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Three is Murder: The rise and fall of Munchausen Syndrome by Proxy expertsⁱ

In June 2003, Britain's *Daily Mail* tabloid newspaper posed an outraged question to the nation: 'This woman's new-born baby was seized on the say-so of the cot death expert who helped to jail Sally Clark unjustly. Hundreds more claim to be his victims. So how did Sir Roy Meadow come to wield such power?'.ⁱⁱ This question lies at the heart of the recent history of Munchausen Syndrome by Proxy (MSbP) and its most prominent experts, who experienced a rapid rise and fall of authority in the late twentieth and early twenty-first centuries. Roy Meadow famously used the term MSbP in the 1970s in *The Lancet*, referring to a form of child abuse – or, some claimed, psychiatric condition – in which caregivers (typically mothers) induced or faked a child's illness.ⁱⁱⁱ In extreme cases, such abuse could apparently lead to the death of a child. In the 1990s experts such as Meadow came to be in high demand in the courts, when a number of suspected MSbP cases came to prominence in the UK and USA.^{iv} By the early 2000s, as the *Daily Mail* article implies, their reputations were in tatters and slowly being pieced back together. The question of how these experts came to 'wield such power' and why it was so quickly lost is indeed an important one. It speaks to important histories of expertise and child abuse, yet has not been investigated in these terms.

A close study of paediatric experts in British MSbP cases indicates that their professional rise and fall was interwoven with particularly persuasive forms of evidence. This article looks first at Roy Meadow's use of statistics in court and then at David Southall's use of video surveillance in hospitals, drawing on media reports and appeal records. It shows that statistics and video footage spoke disproportionately to juries and to the news-reading public, more so than evidence that focused on bodily signs. Such evidence apparently offered certainty, but soon fell short of these expectations and raised concerns about medical experts overstepping their professional boundaries. These findings build on existing studies of medical

knowledge and expertise in historiography, which identify medico-legal conflict over growing spheres of medical expertise and highlight the socially constructed nature of ‘objective’ forms of scientific evidence.^v MSbP aids an understanding the place of statistics and video surveillance in this historiography, and newly shows the power that such ideas had in cases of suspected child abuse. It also demonstrates in unprecedented detail the influence of modern media in constructing certain types of evidence as (un)reliable, and binding the fate of experts to these forms of evidence. This finding fits with work on the so-called ‘CSI effect’, which shows how recent television culture has created unrealistic expectations about the lack of ambiguity in ‘good’ forensic evidence.^{vi}

The history of MSbP contributes to wider scholarship on expertise, the media and crime in modern society, but it is also highly specific to the latter decades of the twentieth century. MSbP cases cannot be separated from concerns about paediatric expertise and social services intervention in the wake of the Cleveland scandal. This scandal, in the late 1980s, raised concerns about the power of medical authority and of social services to remove children from the homes; such concerns focused on new and controversial methods of physical examination used for this purpose. The public attention given to alternative diagnostic methods in the 1990s must be seen in this context, in which the abused child’s body was in question as a form of evidence. Meadow and Southall both continued to testify about physical signs, but they apparently could no longer rely on these as paediatricians to establish their authority. According to *The Guardian* newspaper in 1987, picking up an article from the *British Medical Journal*, Meadow was also concerned that the Cleveland scandal might lead to declining social services intervention in cases of suspected child abuse and ‘urged child care workers to avoid being discouraged’.^{vii} In this climate, both of growing concern about child abuse and anxiety about how reliably to diagnose it, statistics and video surveillance ostensibly offered reassuring clarity to medical practitioners, social services and the public alike. Turning to each of these

forms of evidence in turn, it is possible to see why they were both persuasive and controversial, and how – rightly or wrongly – they became synonymous with the authority of the individual expert.

Damned Lies, and Statistics: Roy Meadow

In 1989 Roy Meadow coined a ‘crude aphorism’ that would shape the courts for years to come. Drawing upon and adapting from the work of two American pathologists in the same year, he developed the following theory: ‘one sudden infant death is a tragedy, two is suspicious and three is murder until proved otherwise’.^{viii} Memorable and simple, this ‘Meadow’s Law’ was widely known and came – to quote the *Oxford Handbook of Forensic Medicine* – soon to be ‘embedded in forensic orthodoxy’.^{ix} Perhaps most famously it played a role in a number of high-profile criminal trials in which Meadow testified. Only a small proportion of MSbP cases apparently resulted in death, but those that did were particularly high profile and often involved multiple unexplained infant deaths. As MSbP and Sudden Infant Death Syndrome (SIDS) apparently shared several features, particularly unexplained episodes of apnoea, Meadow’s Law implicitly lay in the background – and sometimes the foreground – of such cases. The memorable and simple nature of this ‘law’ helps to explain its influence, even though it controversially put the burden on mothers to prove their innocence. Meadow soon took his claims even further, making statements in court about the low statistical probability of a sequence of natural unexplained deaths. The 1999 Sally Clark trial is the most famous example of this use of statistics and of their influence, despite constituting only a small part of the evidence given at trial. During Clark’s two appeals, these statistics also came under scrutiny and Meadow with them. The memorable and influential nature of Meadow’s Law, alongside the disproportionate attention given to the probabilities that Meadow presented at trial, meant that his reputation came to be inextricably woven with statistical modes of persuasion.

