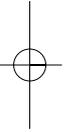
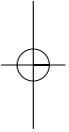


Essay:
**Everyday
violence**
Author:
**Julienne
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A friend of mine who suffered from schizophrenia once told me of her intention to write a travel guide to the world's psychiatric hospitals. This plan both was and wasn't a joke: travel guides necessarily assume a certain agency on the part of the traveller and, although my friend had seen quite a few of the world's big hospitals from the inside, these were generally not the kind of excursions she took of her own free will. Perhaps precisely because of these complications to do with power and responsibility, hers would have been a great book. I'll never know for sure because the book never eventuated, and many of the big old psychiatric institutions have since been closed down – for better or for worse. In any case, my friend has since died: she was killed many years ago in a single, senseless act of violence.

I was thinking of my friend's planned but unwritten travel guide last winter as I left the Supreme Court of Tasmania and faced the cold southern air on Salamanca Place, pulling up the collar on my heavy grey coat and feeling, well, a bit intrigued about the human dilemma, and especially about this notion of so-called free will. I was in Tasmania for three weeks as part of the Island of Residencies program, a scheme that enables writers from interstate or overseas to spend an intense and (hopefully) productive period in the idyllic Tasmanian setting to produce new work. During my first week in town, I worked furiously on the beginnings of a new novel, but after 15,000 words I came to a bit of a standstill and so I did what I usually do when that happens: background research. One of the main characters in my new book is in a jail on the outskirts of Perth and I needed to invent for him a plausible, if convoluted, criminal record. So, at the beginning of my second week in town, I set out for Hobart's courts, intending simply to sit and listen.

Nicholas Shakespeare's *In Tasmania* (Knopf, 2004) reminds readers that Tasmania has often been thought to be a kind of boon docks – a place one is transported or exiled to in order to be forgotten by the rest of the world. As I approached the Hobart Magistrates Court along Liverpool Street I noticed, tucked behind the headquarters for Tasmania Police, the gleaming new Hobart Remand Centre, a beautifully frightening multi-storey lock-up in grey steel, without so much as a single window – perhaps this is the real Tasmania?

Sadly, Hobart's prison system – like those in other Australian states – is drastically over-crowded. While I was in town, the state government announced its intention to build a "mini-prison" in the state's north in order

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to take some of the pressure off the bulging Risdon Prison. The inmates in Risdon are assaulting one another, assaulting prison officers, dying from unnatural causes in custody and escaping from jail at rates that far outstrip those of any other state. What goes through a magistrate's mind, I wonder, when he or she faces sending yet another person into such a system? A human response would be to avoid ordering a prison term wherever and whenever possible. But this, of course, defeats the whole purpose of what it means to discipline and to punish.

To enter the Hobart Magistrates Court, you first need to give yourself over to the kind of security interrogation that has become common to all of us in the post-September 11 state. Your bags and pockets are emptied or searched and you are required to pass through an archway-cum-metal detector, at which point your shoes or a watch or some thing similarly benign sets off an alarm and you are personally frisked by a security guard with an expensive magic wand. I find it useful to repeat the silent mantra – "I am innocent" – during this process, though whether this is ever a statement of fact I can't be sure.

It is easily possible to find out who is in court in Hobart on any given day, and which magistrate before whom they are scheduled to appear, although the nature of each case is not for general circulation. All I could tell from the notice board was that there were five courts concurrently in session, and while some had a long list of names on the agenda, others had only a few. I sat in the foyer for a time, unsure about which court to enter. Here I saw half a dozen police in uniform, talking in hushed tones and clearly waiting to be called in as witnesses. They looked cocky, assured, and you got the sense that they felt they were wasting their time. In fact they were: most of them left when somebody came out of Court Five to tell them that the fellow in question had decided to plead guilty. Elsewhere in the foyer there were several lawyers in dark suits making flurried entrances and exits and hauling bundles of paper. There were toddlers, too, rushing up and back along the carpet, ignored as much as possible by their mothers who sat glumly, waiting for news of partners or adult children, or perhaps waiting to be called up to act as surety (again) for a family member about to be released on bail. After a while, I entered Court Four and found a seat in the back row. I stayed there for the best part of two days.

