



Sitting in Judgment

The Working Lives of Judges

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SITTING IN JUDGMENT

The public image of judges has been stuck in a time warp; they are invariably depicted in the media—and derided in public bars up and down the country—as ‘privately educated Oxbridge types’, usually ‘out-of-touch’, and more often than not as ‘old men’. These and other stereotypes—the judge as a pervert, the judge as a right-wing monster—have dogged the judiciary long since any of them ceased to have any basis in fact. Indeed the limited research that was permitted in the 1960s and 1970s tended to reinforce several of these stereotypes. Moreover, occasional high profile incidents in the courts, elaborated with the help of satirists such as *Private Eye* and *Monty Python*, have ensured that the ‘old white Tory judge’ caricature not only survives but has come to be viewed as incontestable.

Since the late 1980s the judiciary has changed, largely as a result of the introduction of training and new and more transparent methods of recruitment and appointment. But how much has it changed, and what are the courts like after decades of judicial reform? Given unprecedented access to the whole range of courts—from magistrates’ courts to the Supreme Court—Penny Darbyshire spent seven years researching the judges, accompanying them in their daily work, listening to their conversations, observing their handling of cases and the people who come before them, and asking them frank and searching questions about their lives, careers and ambitions. What emerges is without doubt the most revealing and compelling picture of the modern judiciary in England and Wales ever seen. From it we learn that not only do the old stereotypes not hold, but that modern ‘baby boomer’ judges are more representative of the people they serve and that the reforms are working. But this new book also gives an unvarnished glimpse of the modern courtroom which shows a legal system under stress, lacking resources but facing an ever-increasing caseload. This book will be essential reading for anyone wishing to know about the experience of modern judging, the education, training and professional lives of judges, and the current state of the courts and judiciary in England and Wales.

This book is for Igor Judge,
the epitome of kindness.

Foreword

By Lord Judge, Lord Chief Justice of England and Wales

This is an illuminating and intriguing study of the way in which judges throughout England and Wales actually work. It reveals the practical day to day realities, not the myths nor the theories nor the misconceptions. It tells us a great deal about the stresses and strains of judicial life and provides penetrating insights into the attitudes of judges to their responsibilities and the way in which they approach them.

Until recently research of this kind would not and did not happen. It was an essential feature of my personal willingness to offer my support for this proposed research that it should be approached with an open mind and without preconceptions. These were preconditions. On the other hand, if they were satisfied, then there would be no attempt to exert any form of editorial control. It was obvious from my first meeting with Dr Darbyshire that her objective was to discover and report the facts rather than seek to find material which would support any pre-existing prejudices, and that equally, she would not countenance any form of such control. Once the ground rules were established, as she explains, she was given unrestricted access to a vast body of judges. The 'absolute transparency' of which she speaks is perhaps best illustrated by the fact that she sat in with judges in the Court of Appeal and Supreme Court as they deliberated with each other.

The research method was direct observation. Dr Darbyshire spent long periods over several years, sitting in court with judges exercising their different jurisdictions in crime, civil and family work (but not the Tribunals) from the Supreme Court to district judges sitting in the County Court, trying civil cases, and the Magistrates' Courts, trying criminal cases. She did so in the context of discussions of the relevant issues with the judges, so that she could see for herself how the judicial mind was working. She recorded their responses, and the responses of their colleagues who she met, for example, at lunch, to broader issues affecting the judiciary and she saw for herself the problems which judges encounter. She noted, too, areas where she felt criticism was justified as well as concerns expressed by individual judges themselves about different aspects of the system in which they work.

The result of what I believe to be the first research of this kind, certainly in this country, is vividly, yet fairly described. It will be welcomed by anyone who wishes to be better informed about today's judges and the ways in which their responsibilities are discharged.

The Nuffield Foundation is an endowed charitable trust that aims to improve social well-being by means of research. It funds research and innovation in education and social policy and also works to build capacity in education, science and social science research. The Nuffield Foundation has funded this project, but the views expressed are those of the author and not necessarily those of the Foundation. More information is available at www.nuffieldfoundation.org.