The influence of statistics and probability work in MSbP cases must be understood in terms of the wider, growing cultural value placed upon statistics in medicine and in modern society. In the nineteenth century this growth occurred under the influence of the statistical sciences and the connected rise of mass data collection, such as anthropometric studies and registers of births and deaths. Writing on the ‘present century’, one Victorian commentator observed that ‘statistical science may almost be regarded as the creation of this age’.^x As Ian Hacking has shown, probability is also a relatively recent concept; it emerged ‘suddenly’ around 1660, Hacking notes, and by the twentieth century medicine was one important driver of ‘great statistical theory in Western Europe’.^{xi} The medical and cultural significance of probability is thus entwined with the modern period during which ‘probability’ became a science, shifting it away from early apparently superstitious links to ‘chance’.^{xii} It took a little longer for this new cultural and medical significance to find a place in forensic medicine, in part because the power to decide the relevance of evidence and the sphere of an expert lay in the hands of the courts. Medical witnesses, of course, had long implicitly used probability within their testimony in order to give their opinion on the most likely causes of bodily signs. However, other explicit uses of statistics only entered the courts gradually. In the UK and other Western societies, such as the US, evidence involving explicit reference to probability mostly found acceptance in relation to certain new types of science such as DNA and fingerprinting in the twentieth century.^{xiii} The gradual acceptance of statistics in the courts, alongside the more rapid acceptance of statistical probability in culture and society, provides a crucial backdrop to the use of statistics in MSbP cases.

The role of Meadow’s statistics in the Sally Clark trial is much more complex than it first appears. The simple version of this story, often repeated in newspapers, is that Meadow testified that the chances of two SIDS deaths in one family (in the same socio-economic category as the Clark family) was one in 73 million. This hugely misleading figure was

calculated by taking the likelihood of one such case (1 in 8,543) and squaring it, to come to an overall probability.^{xiv} This method, however, assumed the two events to be independent along the same lines as rolling the same number twice on a dice. Media reports of the case and particularly of subsequent appeals, part of which focused on Meadow's statistics, often placed this flawed probability calculation at the centre of the trial. In practice, this statistic was a relatively minor part of the trial and of Meadow's testimony. Furthermore, at first there was other physical evidence to support allegations of abuse and the defence team never made any claim that the case involved SIDS. As *The Guardian* asked in May 2002, looking back at the case, 'the media have made much of the unfortunate and misleading statistic cited by prosecution expert Professor Roy Meadow ... Juries are notoriously prone to prejudice, and that statistic may well have prejudiced the jury against Clark. But how relevant was it when even the defence experts accepted that neither death was a true SIDS death?'.^{xv} The statistics were, in theory, only incidental to the trial. However, there is significance precisely in this overstatement of statistics' role in Clark's conviction and in the overturning of that conviction.

The persuasive power of Meadow's statistics lay in their apparently more clear and scientific status than ambiguous bodily signs, as well as in Meadow's ability to 'sell' them to non-specialists. In one cross-examination by Mr Julian Bevan QC, cited repeatedly in law reports, Meadow stated that: 'it's the chance of backing that long-odd outsider at the Grand National, you know ... the chance of it happening four years running we all know is extraordinarily unlikely. So it's the same with these deaths.'^{xvi} Although the figure of 1 in 73 million was undoubtedly impactful in its own right, it became more memorable with this use of a betting analogy. This type of discursive tactic had long been a feature of the best expert witnesses, who were able to articulate complex science or diagnostic processes in lay terms. Meadow apparently later acknowledged the Grand National analogy to be 'insensitive', but this did not undermine its apparent power in the courtroom.^{xvii} Clark's first appeal observed

that there was also additional ‘overwhelming’ evidence of physical injury, so it is not possible to determine the extent to which statistics influenced the trial verdict, but they certainly captured the public imagination.^{xviii} The report on Clark’s second appeal noted that ‘[q]uite what impact all this evidence will have had on the jury will never be known but we rather suspect that with the graphic reference by Professor Meadow to the changes of backing long odds winners of the Grand National year after year it may have had a major effect on their thinking’.^{xix}

On the other side, Bevan also used rhetorical devices in attempting to critique Meadow’s claims. He drew upon long-held suspicions of experts in asking: ‘have you heard the expression “Lies, damned lies and statistics”?’^{xx} Meadow responded that ‘I don’t like statistics but I’m forced into accepting their usefulness’, thus simultaneously acknowledging and dismissing jurors’ concerns; he formulated statistics not as a tool of persuasion, but as undeniably useful evidence. Other testimony critiqued Meadow’s statistical work on less rhetorical grounds, but – despite being borne out in the long run – had less impact during the trial. As one appeal noted:

... the defence case on the evidence was supported in part by evidence from Professor Berry to the effect that the risk of a SIDS death was inherently greater where there had already been one SIDS death. Whilst he accepted the 8,543 statistic in relation to a first SIDS death in low risk families as an observed figure, he regarded squaring it to calculate the risks of a second SIDS death to be an illegitimate over-simplification.^{xxi}

Berry’s evidence also apparently drew attention to caveats in the original source material for Meadow’s calculations, the report of the Confidential Enquiry into Stillbirths and Deaths in Infancy (CESDI). Furthermore, the judge even indicated to the jury in his summing up: ‘however compelling you may find those statistics to be, we do not convict people in these courts on statistics. It would be a terrible day if that were so. If there is one SIDS death in a

family it does not mean that there cannot be another one in the same family'.^{xxii} In the light of these caveats, and other evidence given about injuries to the girls, it seems surprising that so much attention has been paid to Meadow's statistics in the intervening years. In part this is because of the statistics' apparent persuasiveness and memorability, compared with the warnings against placing too much weight upon them. As the *Observer* declared, these statistics held great power over juries as 'an arrow through the fog', a 'statistical smoking gun' and a compelling 'soundbite'.^{xxiii}