The first case I witnessed involved a man of twenty-two who sat in the section of the court reserved for those in custody. The prosecutor presented the background to the case. The man was accused of stealing \$73.49 worth of baby clothes from Big W, ostensibly for his then six-month old child. The incident took place almost nine months ago when the man and his then-girl-

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friend were observed by store security, who did not apprehend them on the spot. They left the scene in a van, which was later stopped by police. The accused had been bailed initially, but then failed to appear in court. A warrant was issued. He was arrested and bailed a second time, but then failed to appear in court once more – leading to another warrant.

I watched him leaning forward in his chair with his back curved and his head hung low, occasionally whispering under his breath. His lawyer was explaining that he'd been trying to get in contact with the man's father, to provide surety, but there was no one answering the phone. The lawyer also confirmed that the relationship with the girlfriend, who'd since had a second child, had faltered. The accused was shaking his head. Another man, whose name had been suggested by the accused as a possible surety, was – like dad – strangely unreachable. The magistrate had nothing to do but send the man back to the Remand Centre, promising to see him again at the very end the day – perhaps somebody who mattered would have picked up their phone by then. I had a strong feeling that nobody would.

Over the following days, I observed a number of motorists accused of driving under the influence. There were several cases of theft, mainly involving the theft of small items from department stores, and various applications for bail. But on the second day – a Friday – almost the whole day was taken up with issues relating to restraining orders. A man and a woman who owned neighbouring retail businesses were seeking mutual orders. "She's a nutcase," said the man. "She won't leave me or my family alone." "He's got guns," said the woman, "and he's threatened to kill me." A young woman with a small baby took out an order against her brother. When asked by the magistrate whether the man in question had a history of violence, a frail middle-aged woman beside me at the very back of the court, spoke out. "Yes!" she shouted. "Against me. And I'm his mother." Her words were striking if only for the fact that this was the only time that any of us at the back of the court spoke at all. There was a bouncer from a local hotel, who was seeking interim orders against four men, all from the one family. There was a woman who was seeking an order on behalf of her fifteen-year-old daughter: the girl was being bullied and threatened by another girl at the local school bus-stop.

The most disturbing case, I found, was a woman who was seeking to cancel an order she'd already taken out against her husband. The two of them, husband and wife, sat close by me at the back of the court, and the man's hand rarely left his wife's forearm or thigh during the several hours they spent waiting for their case to be dealt with. When the woman's name was finally called, they both went up to the front of the court. They stood

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together, they sat together. The magistrate was – rightly, I think – a little reluctant to cancel the order, which had been granted for a twelve-month period only three months earlier.

“Obviously, there’s been a reconciliation,” said the magistrate to the woman, “and I don’t want to stand in the way of that, but I need to be sure that this is what you want.”

“Yes,” the woman replied, but she didn’t elaborate. There was a silence, into which I cast – undoubtedly a little too willingly – an unflattering back-story about the man. But I was not alone in my musings. The magistrate took away most, but not all, of the conditions of the existing order, but did not cancel it completely, leaving a statement intact to the effect that the man would “keep the peace” in relation to his wife. I felt somewhat reassured by this, but it didn’t stop me from shuddering as the shackled couple left the court.

