totality of your offending, I impose no separate penalty in respect of count 2.
69. As a consequence of your conviction for rape, if you are ever released you will be subject to notification requirements to the police, and you will or may be barred from particular regulated activities. If the victim surcharge applies in this case, the order can be drawn up accordingly in the appropriate amount.