Acknowledgements

Hearty thanks are due. Lord Judge, His Honour Judge Shaun Lyons, District Judge Michael Walker and Tim Workman gave hours of their time in helping to construct a broad sample and approaching the selected judges. Our hard-working Lord Chief Justice has read every draft. Professor Kate Malleson and Sir Stephen Sedley, project consultants, read almost as much and similarly provided useful suggestions. The project would not have started without the unwitting inspiration of two of the anonymous pilot study judges, with whom I had sat many years earlier. I would not have expanded this hobby into a project without a chance but very encouraging conversation with Sharon Witherspoon, Deputy Director of the Nuffield Foundation. I thank her and its trustees. Their patience and generosity never faltered through years of my grovelling apologies for taking so long. The independence and integrity of this research rest on the fact that it was sponsored by this invaluable charity. Nichola Hay efficiently typed almost all 80 lengthy interview schedules and Natasha Slabas helped footnote the family chapter. I am indebted to Hart's independent reviewer for his alarming comments. The swift, meticulous, prescriptive report by Emeritus Professor John Baldwin helped channel a panic-attack into a re-write. I am thrilled that Richard Hart, my first choice, published this book and his team, Mel Hamill, Jo Ledger and others, have provided a service that authors of other publishers would envy. Kingston University funded the three pilot studies and the review report. Above all, warm thanks to the hundreds of anonymous judges who contributed, especially the 80 who agreed to lengthy interviews and those who had me watching and questioning their every move for long days on end, sometimes from breakfast to bedtime.

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Introduction

She's writing a little anthropology—a study of judges in their habitat explained one High Court judge to another.

Anyone at any time could undertake observation of judicial behaviour. It is just rarely done.

Professor Dame Hazel Genn, 2008¹

I WANTED TO find out what judges did, in and out of court, and what they were really like. It seemed to me there was a mismatch between the comedic and media folk-devil: the eccentric, sometimes malign, buffer, out-of-touch with the real world, and the senior judges I had met. They seemed unpretentious, quick-witted, perceptive, and encouragingly kind to my students. Far from clocking-off at four, they worked at weekends and evenings. I had spent time casually work-shadowing and interviewing circuit and district judges for eight years and watched judges since 1971. They seemed like lawyers, in general. I resolved to work-shadow every type of judge in different aspects of their work, throughout the six court circuits of England and Wales. After three pilot studies, with district, circuit and High Court judges, I followed 40 judges for at least four days each and interviewed them and 37 others. I met hundreds of others.

The public know very little about judges. Most people never appear in court and, while old assize courts like Chester and Lincoln can accommodate hundreds of spectators, modern folk find *Judge John Deed* more entertaining. Academics have produced a sizeable literature on judges but almost all of it is on judgments, which form only part of judging. Genn, in 2009, said the concentration on appellate decisions reflects academics' preoccupation with the law, yet everyday judging is a much more reliable indicator of judicial attitudes. Very little research has been conducted in the UK, especially in the lower courts.² Even in the US, the eminent academic, Judge Richard A Posner, in *How Judges Think* said 'I am struck by how unrealistic are the conceptions of the judge held by most people, including practicing lawyers and eminent law professors ... and even by some

¹ H Genn, *Judging Civil Justice* (Cambridge, Cambridge University Press, 2009) 137.

² *ibid* 131–36. As R Moorhead and D Cowan also said, introducing their collection, *Legal Studies: 'Judgecraft: An Introduction'* (2007) 16 (3) *Social and Legal Studies* 315–20. Posner's book is on *judgments*.

2 Introduction

judges'.³ My aim is to paint a portrait of all types of judge and judicial work, including the routine.⁴ This book gives judges a voice, through extensive interviews and commentary on their working world. As Posner said, judges are not intellectual giants, oracles or calculating machines, they are human workers, responding to the conditions around them.⁵ No-one had researched judges before by using this method of work-shadowing and no-one had researched such a variety of judges.⁶

AIMS

These were outlined in the research design and have not changed.