For all the emotion and drama I witnessed over two working days observing the scores of cases that filed through the Magistrates Court (during which, incidentally, nobody was actually sent to prison), there was one key image that stayed with me. It was a brutal stare, given to me by a woman released on bail for a minor offence. She had a beautiful but angry face, and she sat tall and assured in her seat beside the court officer, having come up from remand. When the magistrate declared her free to go, she fixed her gaze on me angrily as if to say “Who the fuck are you?” My first instinct was to lower my eyes, and I did for a second, but I couldn’t resist the dare she seemed to be giving me, the dare to look back. We locked eyes again, and I swallowed. Clearly, she wanted to tear strips from me. Perhaps she had eyed my pen and paper and my unnatural interest. Her message was blunt: there is no such thing as a neutral observer.

The following Monday, I moved several blocks east of the Magistrates Court to the Supreme Court of Tasmania. Here, in a sprawling sandstone building close to the port, the staff were much more relaxed. There was no security guard on duty at the entrance, and I moved through the metal detector freely. I stood for a little while in the foyer, where a petite woman in her forties was explaining to a cocky plain-clothed policeman (how did I know?) something to the effect that this whole incident had completely destroyed her family. Inside the only court in which a matter was timetabled, I took a seat. After a few minutes, a young man in a beautifully pressed white-collared shirt and grey slacks was shown around the court by one of the lawyers. He was of a small build, his hair clipped close to his scalp, and he wore a slack smile that was impossible to read, but that I guessed simply

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meant he was facing up to difficult circumstances the best way he could.

"I'll be sitting here," the lawyer said, "and you'll sit over there. How are you feeling?" The young man held up his hand and tilted it this way and that. "So-so?" the lawyer asked, and the young man nodded, silent. I wondered about their relationship, and what kind of case this was. After a short while, the two of them left and another young man arrived and presented himself as a witness, asking the court officer where he was supposed to be. The officer showed him out to the foyer.

When the judge arrived, we all stood. There were eleven of us in the court and, apart from two young men in pin-striped suits, I was alone in the public gallery. Soon there would be a dozen more people in the room: a jury of six men and six women was called up and sworn in without any objections from either of the lawyers. Within fifteen minutes of its scheduled start, that case had begun.

The crux of the matter was that the young man with the impeccably ironed shirt, who I shall call Andrew, was accused of having "bottled" another man in the face at a nightclub. The official charge was wounding. The incident took place at three in the morning and several ghoulish photographs of the wounded man sporting a freshly sutured wound were admitted as evidence, along with photographs of a roadway showing blood on the bitumen, a diagram of a nightclub interior and a police statement. When the wounded man himself entered the court to take the witness stand, I could see a neatly healed and very subtle line of scarring that ran in a thin jagged trail from the top left of his forehead down to the very edge of his chin. He was tall and athletically built, twenty-years-old, handsome, confident. The victim had a Middle Eastern name that several in court had trouble pronouncing. I shall call him Hasan. The accused sat quietly, looking smaller than ever.

I wondered about Andrew. As he sat there listening to the trial, he looked serious and sincere. His mouth turned down at the corners and he followed the events in the courtroom intently. There was none of the disinterested, accusative or slightly unnerving body language I'd seen up the road in the Magistrates Court. Andrew was pleading "not guilty" and he was not going to take the witness stand. The only formal declaration he would make to the court was indirect: a statement taken down at the local station ten days after the event was read by the police officer. His legal counsel, who I recognised from Liverpool Street the week before, was brief in his cross-examination of the prosecution's four witnesses. He called no witnesses. During each recount of the incident in the nightclub, I thought about Andrew's mother, who had chosen not to come into the courtroom and was sitting outside in

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the foyer. She sat out there from ten in the morning until well after five in the afternoon, when the jury returned its verdict. She had no newspaper or book, no knitting, no company, and as the case went on, it became clear to all of us that her son was going to jail.

The first witness was Hasan's friend, who told how they had started their night out at a bar in Sandy Bay and had later taken a taxi to the nightclub in Hobart's CBD, which was open late. They had been at the new venue for about an hour, sitting beside each other on a lounge, and talking now and again to some girls they'd just met. According to Hasan's friend, Andrew appeared out of nowhere and struck Hasan on the face. No words were exchanged beforehand. The witness heard a smash of glass and turned to see his friend's face covered in blood. Andrew ran from the scene, and a few moments later Hasan followed him. The witness moved to chase them both, but got into an altercation with someone else at the bottom of the stairs. "Had you been drinking?" "Yes, all of us."