The media in part fuelled this influence. Throughout the 1980s and 1990s, tabloids had run stories on Meadow's work under headings such as 'Cot Death Tots often Murdered' and 'Baby-Killer Mothers: Cot deaths are a cover-up for murder, claims doctor'.^{xxiv} These kinds of articles began to establish statistics and probability as a viable basis for such claims, for example noting that 'Professor Roy Meadow wrote in the *British Medical Journal* "Between 2 and 10 per cent of babies labelled as dying from sudden infant death syndrome have probably been smothered"'.^{xxv} These kinds of reports may have contributed to a broader culture that was initially sympathetic to – and interested in – Meadow's testimony at the Clark trial. In 1999 the tabloid *Mirror* reported on the conviction of 'baby killer Sally Clark' and referred only in broad terms to 'signs of previous physical abuse' alongside the following statement: '[c]ot death expert Professor Roy Meadow told how the chances of two infants dying of sudden infant death syndrome in such an affluent family were 73 million-to-one'.^{xxvi} Another tabloid, the *Daily Mail*, similarly reported on its front page that 'Sally Clark claimed both 11-week-old Christopher and eight-week-old Harry were cot-death victims, the jury was told ... But experts put the odds against such a double tragedy at 73 million to one. And after a post-mortem examination found Harry had been shaken to death the case of Christopher was reopened'.^{xxvii} This kind of reporting shows the broad public appeal of this kind of statistic, with its apparent

clarity and simplicity. No other evidence was reported in much detail, but the statistic was always reported in specific terms.

This kind of reporting may have had repercussions for jurors in subsequent similar trials. Meadow also gave evidence in trial of Angela Cannings in 2002, before Sally Clark's successful appeal, for the murder of two of her infants after three apparently died from cot death. Specific probabilities were absent in the trial, certainly in the persuasive form presented in the Clark case, but broad references to the likelihood of such occurrences were scattered throughout testimony for the prosecution. As *The Telegraph* later reported, Meadow testified that there were 'incredibly long odds' against two SIDS deaths.^{xxviii} In the light of the media coverage of the (as yet not overturned) Clark case, it seems possible that jurors may have linked such vague statements to Meadow's earlier more specific testimony. Professor of Mathematics Ray Hill, in his 'Reflections on the Cot Death Cases', notes that '[t]he 73 million figure was still fresh in people's minds and John Batt, who sat through the trials of both Clark and Cannings, is convinced that Meadow's infamous statistic must have entered the privacy of the jury room.'^{xxix} Such claims are, however, impossible to prove.

Meadow's professional status was closely entwined with the fate of this statistical evidence. Sally Clark's appeal eventually succeeded primarily because of other overlooked physical evidence, but the media again tended to focus on Meadow's work on probability. Media citations of Meadow's statistics quickly turned critical, as his errors of calculation began to become apparent during the appeal process. In 2001 John Sweeney, a campaigner for Clark's release, wrote for the *Daily Mail* and *The Observer* on genetic research that showed 'multiple cases could be more likely than previously thought'.^{xxx} He also cited a microbiologist as declaring Meadow's evidence as 'scientifically illiterate' and a profession of statistical science who stated that 'this statistic is poor science'; science and rhetoric thus started to come together in the media in resistance to Meadow, rather than in his service.^{xxxi} Such comments might also

represent the growing place of genetics in the public imagination. By Clark's appeals in 2003 there was a flood of broadsheet and tabloid stories that were sympathetic to accused parents and highly critical of Meadow. Nearly all of these articles cited his erroneous statistic, many alongside other professionals or professional bodies that critiqued his calculation. In December 2003, for example, the *Mirror* noted that 'the Royal Statistical Society took the unprecedented step of writing to the Lord Chancellor stating that there was "no statistical basis" for the figure'.^{xxxii}

The intervention of statisticians into this debate helped to save the reputation of statistics as a profession. By focusing on the errors that resulted from statistics in the hands of a non-specialist, statistics *per se* were not perceived as problematic. Instead Meadow's expertise was put on trial in relation to two aspects of his statistical work: firstly, his fundamental misuse of statistics; and secondly, his right to speak on probability as a non-statistician. This second critique related to spheres of influence, and the remit of an expert.^{xxxiii} Clark's appeal records note that Meadow made no claim to be a statistician, despite working with statistics to some extent in his work, but did not deny that he overstepped his remit somewhat in making his claims and did not make his limited knowledge sufficiently clear. This issue became crucial to Meadow's later struggle with the General Medical Council (GMC), in which he was first removed from the medical register and later reinstated. His appeal decided that 'by giving evidence of statistics which he had misunderstood and by failing to make clear that he was not an expert in statistics, the doctor was guilty of professional misconduct' but that it should not be treated as more 'serious' on the basis of his 'eminence'.^{xxxiv} This professional conduct enquiry raised important questions about whose right and responsibility it was to determine spheres of expertise. Some argued, on Meadow's behalf, that any evidence permitted to go to court (after being presented in advance) was implicitly accepted as within the expert's remit: 'the witness is giving evidence in an adversarial contest in which the judge

and the lawyers hold sway. All questions of legal relevance and admissibility are for the parties and the judge and not for the expert'.^{xxxv} Ultimately, in the light of such considerations, the GMC decided that Meadow's misconduct was not sufficiently 'serious' to require him to be removed from the medical register.

