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## Review of Emma Cunliffe, *Murder, Medicine and Motherhood*. Oxford: Hart (2011)

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There are many things that can be said about Emma Cunliffe's remarkable new book *Murder, Medicine and Motherhood*. For starters, the book has been the subject of numerous mainstream news articles, blogs, and media venues – an achievement few scholars can claim. Moreover, in the course of media attention, Cunliffe has bravely spoken out on behalf of a person she argues was falsely sentenced to life behind bars. However, beyond these real-life engagements, I view one of the book's central scholarly achievements to be its superb methodological contribution to socio-legal research.

*Murder, Medicine and Motherhood* explores the legal prosecution of mothers for the unexpected death of their infant(s). The unexpected death of a child presents what Cunliffe refers to as a "telling instance" in which society demands answers for what are often irresolvable and unexplained events. The central issue the author interrogates in the context of infant death is the construction of criminal responsibility – and specifically a mother's criminal responsibility – in contemporary society, and what this construction reveals both about the cultural expectations of mothers and the truth-finding claims of the legal system.

Unexplained infant death has always evoked highly emotional responses from both state officials and the general public, and typically places the parents of a dead child under intense social and legal scrutiny. Perhaps Kathleen Folbigg's case is one of the most contentious of such incidents in recent decades. Jailed for 30 years for allegedly killing her four children over the course of a decade, Folbigg was condemned in the newspapers for being an "evil" and "unfit" mother, incapable of the normal levels of love a mother should have for her child. In addition to being openly harangued by the Australian public and media, she was formally condemned by the court system which held there was "no question" regarding her responsibility for the deaths of her children. Cunliffe pivots her examination of sudden infant death on the Folbigg case. Taking an historical perspective, the author notes that other instances of unexplained death among siblings prior to the Folbigg case had resulted in the mother's acquittal based on the court's unwillingness to accept circumstantial evidence as the basis for homicide. However, in the Folbigg case the presumption of a mother's innocence in the absence of material proof was rejected in favor of circumstantial facts supported by scientific literature and expert medical testimony. Cunliffe explores the shift of legal logic and scientific knowledge that resulted, according to the author, in the wrongful determination that Kathleen Folbigg was guilty.

Sudden Infant Death Syndrome (SIDS) (first discussed in 1949 but not formally defined until 1969) has in the past been viewed with sympathy by medical and court practitioners, reflecting prevailing attitudes at the time that the death of a child was a momentous tragedy for which a presumed loving mother could not be held to blame. However, as Cunliffe outlines, since the mid-1990s there has been a shift in how sudden infant death has been received. This was the result of the growing but inconclusive knowledge

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about SIDS coupled with a widespread educational campaign urging parents to put babies on their back to sleep, which did result in reducing infant mortalities throughout the 1990s. These inroads into reducing infant deaths also heightened pressure on paediatric forensic pathologists to produce better autopsy protocols and investigations into the increasingly rare death of an infant. But perhaps the most important single factor to account for the shift in medical attitudes about SIDS was the case of Waneta Hoyt. Hoyt was the mother of five children who had all inexplicably died and whose case had been discussed in the medical literature as one of familial SIDS. Against the presumption of a mother's innocence, in 1994 Hoyt confessed to killing her five children. This confession undermined medical claims that one family could suffer multiple instances of SIDS, and heightened suspicions about subsequent cases that made such a claim. As Cunliffe argues, "The spectre of covert homicide haunted the criminological and scientific literature of the mid- to late 1990s... After Hoyt's conviction, the desire to give mothers the benefit of the doubt in the absence of positive evidence was marginalized within the medical literature almost...to the point of disappearing" (page 37). It is in against this context of shifting medical knowledge and the profession's proclivity to take a harder look at SIDS, argues Cunliffe, that Kathleen Folbigg's case must be read.

So what is so special about Cunliffe's methodological approach? My quick response is that the author uses an extremely wide range of empirical data, historicizes that data, and interprets it through an elegantly intertwined social and legal theoretical lens. Cunliffe's obvious concern to be even-handed in her analysis plays out in her clear presentation of complex medical literature relating to paediatric forensic pathology, as well as detailed examination of expert testimony, long legal judgments, and court transcripts. Theorists such as Marx, Foucault, Dorothy Roberts, Sheila Jasanoff, as well as more obvious socio-legal scholars such as David Garland and Susan Silbey, sharpen and deepen the overall discussion.

Yet Cunliffe does not confine herself to the obvious legal arenas of court transcripts, expert testimony and legal judgments. In the second part of the book, which closely explores the Folbigg case, Cunliffe demonstrates great intellectual agility in her use of a multi-method approach. She explores the shifting social and cultural assumptions and ideologies about motherhood that framed the legal process. She then goes on to interpret Kathleen Folbigg's emotionally charged personal narratives in diaries which were used by the prosecution as evidence of her guilt. Here Cunliffe shows immense sensitivity to the material and indicates that she is well versed in interpretative theories of narrative and subjectivity. Yet perhaps the most striking example of a scholar going beyond the normal parameters of socio-legal inquiry is evident in Chapter 8. In this penultimate chapter, the author examines and compares mainstream print media of the Folbigg trial and compares various sources of print media with the trial transcript. As Cunliffe notes, what is interesting is the "editorial and journalist choices made on a daily basis about what to report and how prominently to report it" (page 191), and how these choices in turn informed public opinion about the criminal justice system and the specifics of the case itself. In tables and discussion, the author underscores her deep empirical engagement with an enormous body of data. Sociologists working in text and discourse analysis should take note!

*Murder, Medicine and Motherhood* presents an extremely rich, nuanced and interesting story about unexpected infant death precisely because of the author's multi-method approach. Historically informed, theoretically provocative, accessible and clearly written, the book brings the characters involved to life with grace and empathy, despite the tragedy and horror of events. The book also shows how the strategic

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use of legal language, expert testimony, scientific literature, and media coverage can distort courtroom proceedings in ways that may not be self-evident or foreseeable. In today's socially conservative environment, cultural expectations about how mothers should act distort the capacity of courts to reveal the actual facts. The disturbing realization of the interaction between ideology and conceptions of justice that we see play out in the context of infant death raises questions about the entire criminal justice system, and underscores the significance of *Murder, Medicine and Motherhood* to a wide swathe of socio-legal scholars.