When Hasan took the stand, his story recalled the same events, providing more detail about the moments before the wounding, and the chase. Hasan used the word "paranoid" to describe the accused. Andrew was apparently shuffling about, by the fire exit. He was alone and he looked nervous and, yes, paranoid. The two had exchanged glances but not words. At one point, Hasan said something funny to the girls and everybody laughed. I imagined him there in the nightclub, fashionably well-dressed, confident, good-looking. I could see the girls laughing at his joke. And I could see Andrew too, alone – as he was now, in court – and brooding. It was very plausible. And then the smash, the broken glass, the blood, seemingly from nowhere. When Hasan took chase, he followed Andrew down the stairs and out on to the street.

"Which way did you turn when you got to the street?" asked the lawyer for the prosecution.

"Right."

"So, you were running, and how far ahead was he?"

"Not far."

"How far is not far, can you give us an idea?"

"About from here to the other side of the court room."

"Were you gaining on him?"

"Yes," said Hasan. "He was slowing down and ..."

"... then I stopped!" The voice came from my right. It was Andrew.

"Ssshhh!" said his lawyer, immediately, waving his hands. "Ssshh!"

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There was a moment of silence while people took in the full implications of Andrew's interruption.

"I'll just say to the accused: you'll get your chance to tell your version later," said the judge.

Andrew nodded, embarrassed. But he didn't tell his own version later. His lawyer had advised him to exercise his right to silence. That short outburst, those three small words, was all we heard from him throughout the trial.

Meanwhile, Hasan's story continued. He caught up with the accused. He tackled him, knocked him down on to the street, and started laying into him with his feet. He kicked him in the head and chest, repeatedly. A car stopped. A police officer arrived. End of story.

The third witness confirmed that he was not known to either party and that he recognised them both from the night of the incident. He'd been sitting in a lounge at the same nightclub, having a few drinks with his girlfriend after finishing work as a barman in a nearby hotel. Out of the corner of his eye, he saw one man move quickly across the room. He heard a smash of glass, he saw blood. He was sitting close enough to get glass in his lap. He watched Andrew flee and Hasan give chase. Afterwards he went in search of the bouncer and stayed to help clean up the mess.

The fourth witness was the police officer who'd separated the two men on the street and who'd later taken statements from them both. He was the man I'd seen consoling Andrew's mother in the foyer. When he arrived on the scene, it seemed that Andrew was the one who had been wronged. He saw one man standing and another down on the ground. There was a lot of blood. Hasan was kicking Andrew in the head and chest. The officer separated the two and directed Hasan to wait on the footpath while he tended to Andrew as he lay in the gutter. But while they waited for an ambulance to arrive, Hasan took off. At this point it is revealed that charges have been laid against Hasan for his assault of Andrew out on the street. "But that's a different matter," said the lawyer for the prosecution.

The most interesting thing to me about the police officer's testimony was the statement he read, taken from Andrew ten days after the event. It soon became clear that there were matters in this case that were not being disputed. The statement confirmed that Andrew was at the nightclub at the time of the incident, that he was on his own, and that he'd had a lot to drink. It confirmed that Hasan had chased him out on to the street. But of "bottling" Hasan in the face? "I don't recall," the officer read. Here, even in the statement he gave to police, Andrew was relying on empty language, on another kind of silence.

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I tried to imagine myself in Andrew's shoes, deeply drunk and shifting towards a moment of humiliation that gives way to anger – or worse, despair. It had already been announced to the court that Andrew, nineteen, was unemployed. He was not a handsome man, either – not like Hasan. Judging by his body language, he also lacked self-esteem. Where did the move toward violence originate, I wondered. Was it when the girls giggled at Hasan's joke? Imagining myself in Andrew's body, this is when it happens. It is as fragile as single glance, a spark of cruelty via mirth.