Meadow's rise and fall cannot be understood without reference to his statistics and work on probability. The Clark trial show how these statistics came fundamentally to shape his public and professional profile when – to cite appeal records – they were 'very much a side-show at trial'.^{xxxvi} The reasons for this lie in a range of factors, from the power of statistics in modern culture to controversy around the sphere of medical expertise. Coming in living memory of Cleveland, statistical work in paediatrics first offered reassuringly clear evidence and later fed into lingering anxieties about zealous social services removing children on the basis of dubious medical advice. The status of Meadow as an expert witness thus was impossible to separate from Meadow's Law and his statistical evidence, even though these undoubtedly were only a part of his work and diagnostic practice. Meadow's work also indicates that the power of statistics cannot be separated entirely from rhetorical devices, personality and expertise. In turn, and by extension, this case study indicates that the history of expertise must be understood in relation to forms of evidence and persuasion. Overall, Meadow's use of statistics supported some aspects of his expert role (status, profile and persuasion) and undermined others (authority within a given science).

Diagnosis Television: David Southall

In the first years of the twentieth-first century, Roy Meadow's story came to be closely connected in the public eye with that of another paediatrician: David Southall. Southall's trajectory in some ways aligns very closely with that of Meadow: he was a pioneer in diagnosing cases of MSbP and worked closely with the police and social services when cases

of MSbP were suspected. He gained a high profile for this work, at first in largely positive terms and later in more critical ones. Southall's status as an expert was also closely interwoven with a particular form of evidence: in this case, film, in the form of covert video surveillance. Southall's work was conducted largely out of the courts, as his cases often related to the ongoing abuse of children rather than to suspicious deaths, but still formed the basis of police or social service interventions. As concerns grew in general about paediatric interventions, in the wake of Clark's successful appeal, and Southall underwent his own GMC investigations, covert video surveillance came increasingly to be rejected as an investigative tool. Southall's child protection career was inextricably woven with the fate of covert video surveillance in the public eye. At first video evidence provided certainty for the inherently different sphere of child abuse and child protection, but later again came also to represent the paediatrician who overstepped his boundaries.

David Southall's use of covert video surveillance started in the mid-1980s at the Royal Brompton Hospital in London, before being continued at North Staffordshire Hospital. As with statistics, it is important to place Southall's use of film in context. In 2008, looking back at the Southall and Meadow cases, Theodore Dalrymple in the *Spectator* noted that Southall's work was unusual at the time: 'before the average Briton was videoed 300 times a day as he went about his business'.^{xxxvii} As Pete Fussey and Jon Coaffee note, in the *Routledge Handbook of Surveillance Studies*, 'the UK experience an unprecedented and accelerated deployment of video surveillance across its urban spaces during the 1990s ... From the 1990s onwards in the UK, surveillance cameras held privileged status amongst the assortment of Home Office crime prevention strategies'.^{xxxviii} Albeit for different reasons than statistics, related to technology and cost rather to the development of a profession, the moving image also had an increasingly important place in modern culture more widely. With the exception of deliberately doctored film footage, which was never raised as a concern in relation to Southall's work, it was

generally perceived as a relatively reliable form of documentation. The growing centrality of the moving image in culture, and particularly of surveillance, meant that video also took on increasing significance as a crime detection and prosecution tool. By 2004 there were an estimated 4,285,000 cameras in the UK, which – Josh P. Davis and Tim Valentine argue – had ‘proportional effects on the evidential use of images’ in court.^{xxxix} This context is crucial for understanding the influence of Southall’s work, as public interest in – and the influence of – his covert video surveillance grew significantly in the 1990s alongside video surveillance in general. The relative newness of this form of evidence, particularly in the 1980s, also explains the somewhat ambivalent reception of his work.

Southall, along with others in the team, first reported their findings from covert video surveillance in the medical press. In 1987, for example, Southall et al. reported in the *British Medical Journal (BMJ)* on ‘apnoeic episodes induced by smothering: two cases identified by covert video surveillance’. They argued that ‘diagnosis by video surveillance produces unequivocal evidence in these cases and avoids the need for medical and nursing staff to confront the mother with a possibly incorrect suspicion or in a court of law’.^{xl} Covert video surveillance was thus advocated on the basis of its apparently incomparably ‘unequivocal’ nature. Tape recordings of breathing and ECG monitoring in cyanotic episodes raised suspicions, but apparently only video could provide *proof*. Video recordings were also accessible and easy to understand for non-specialists. While the British press showed some concerns about the ethics of these methods, as discussed further below, most early medical reports were broadly supportive due to the difficulties of reliably diagnosing MSbP. Perhaps unsurprisingly some of this support came from Roy Meadow who, in response to the 1987 case studies, wrote in the *BMJ* that ‘[f]ilmed evidence of abuse is a marvellous piece of diagnostic evidence for the doctor ... An additional advantage of recorded evidence is that it can be shown to the mother, who then admits to the abuse in detail.’^{xli} Implicit in such reports was an idea

that the ends justified the means in Southall's use of covert video surveillance, alongside a sense that video evidence was unique in its value. Its power was in part apparently a self-fulfilling prophecy: because the public *believed* it to be a more compelling form of evidence than forensics, it could induce a confession from mothers who otherwise excelled at deception. Some medical practitioners did, though, articulate concerns about the doctor's role in such surveillance. One psychiatrist wrote in 1993, in correspondence to the *BMJ*, '[i]t has never been part of a doctor's duty to detect or investigate crime.'^{xlii}