To describe, by observational research, a sample of forty contemporary judges in their working lives . . . The following will be examined: career backgrounds and aspirations, relationships with other judges and other court actors; day to day work and workload and its effects; the job of judging; adequacy of support and training; opportunities to meet and observe other judges; membership of and attitudes towards judicial organisations; attitudes towards recent and proposed changes in procedure and how this has affected or will affect their lives; attitudes towards proposed changes to the trial structure and the judge's relationship with the jury.

The details are contained in the successful Nuffield Foundation funding application.⁷

METHOD

I repeated a method used in studying magistrates' clerks,⁸ sitting beside the judge in and out of court, asking them to reflect aloud on their work and those they encountered. The pilot studies, in London, were funded by Kingston University. They were essential in formulating the detailed research design, interview schedules and Nuffield application.

Access and Funding

In 2003, a Court of Appeal judge told me a worrying story. In the 1990s, he had asked the Lord Chief Justice (LCJ) for permission to write a book about the judiciary, whilst on sabbatical leave and funded by a charity. The Judges' Council

³ RA Posner, *How Judges Think* (Cambridge, Mass, Harvard University Press, 2008) 2.

⁴ Not including tribunal judges.

⁵ Posner, above n 3 at 7.

⁶ This research was designed in 2002–03.

⁷ An abridged version is on the author's web page at Kingston University.

⁸ P Darbyshire, *The Magistrates' Clerk* (Winchester, Barry Rose, 1984).

refused. It was well known to UK academics⁹ that judges had generally kept researchers away.¹⁰ Malleon, the leading UK writer on judges, noted in her 1999 book¹¹ how little research there was, compared with other jurisdictions, especially the US.¹² This was *partly* caused by judicial hostility, noted by Harlow in 1986¹³ and Abel-Smith and Stevens in 1968.¹⁴ Harlow said that, by comparison, jurimetrics—the analysis of judicial decision-making—was well-established in the US by 1966.¹⁵ Paterson, in his 1982 classic on the Law Lords,¹⁶ noted five UK projects which were aborted because the judiciary or Bar withdrew co-operation. The 1970s story of the Bar's endeavours to block Baldwin and McConville's book on plea bargaining is infamous.¹⁷ Ashworth's work on sentencing was terminated in 1981 by Lord Chief Justice Lane, despite its being funded by the Home Office. Judges were apparently offended by questions on membership of local organisations and travel to work. Lord Lane even gave a press conference.¹⁸ Malleon listed two more: Hood's study on race and sentencing was stopped because although individual judges consented, managing judges instructed them to

⁹ It has become textbook knowledge: J Baldwin, 'Research on the Criminal Courts' in RD King and E Wincup, *Doing Research on Crime and Justice*, 2nd edn (Oxford, Oxford University Press, 2008).

¹⁰ Though S Shetreet, *Judges on Trial* (Amsterdam, North Holland, 1976) thought 'blame is not to be attached to the English judges but to the English scholars, who, unlike their American colleagues, have embarked quite late upon sociological research of the ... machinery of justice, and instead of trying to interview judges have reiterated to themselves that judges are protected from scholarly inquiries' (at 196). Genn too blamed the lack of academic curiosity, at 135.

¹¹ K Malleon, *The New Judiciary: the effects of expansion and activism* (Aldershot, Dartmouth, 1999).

¹² *ibid* 196–97.

¹³ 'Refurbishing the Judicial Service' in C Harlow (ed), *Public Law and Politics* (London, Sweet & Maxwell, 1986).

¹⁴ B Abel-Smith and R Stevens, *In Search of Justice* (London, Penguin, 1968). See P Rock, *The Social World of an English Crown Court* (Oxford, Clarendon Press, 1993) 2–5; D Pannick, *Judges* (Oxford, Oxford University Press, 1987) 10 and J Baldwin, *Small Claims in the County Courts in England and Wales* (Oxford, Clarendon Press, 1997) 48 fn 7. See L Blom-Cooper and G Drewry, *Final Appeal* (Oxford, Clarendon Press, 1972) 3. There had been almost no attempt to analyse the functions of any British court, 'employing...methodological and statistical techniques ... widely used in ... other areas of social research'.