Despite ongoing questions about the ethics of covert video surveillance, it was gradually accepted as a legitimate form of evidence in the courts. Its apparent certainty at first overcame many of these reservations, for the courts and health professionals at least. In 1993 Southall had engaged directly in some debates in the *BMJ* about whether covert video surveillance was compatible with the 1989 Children's Act, and – again – about the doctor's appropriate place (as opposed to the local authority or police) in such interventions.^{xliii} By 1994 covert video surveillance was accepted by the Department of Health, even though it remained on the agenda of the British Medical Association's ethics committee.^{xliv} The *Guardian* reported in the same year that a British Association of Paediatrics study supported the use of covert video surveillance, although 'only when there is reasonable prospect of a positive finding'.^{xlv} Law reports from 1994 show that case law decisions also gave covert video surveillance an official place in family courts by this date, stating that 'evidence produced by covert video surveillance was generally admissible.'^{xlvi} Such evidence was even given special status, in being considered admissible even if 'unlawfully or improperly obtained'. While ethics remained a concern, such tactics were seemingly preferable to removing children from parents on uncertain grounds or failing to protect vulnerable children. The growing professional status of expert paediatricians, such as Southall, was interconnected with the growing influence of this kind of evidence in care proceedings.

The media ensured that Southall became synonymous with this form of evidence, in line with Meadow's trajectory, even though covert video surveillance was only one part of his team's process of detecting MSbP cases. In 1993, when *The Observer* ran a story headed 'Video traps catch abuse of children by parents', it indicated that Southall was actually trying to separate himself from this kind of publicity. 'The debate should not focus on the techniques,' it quoted him as saying 'but the reasons why these parents are driven to abuse their children'.^{xlvii} Such pleas apparently fell on deaf ears, as media reports continued to focus on the findings and ethics of covert video surveillance. *The Guardian* in 1997 wrote largely in support of Southall, noting that his methods offered 'the only way of securing the evidence'.^{xlviii} However, the tone of broadsheet and tabloid media alike soon turned against Southall.

In 1999 there was a conspicuous shift in the tone of reporting on covert video surveillance, in the wake of a Yorkshire Television documentary called *Someone To Watch Over Me* that showed some of Southall's original footage. The show's producer acknowledged that there were concerns about the 'ethics of showing child abuse on network television', but also noted the 'mixture of horror and fascination' that drew the public to such images.^{xlix} In the wake of this documentary Terry Thomas, reader in social work at Leeds Metropolitan University, questioned the surveillance in the *Guardian*: 'if you have the evidence, why the need to film? Surely you are only putting the child at further risk'.¹ The *BMJ* responded directly to Thomas' article and to other media critiques of Southall, at first largely in support of his work. Annabel Ferriman noted that 'with good video evidence ... doctors might be able to protect the parents' other children from further harm and, with a well informed public behind them, might be able to make progress in combating abuse'.^{li} Ferriman articulated surprise that the documentary was not supported by the Community Practitioners' and Health Visitors' Association, in the light of its potential value for public awareness about MSbP. However, public fascination with the footage was balanced with apparent horror at its graphic content

and covert nature, in a general social context of growing surveillance and declining privacy. Documentary footage turned the tide of public opinion against Southall, with visual culture proving to be both his making and unmaking.

Around the same time, the media focused increasingly on David Southall as an individual. In 1999 Yvonne Roberts reported on the concerns of a number of critics of Southall's work who 'claim Southall entrapped parents, placing them in situations where they behaved out of character'.^{liii} Such media coverage started to sow the seeds of doubt about an evidence form previously deemed 'unequivocal', pointing to 34 prosecutions that arose from Southall's work and the large number of children removed from families in consequence. Although giving Southall the opportunity to respond, the questions that this interviewer posed to Southall indicated a growing media interest in his power as an individual expert: '[t]echnically, he works as just a part of a team, but a doctor with authority, I point out, can easily wield disproportionate influence'.^{liiii} This trend was also evident in tabloid papers. In 2000 the *Daily Mail* reported on mothers' protests against Southall's work and posed the question: 'caring crusader or a medical zealot?'.^{liv} This article notably shifted visual register from some of the earlier publications on Southall's work. It was accompanied by a picture of Southall's face rather than stills from the video surveillance or images of children, as had been the case in earlier articles.^{lv} A liberal broadsheet and conservative tabloid alike thus demonstrated quite a significant shift in only two years, from support to suspicion, and an increasing tendency to focus on Southall as an individual. The reports indicate that this shift was in part a response to campaigns against Southall's work, particularly by accused mothers. Such reporting further entwined the reputation of Southall as a practitioner with covert video surveillance as a method.

Southall's professional 'fall' was formalised, like Meadow's, through investigations by his employers and the GMC . Again, these investigations centred in part on questions about

the remit of Southall's work and questions about whether he overstepped the boundaries of his expertise. The campaigns against Southall were multiple and took place over a relatively long period of time. Complaints about his use of covert video surveillance, which had actually already ended in the wake of earlier media coverage, and concerns about ethics in another unrelated study resulted in Southall's suspension in 1999. Although it was not new information that Southall had been conducting such surveillance (in his own words 'there has been a seven-year campaign aimed at discrediting me'), his employers yielded to public pressure and parents' allegations of false claims.^{lvi} This suspension was overturned in 2001, when the North Staffordshire NHS Trust decided that 'there is no evidence of inappropriate use' of covert video surveillance and that Southall had 'always acted in a way that promoted the best interests of children under his care'.^{lvii} Despite this decision, Southall's reputation was seemingly irreparably damaged in consequence of his professional fate becoming entwined with that of video surveillance.