¹⁵ Though Posner attributed the lack of understanding to the fact that most judges are 'cagey' about what they do and they deliberate in secret, 'professional mystification', Posner, above n 3 at 2–3. Literature on theories of judicial behaviour was ignored by most academics and virtually all judges, Posner, above n 3 at 7.

¹⁶ A Paterson, *The Law Lords* (London, Macmillan, 1982).

¹⁷ Baldwin, in King and Wincup, above n 9 at 388–90; J Baldwin and M McConville, *Negotiated Justice* (London, Martin Robertson, 1977).

¹⁸ Information from Professor Ashworth and see A Ashworth et al, *Sentencing in the Crown Court, Report of an Exploratory Study*, Occasional Paper no 10, Oxford Centre for Criminological Research, cited by Harlow, above n 13 at 189 fn 29. The blocking of Ashworth's research stifled criminologists' court research, said P Rock, above n 14 at 4–5. The story became notorious: T Gifford, *Where's the Justice? A Manifesto for Law Reform* (London, Penguin, 1986) 31.

withdraw. Her own doctoral research in 1992–93 was affected. She resorted to interviewing retired judges, as the LCJ refused to allow sitting judges to participate.¹⁹

There were exceptional successes. Paterson's book is rich with frank interview material from the Law Lords, independent of any hostile LCJ. He cited three preceding studies using interviews. Indeed, as can be seen from the UK Supreme Court chapter here, we know everything about the top court. In the UK, there have been some other studies using interviews and/or observation of specific groups of judges, such as Baldwin's work on small claims,²⁰ Baldwin and McConville's *Jury Trials*,²¹ N Fielding's *Courting Violence*,²² research with family judges, interviews with some senior judges by Peay in *Tribunals on Trial*,²³ interviews with trial judges in Zander's Crown Court Study²⁴ and interviews with appeal judges in Drewry, Blom-Cooper and Blake's 2007 book, *The Court of Appeal*.²⁵ Shetreet, in 1976, used interviews,²⁶ for a detailed and penetrating book on the appointment, discipline, removal and politics of judges, though he did not ask judges about themselves. There were studies commissioned by the Lord Chancellor's Department/Department of Constitutional Affairs that were dependent on judicial co-operation. Nevertheless, this handful of empirical projects²⁷ contrasts strongly with the US where, as Paterson noted, by 1978, there were over 100 studies on appellate judges, using interviews or questionnaires.²⁸

During the times of casually sitting with judges, I noticed they were keen to have a companion and were forthcoming on just about everything. I assumed that I could continue to approach individuals and find enough research subjects but the first proposal to The Nuffield Foundation was referred back, asking me to secure 'official' permission, from the Lord Chancellor's Department. I was reluctant. Rejection would put an end to the plans and, because I considered it a breach of judicial independence that a civil servant could grant or withhold consent, I consulted Professors Baldwin and Ashworth. One of them advised that there was an official procedure and that I should approach the Senior Presiding

¹⁹ Malleson, above n 11 at 197 fn 13.

²⁰ Examined in ch 11.

²¹ J Baldwin and M McConville, *Jury Trials* (Oxford, Clarendon Press, 1979).

²² N Fielding, *Courting Violence: Offences Against the Person Cases in Court* (Oxford, Oxford University Press, 2006).

²³ J Peay, *Tribunals on Trial* (Oxford, Clarendon Press, 1989) and Genn's interviews with tribunal judges in *Tribunals for Diverse Users*, DCA, Research Series 1/06, 2006.

²⁴ M Zander and P Henderson, *Crown Court Study*, for the Royal Commission on Criminal Justice, Research Study No 19 (London, HMSO, 1993).

²⁵ G Drewry, L Blom-Cooper and C Blake, *The Court of Appeal* (Oxford, Hart Publishing, 2007).

²⁶ Shetreet, above n 10 at xix. The book is mostly from published material. At 195, he said all contacted judges gave time generously and answered most questions.

²⁷ Moorhead and Cowan, above n 2 repeat a plea for 'a more serious research agenda on judges'.

²⁸ Paterson, above n 16 at 5 fn 26. But see Tamanaha, below n 56. US judges may not be as accessible as British researchers believe.

Judge. I sent the research design and draft questionnaire to Sir Igor Judge, who asked 'What procedure?' but after 45 minutes' cross-examination he offered to do all he could to help. This project owes its success to him and to all the other judges who gave days of their time. It was serendipitous that immediately prior to my commencing this project, I had done some work for Sir Robin Auld, on his *Criminal Courts Review 2001*. He had given that paper to various senior judges, including Judge LJ. I was in the right place at the right time.

This research also owes its success to the generosity of the Nuffield Foundation and the patient encouragement of Sharon Witherspoon. Past experience had taught me to seek non-governmental funding. In the 1970s, I showed my interview schedule for magistrates' clerks to a Home Office researcher, engaged in researching magistrates. Her interview schedule had contained some near-identical questions that had been removed by C2 Division of the Home Office and she envied my academic freedom. I also knew about academic research that had been blocked because the funding department or agency did not like the results. Most strikingly, this had just happened to my work.²⁹ During the fieldwork, I was repeatedly grateful to be funded by a charity, when the research judges had to explain to their fellows that I was not a 'departmental inspector'.

Sample

Observation over decades in different courts had indicated that each had a distinct culture. Clientele, case load and case speed differed according to size, culture, location and management³⁰ so the courts were selected to span as great a variety as possible. Nevertheless, this research found that, thanks to centralised training and management and electronic communications, courts and judges differ much less from each other nowadays.

The problem with previous writing, especially statistical surveys, is that it has concentrated on the senior judiciary and sees judges as homogeneous.³¹ The core sample of 40 judges were selected to represent as broad a selection of experience, seniority and jurisdiction as possible. They comprised: six county court district

²⁹ The 2001 jury research paper was funded by the Criminal Courts Review. The Review team praised the work but explained that the department would not publish it 'because Government considers your findings sensitive'. I had exposed how easy it was to avoid jury service in London, because there was no budget for chasing non-attenders and I quoted a circuit judge who encouraged friends to evade service if they were reluctant. However, the team wanted to see it published so suggested it was uploaded onto the Kingston University website, adding a link from the Review site.

³⁰ In researching *The Magistrates' Clerk*, n 8 above. See RB Flemming, PF Nardulli and J Eisenstein, *The Craft of Justice* (Philadelphia, University of Pennsylvania Press, 1993) 1, 'State trial courts in America are highly diverse ... even courtrooms in the same courthouse may differ'.

³¹ Explored later.

judges; three district judges (magistrates' courts); one High Court district judge,³² 16 circuit judges (family, crime and civil), some of whom were managers, eight High Court judges, including one each from the Commercial Court, the Employment Appeal Tribunal, the Chancery and Family Divisions and some from the Administrative Court (some were circuit Presiding Judges, or equivalent), four Lords Justices of Appeal, with backgrounds in family, commercial and administrative law (some were managers), and two Law Lords/Supreme Court Justices.

I drew up a provisional grid of courts. Circuit judges were selected with the help of the Senior Presider and Judge Shaun Lyons, then Secretary of the Council of Circuit Judges, as they had access to background information on judges' career histories, responsibilities and courts. District Judge Michael Walker, then Secretary of the Association of District Judges,³³ helped in selecting the county court district judges. He added courts that were experimenting with new case management software. District judges (magistrates' courts) were selected with the help of Tim Workman, then Senior District Judge (Magistrates' Courts), though I included one who had been a court clerk in my PhD research sample 30 years earlier. I included one overtly gay judge, because he had written about this, more women and more solicitor circuit judges than were representative of the judicial population as a whole, and a High Court judge who had been a circuit judge, because I was interested in their experiences. Welsh judges were over-represented in the core sample: I selected one district, one High Court and two circuit judges, three of whom were Welsh speakers. Sometimes I chose judges out of curiosity, such as a High Court judge born two days after me.