The moving image also affected Southall's career in other ways. After watching a Channel Four 'Dispatches' documentary about Sally Clark, in April 2000, Southall suggested to the police that they investigate the possibility that Clark's husband had committed the crimes. In the wake of Clark's successful appeal, and the general turning of the tide against paediatric experts in MSbP, in 2004 he was subject to a GMC investigation and suspended from child protection work for three years. Like Meadow's use of statistics, this decision in part related to an apparent stepping outside of an appropriate sphere of expertise, in making an accusation based on television evidence rather than physical examination: the GMC argued that Southall 'abused his professional position by, in effect, misusing his eminence in the field of child abuse'.^{lviii} Expert status came with certain responsibilities, namely not to use this status to sell unsubstantiated theories. Southall defended his decision, claiming that his conclusions were in fact drawn from professional experience rather than simply instinct; he argued that a nosebleed,

which occurred in the father's presence, was consistent with 'intentional suffocation'.^{lix} At first he garnered little support, however, and in fact his apparent lack of remorse worked against him in the press. The *Daily Mail* ran a story alongside a full-length image of Southall, declaring 'In tatters, his marriage and his reputation' after the GMC decision.^{lx} Although the suspension from child protection work was lifted in due course, the GMC then struck Southall from the medical register in 2007 for further 'serious professional misconduct' including accusing another mother of killing her 10-year-old son. Southall eventually also successfully appealed against this decision, but he never managed to separate himself from the various forms of controversial visual culture with which his expertise had become connected.

In many ways, David Southall's work and tools of persuasion differed from those of Roy Meadow. Southall's influence was rarely over a trial jury, and consequently his evidence and methods of persuasion were not directly questioned through appeals to criminal verdicts. The use of covert video surveillance was also critiqued on quite different grounds to statistics, often related more to ethics and consent than to the reliability of the evidence. Some parents argued that video evidence constituted a form of entrapment and therefore was not reliable, but in general the 'truth' of covert video surveillance was largely unchallenged. On the other hand, there are a number of significant overlaps between covert video surveillance and statistics. The first relates to questions around expertise and the appropriate remit of the expert. The second relates to the ways in which individual experts came to be equated with particular forms of persuasion, typically those that appeal to the press and public and that tapped into wider social trends. Overall, with video and statistics alike, the career trajectory of the 'expert' aligned with the cultural and persuasive power of his most famous form of evidence.

Conclusion

In 2004 a *BMJ* article ran with the following caption: ‘Media vilification of paediatricians acting in cases of alleged child abuse has resulted in widespread confusion about research data and threatens the systems to protect vulnerable children. How should we move forward?’^{lxi} The wake of the Meadow and Southall professional misconduct verdicts, along with a wave of successful appeals in child abuse cases, had left paediatrics in a precarious position in child abuse cases. As the *BMJ* article implied, in part this was the result of the status of paediatricians becoming so closely connected to the perceived value of certain forms of ‘research data’. No paediatrician apparently found a simple answer to the *BMJ*’s question of how to ‘move forward’ from this situation. When Roy Meadow appealed his removal from the medical register in 2006, the judge noted that ‘there can be no doubt that the decision has had a damaging effect in that it has increased the reluctance of medical practitioners to involve themselves in court proceedings, particularly in cases before the Family Court’.^{lxii} Appeal records also note the evidence of Professor Sir Alan Craft [President of the Royal College of Paediatrics and Child Health] that ‘Paediatricians are frightened of getting involved in child protection work’ in consequence of the high-profile GMC and public campaigns against paediatricians.^{lxiii}

There were some attempts made to ameliorate the effect of the high-profile Meadow and Southall cases on the profession and on child protection. Some professionals argued that Meadow and Southall had been the subjects of a ‘witch hunt’, a claim that may have vindicated the paediatricians but which hardly eased the concerns of others ‘frightened of getting involved in child protection work’.^{lxiv} Others argued in favour of continued use of these forms of evidence in the right hands due to the potential certainty that they offered. There were professional efforts to separate Southall’s professional misconduct case from the value of covert video surveillance, and comparable efforts to separate Meadow’s misuse of statistics from their general value.^{lxv} However, media reports indicate that such efforts had little success in the public sphere, where the expert’s power of persuasion was dependent on their most

famous forms of evidence. The boundaries between expert and evidence often disappeared in newspapers, in which Southall / covert video surveillance and Meadow / statistics were often synonymous. The nuances of the cases against these paediatricians were also rarely evident in the media, and these associations lingered even after their successful appeals against GMC decisions. Statistics and video offered possible solutions to the inherent uncertainty in child abuse cases, along with the paediatricians who used them, but both were dismissed when their fallibility and ethical problems became evident. Alongside a number of successful appeals in MSbP cases, paediatrics was again in a precarious position in child abuse cases by the mid 2000s.

The purpose of this analysis has not been to make judgement on specific experts or evidence as good or bad. Rather, it has sought to use MSbP cases to explore relationships between individual experts, types of evidence and status or profile. The quite rapid change in fortunes of certain types of evidence, and the paediatricians aligned with them, in MSbP cases enables an understanding of how expertise has historically been constructed – for better and worse – in the public sphere. More broadly, the recent history of MSbP contributes to our understanding of the changing societal place of different persuasive devices over time. The influence of statistics and covert video surveillance in the 1990s reflected wider cultural trends, in which these types of evidence were increasingly central in the courts and wider society. They also seemed to provide certainty, which was particularly important in child abuse cases in the wake of Cleveland. Paediatricians stretching the limits of their expertise to seek the same kind of certainty, in addition to other forms of evidence, can also be understood in the same context. It is important to remember, though, that Meadow and Southall both used statistics and covert video surveillance alongside more traditional paediatric work relating to bodily signs. The main value of unpicking their professional trajectories, for historians, may then not lie in any story of deliberate methods of persuasion deployed by medical practitioners. Instead it lies in

understanding how expertise has historically been constructed through discussions of this evidence in the public sphere. Novel and apparently clear-cut forms of evidence received more media attention, perhaps in part because they were easy to translate to a non-specialist audience. As the body became an increasingly ambiguous form of evidence in the eyes of a scientifically-oriented public, more attention was given to methods that – to draw on an earlier quote – offered ‘arrows through the fog’. As this history reveals, however, most ‘arrows through the fog’ transpire to be little of the sort.