Sir Igor Judge drafted a strongly supportive letter to district and circuit judges and he contacted my chosen High Court and Court of Appeal judges. The response rate was overwhelming. All but one district judge accepted. This meant the sample was bigger than intended. For example, I wrote to 16 circuit judges, in the hope of finding 12, but all 16 accepted.

I selected a supplementary sample of 37 interviewees, generally chosen opportunistically but again to provide variety. With district and circuit judges, I often approached the judge in the next room, provided they were sufficiently different from the core sample judge. If I were shadowing a young female, I would approach an experienced male. If I were shadowing the resident circuit judge, I would seek out the most newly appointed. These interviewees were given no notice of the request and did not have the benefit of examining the research design, just a verbal description and the interview schedule. Happily, at courts with only two judges, the second one always consented. Only one district judge and two circuit judges declined. The senior judge interviewees were again selected, with the help of Sir Igor, to provide a span of seniority, experience and

³² Added when I realised county court district judges did not know what High Court district judges did.

³³ Now the Association of Her Majesty's District Judges.

jurisdiction and other than that, pin in list. In other words, this senior sub-sample was randomly selected from a stratified sample. The reason for these 'knocking on doors' and 'pin in list' methods was so that I could not be accused of allowing my judicial helpers to manipulate this sample.

At two Crown Courts, I was questioned about sampling criteria. At one, they suspected that 'Igor Judge' had 'fixed me up' with 'the softie'. They explained that 'There's a judge here who makes barristers cry in court' so I asked him for an interview and he readily consented.³⁴ On two circuits, I rapidly learned from the judges (and my own ex-students at the Bar) who the 'nutters' were, and noted that Sir Igor had steered me away from one of them (at a court on my provisional grid). They were indeed so notorious that they did not need me to report on them, as their homilies appeared weekly in the local press. At one London magistrates' court, the newly appointed core sample district judge said that all the district judges had discussed my work and concluded that had I shadowed one of the old judges with 'severe judgitis', I would have 'got much less out of them'. They suggested I should balance out with an interview with an older woman, so I did.

Why did Judges Want to be Researched?

Baby Boomer judges seem to understand social research and academic freedom and most trust academics not to behave like journalists. Six of the 77 had been academics (ex-academics are far more common on the bench than is generally known); several had spouses who were academics and others had postgraduate degrees (one in criminology). They had grown up with the Peter Cook/Rowan Atkinson/JAG Griffith image of the judiciary³⁵ and were daily bombarded with negative media coverage. They welcomed the opportunity to open up the judiciary to outside scrutiny. I entered their world at a time when judges had just equipped themselves with a press office and a website. Desperate to portray themselves as human and user-friendly, Lord Chief Justice Phillips was photographed holding a baby.³⁶

As for the work-shadowing method, judges I met were familiar with the judicial work-shadowing scheme and before it, barristers accompanying them as marshals. They were used to entertaining work-experience children beside them,

³⁴ He appears in the Crown Court chapter: Judge EC (eats counsel).

³⁵ Explored in ch 2. Hammerslev said it could be useful not to see lawyers or judges as a coherent body, because they were defined by their relation to other participants in the field, 'How to Study Danish Judges' in R Banakar and M Travers, *Theory and Method in Socio-Legal Research* (Oxford, Hart Publishing, 2005).

³⁶ New generation judges welcome researchers. 24 attended the launch of the UCL Judicial Studies Institute in 2010.

or school groups in their courtrooms. Judging is a lonely business. Their enthusiastic replies to my letter, like these from circuit judges, usually came quickly:

Your project sounds interesting and not a little intriguing. As one of those judges that complains bitterly about the media's misrepresentation of the judiciary in all its aspects, it would be a small opportunity to help inform and educate them as to our true role, responsibilities and capabilities.

I would be only too pleased to help in any way I can. Your research sounds very interesting. I've always wanted to know something about judges!

The gay judge welcomed a researcher. He said it was important that people understood that the judiciary was made up of all types of people.