ⁱ Thank you to Dr Chris Millard for feedback on an earlier version of this article; any mistakes remain my own.

ⁱⁱ Sue Reid, ‘The Childsnatcher-In-Chief’, *Daily Mail*, 30 June 2003, pp.30-31.

ⁱⁱⁱ Roy Meadow, ‘Munchausen Syndrome by Proxy the Hinterland of Child Abuse’, *The Lancet*, 310/8033 (1977), pp.343-45. Meadow arguably had a major role in propagating ‘Munchausen Syndrome by Proxy’, not least by including it in the title of his article. He is often considered to have coined the term, but John Money and June Werlwas actually did so the previous year in the *Journal of the American Academy of Psychiatry and*

the Law in 1976; John Money and June Werlwas, 'Folie a Deux in the Parents of Psychosocial Dwarfs: Two Cases', *Journal of the American Academy of Psychiatry and the Law*, 4/4 (1976), pp.351-62.

^{iv} For example Marybeth Tinning in 1987, Beverly Allitt in 1993 and Waneta Hoyt in 1995.

^v See, for example, Simon Cole on the successful professional construction of fingerprinting as a reliable form of evidence; Simon A. Cole, 'Witnessing Identification: Latent fingerprinting evidence and expert knowledge', *Social Studies of Science*, 28/5-6 (1998), pp.687-712. Histories of early forensic psychiatry offer an alternative story, of medico-legal conflict and contested definitions of 'science'; see, for example Tony Ward, 'Law, Common Sense and the Authority of Science: Expert witnesses and criminal insanity in England, CA. 1840-1940', *Social & Legal Studies*, 6/3 (1997), pp.343-62.

^{vi} Nicholas J. Schweitzer and Michael J. Saks, 'The CSI Effect: Popular fiction about forensic science affects the public's expectations about real forensic science', *Jurimetrics*, 47/3 (2007), pp.357-364.

^{vii} Peter Beaumont, 'Social Workers told not to Give in on Child Abuse', *Guardian*, 8 August 1987, p.2.

^{viii} Roy Meadow, 'Fatal Abuse and Smothering', in Roy Meadow (ed.), *ABC of Child Abuse* (London, 1997 [1989]).

^{ix} Jonathan P. Wyatt, et al. *Oxford Handbook of Forensic Medicine* (Oxford, 2011), p. 553.

^x Oliver Goldsmith, *Goldsmith's History of England*, 36th edn (Paris, 1845), p. 484.

^{xi} Ian Hacking, *The Emergence of Probability: A philosophical study of early ideas about probability, induction and statistical inference* (Cambridge, 2006), pp. 1-4.

^{xii} Ian Hacking, *The Taming of Chance* (Cambridge, 1990), p. 1.

^{xiii} Paul Meier, 'Damned Liars and Expert Witnesses', *Journal of the American Statistical Association*, 81/394 (1986), pp.269-76.

^{xiv} Other complaints were made about this evidence at appeal, including an alleged failure to warn explicitly against the so-called 'prosecutor's fallacy' in which the probability of an event (such as two SIDS deaths) is wrongly assumed to equate to the probability of innocence. The appeals dismissed this complaint, but upheld criticisms of the flawed and largely irrelevant statistical calculations which became the dominant focus of discussions around the evidence.

^{xv} Clare Dyer, 'Not Guilty as Charged', *Guardian*, 14 May 2002.

^{xvi} *R v Sally Clark* [2003] EWCA Crim 1020, [2003] WL 1822883.

^{xvii} *Meadow v General Medical Council* [2006] EWHC 146 (Admin), [2006] 1 WLR 1452.

^{xviii} *R v Clark (Sally)* (No.1) 2000 WL 1421196.

^{xxix} R v Clark [2003].

^{xxx} Meadow v GMC [2006] EWHC 146 (Admin.). On the possible roots of this phrase, including its relationship to suspicions about experts, see University of York, ‘Lies, Damned Lies and Statistics’

<<https://www.york.ac.uk/depts/maths/histstat/lies.htm>> [accessed: 19 July 2017].

^{xxxi} R v Clark [2000].

^{xxxii} R v Clark [2000].

^{xxxiii} John Sweeney and Bill Law, ‘Gene Find Casts Doubt on Double “Cot Death” Murders’, *Observer*, 15 July 2001.

^{xxxiv} ‘Cot Death Tots often Murdered’, *Mirror*, 1 July 1999; Anna Pukas, ‘Baby-Killer Mothers’, *Daily Mail*, 10 June 1989.

^{xxxv} ‘Baby-Killer Mothers’.

^{xxxvi} Jan Disley, ‘Tortured in a Way that we Cannot Understand’, *Mirror*, 27 November 1999.

^{xxxvii} Jeevan Vasagar, ‘Lawyer Accused of Killing her Two Babies’, *Daily Mail*, 13 October 1999.