Reactions of Non-sample Judges

At the first court, I met a vociferous circuit judge who said he would not have permitted my research. 'You won't get co-operation from the senior judiciary.' I would find judges 'the same as anyone else' but there should be a divide between them and the rest of society, 'Just like your doctor ... There's nothing wrong with judges'. He also opposed the research, as there was 'no editorial control'. I related this to a resident judge on another circuit. He said 'that would have been the majority reaction 20 years ago'. The judge in question has since retired.

I was normally given a warm reception in court dining rooms, with judges fussing over my comfort and serving me drinks and coffee. In three courts, my presence was an excuse for wine or champagne. In another, the judges repeatedly regretted that I could not stay for a retirement party. In another, the resident organised for me to be seated at lunch between a different pair of judges every day, to maximise my contact opportunities. On several occasions, though, I was given a stern warning not to report anything I heard and twice a research judge wanted to discover what I was like on the first day before deciding whether to allow me into the dining room. There was a general interest in what I was doing. I was often the main subject of discussion and routinely used as a foil for teasing other judges 'Look out! She'll put that in her book', such as a recorder, whose cases went short every day so he left early. Judges outside the research sample with a point to make sought to attract my attention, such as the Family Division High Court judges who complained of overwork and the judges who wanted to assert their non-traditional credentials, like the judge who told me three times: 'I failed the 11 plus and went to state school. Put *that* in your book'.

In the High Court, Court of Appeal and with the Law Lords, my work seemed to be instantly understood and no-one questioned my presence in deliberations. Only once was I excluded from watching a constitution of the Court of Appeal (Criminal Division). I was included in the general banter off-stage in the Royal Courts of Justice. With the Law Lords, I was a novelty. I spoke to most of them, in

addition to the two in my research sample. I could have added dozens of judges to the sample. Judges often asked when it was their turn to be interviewed or observed, including appeal judges and the Law Lords. One Lord Justice was in the interview sample because he often asked if he could participate.

I met several judges repeatedly, as I travelled the circuits, including one High Court judge on three circuits. In magistrates' courts, I met people who had read my book on clerks. This almost backfired. At one court, my core sample district judge's fellows warned him 'She'll do another hatchet job'. I met two judges who had lectured at Kingston, two Kingston graduates, a judge who had lectured me and I unwittingly selected a judge who had graduated in law alongside me.

Research Ethics

The circuit judge's attack about lack of editorial control, noted above, made me reflect on ethics. For fear of inaccuracy and in the belief that this is a fair way to proceed, in treating judges as research subjects, not objects, I emailed the draft chapters to the judges who featured in them and asked for comments. This is a very unusual technique in social research and is very time-consuming but judges are highly intelligent research subjects and I thought this would help clarify my aims to them and enable them to correct and update the work. It would enhance the work's authenticity and credibility. I emailed draft chapters to non-sample judges too. For instance, in the Court of Appeal and Law Lords chapters, where examples from deliberation are included, and I described the behaviour of outsider judges, I emailed all those judges. I also sent successive versions of all draft chapters to Sir Igor Judge. This resulted in increased accuracy. No judge tried to censor my work. They did correct technical errors and added to some of the descriptions. For instance, asking two Supreme Court Justices, in addition to the sample Justices, to comment on a draft, helped to develop a richer picture of judgment-formation in the UK Supreme Court and alerted me to differences of opinion. I allowed draft chapters to be forwarded by the core sample judges to other interested parties. For instance, some High Court judges asked if they could send that chapter to colleagues. The High Court family judge asked to forward the Family chapter to the President of the Family Division. At three Crown Courts I visited outside the core sample, I permitted the resident judges to circulate the draft Crown Court chapter so about 30 Crown Court judges had access to it, in addition to those featured. The work has benefited from countless verbal and emailed comments on early drafts. Sir Igor Judge questioned the currency of the first draft of the Crown Court chapter so I added to the fieldwork. I presented six draft chapters as conference papers at the Socio Legal Studies Association and the Society of Legal Scholars, resulting in some feedback. I have tried to write in accessible English, for the sake of transparency and