^{xxxviii} Joshua Rozenberg, ‘Mother Freed as Judges Narrowly Reject Retrial’, *Telegraph*,

<<http://www.telegraph.co.uk/news/uknews/1487617/Mother-freed-as-judges-narrowly-reject-retrial.html>> [accessed 19 July 2017].

^{xxxix} Ray Hill, ‘Reflections on the Cot Death Cases’, *Significance*, 2/1 (2005), p.14.

^{xxx} John Sweeney, ‘Gene Breakthrough that could Free Murder Mother’, *Daily Mail*, 16 July 2001; see also Sweeney and Law ‘Gene Find Casts Doubt’. These reports coincided with John Sweeney’s report on Radio 5 entitled ‘73 million to one’.

^{xxxxi} Sweeney, ‘Gene Breakthrough’.

^{xxxii} ‘Questions over Two Trial Doctors’, *Mirror*, 11 December 2003.

^{xxxiii} Clark’s appeal court dismissed any question that Meadow might be breaching the ‘Ultimate Issue’ rule by stepping into the task of the jury, but concerns remained that he was wrongly overstepping into the territory of the statistician.

^{xxxiv} Meadow v General Medical Council [2006] EWCA Civ 1390, [2007] ICR 701.

^{xxxv} Meadow v GMC [2006] EWCA Civ 1390.

^{xxxvi} R v Clark [2000].

^{xxxvii} Theodore Dalrymple, ‘In Defence of David Southall’, *Spectator* <<https://www.spectator.co.uk/2008/09/in-defence-of-david-southall/>> [accessed: 19 July 2017]

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- xxxviii Pete Fussey and Jon Coaffee, 'Urban Spaces of Surveillance' in Kirstie Ball, Kevin Haggerty and David Lyon (eds), *Routledge Handbook of Surveillance Studies* (Abingdon; New York, 2012), p.202
- xxxix Josh P. Davis and Tim Valentine, 'CCTV on Trial: Matching video images with the defendant in the dock', *Applied Cognitive Psychology*, 23/4 (2009), p.482.
- xl David P. Southall, et al., 'Apnoeic Episodes Induced by Smothering: Two cases identified by covert video surveillance', *British Medical Journal (BMJ)*, 294/6588 (1987), pp.1637-41.
- xli Roy Meadow, 'Video Recording and Child Abuse', *BMJ*, 294/6588 (1987), p.1629.
- xliv Gwen Adshead, 'Covert Video Surveillance of Children: Consult the child protection team', *BMJ*, 307/6912 (1993), p.1145.
- xlvi D. M. Foreman and C. Farsides, 'Ethical Use of Covert Videoing Techniques in Detecting Munchausen Syndrome by Proxy', *BMJ*, 307/6904 (1993), pp.611-613; David P. Southall and Martin P. Samuels, 'Ethical Use of Covert Videoing for Potentially Life Threatening Child Abuse: A response to Drs Foreman and Farsides', *BMJ*, 307/6904 (1993), p.613.
- xlvii Bob Cervi, 'Video Nasty Experiences', *Guardian*, 7 September 1994.
- xlviii Cervi, 'Video Nasty Experiences'.
- xlix DH (A Minor) (Child Abuse) [1994] 1 FLR 679.
- l Lesley Gerard, 'Video Traps Catch Abuse of Children by Parents', *Observer*, 26 September 1993.
- li 'Grim Justice by Video: More units are needed to monitor suspect families', *Guardian*, 28 October 1997.
- lii Glyn Middleton, 'Mother of all Evils', *Guardian*, 11 January 1999.
- liiii Terry Thomas, 'Video Nasty', *Guardian*, 13 January 1999.
- liiii Annabel Ferriman, 'Multimedia: Trial by video', *BMJ*, 318/7178 (1999), p.269.
- liiii Yvonne Roberts, 'It's Time to Fight Back', *Guardian*, 11 October 1999.
- liiii Roberts, 'It's Time to Fight Back'.
- liiii Tom Rawstorne, 'Caring Crusader or a Medical Zealot?', *Daily Mail*, 9 May 2000, p.23.
- liiii Richard Alleyne, 'Video Traps Sadist Parents', *Daily Mail*, 28 October 1997 showed images of children. Others around the same time focused on video stills or images of rooms in which cameras were located, for example Chris Mihill, 'Exposing the Parents who Tortured Children', *Guardian*, 28 October 1997.
- liiii '2 Docs in Spy Probe', *Mirror*, 10 December 1999.
- liiii Sarah Boseley, 'Paediatrician in Surveillance Row Cleared and Reinstated', *Guardian*, 13 October 2001.

^{lviii} Council for the Regulation of Healthcare Professionals v General Medical Council, Professor David Patrick Southall [2005] EWHC 579 (Admin), 2005 WL 881815.

^{lix} Council for the Regulation of Healthcare Professionals v General Medical Council, Professor David Patrick Southall [2005].

^{lx} Sue Reid, 'Unrepentant', *Daily Mail*, 16 June 2004.

^{lxi} A. W. Craft and D. M. B. Hall, 'Munchausen Syndrome by Proxy and Sudden Infant Death', *BMJ*, 328/7451 (2004), p.1309.

^{lxii} Meadow v GMC [2006] EWHC 146 (Admin.).

^{lxiii} Meadow v GMC [2006] EWHC 146 (Admin.).

^{lxiv} For example Theodore Dalrymple, 'Much Maligned', *Telegraph*, 14 December 2003.

^{lxv} For example David M. Foreman, 'Detecting Fabricated or Induced Illness in Children: May now necessitate controversial surveillance tools', *BMJ*, 331 (2005), p.978.