And had he really forgotten? Of course it was plausible. We all forget this and remember that after too much to drink. I was reminded, too, of something Hasan's friend had said, something about Andrew just standing there after he'd brought the bottle down on Hasan's face. He'd described a moment in which the accused seemed shocked at what had just happened. And only after it sank in did he start to run. Even without alcohol, it's possible to forget something you can't admit to yourself, a wilful act – especially if it's horrific. Could Andrew be suffering a kind of post-traumatic memory loss? Or was he just afraid to admit to what he'd done?

Then there was that carefully chosen word – “paranoid” – which the lawyer for the prosecution would repeat in her summing up of the case. I wondered whether Hasan, at 20, knew the strength of that word – everything it suggested – and I thought again of my own friend, the schizophrenic. Was it normal to be out drinking at 3am without any friends? Would it be normal, if you were on your own, to think that the smart arse over on the lounge, the one who's more handsome than you and has the attention of all the girls, is saying something about you, making a joke at your expense – especially when he makes the girls laugh and you're left hovering in the corner near the fire exit, and he's just glanced at you, right?

The *Macquarie Dictionary* lists two meanings for “paranoid”: “1. pertaining to or affected by paranoia. 2. Colloq. emotionally hypersensitive”. Which meaning was Hasan suggesting in relation to the accused – the clinical or the colloquial? And this is where Andrew's silence becomes a risk, a liability. There's something abnormal about hitting a guy you don't know in the face with an empty beer stubbie, unprovoked. Two of the witnesses had demonstrated the hand-action involved. It required force, a fierce over-arm strike. I was cautious about the word “paranoid”, and I was annoyed that the mere suggestion of mental illness could do so much for the case for the prosecution. How easily that one word instils fear, perhaps completely discrediting an otherwise ordinary young man. How could we know how sane or otherwise Andrew was if he wasn't willing to speak? And if he were clinically paranoid, where would that leave his culpability?

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Something else was bothering me too: where did race figure in all this? Andrew was a Caucasian man; Hasan was not, nor was Hasan's friend. In this case in Tasmania, six months prior to the events at Cronulla, were the underlying tensions race-related? If so, nobody was mentioning it. And I was not in the least surprised about this particular silence. This is the kind of issue that's very normal for people to be silent about in Australia, especially in a formal setting such as a court room. How would the jury react, I wondered? Would they mention the word "race" behind closed doors? I would never know. If this case was really about two "young lions" and an "Aussie", no one was willing to admit it.

It was mid-afternoon. Andrew sat perfectly still. He looked no different now than he had that morning when he'd first entered the court. I remembered the hand gesture he had given the lawyer who asked him how he was feeling: "So-so." Apart from an accidental fracture – three words – he had been silent all day.

The case was drawing to a close. The two lawyers each summed up their arguments and the judge counselled the jury. Earlier in the day, the issue of self-defence had been mentioned. It was now made clear to the jury that self-defence was not an issue they needed to consider. It was also made clear that Andrew was completely within his rights to remain silent before the court. The jurors were not to invent reasons for his silence, nor to question it. They had simply to go on the facts of the case that had been presented. When the twelve jurors filed out and Andrew retired to another room with his lawyer, the court staff placed bets on the length of time it would take the jury to come down with the verdict.

"Ten minutes," said the security guard.

"Fifteen," said the magistrate's assistant.

They were both wrong.

It took two hours, and even then the jury was not unanimous. Ten of the twelve found him guilty. But what was going on in the heads of the other two, I wondered. Did they detect that set up about madness and dispute it? Or was it that they didn't trust Hasan and his friend, the pair of lions? No explanation was given: ten was sufficient to put Andrew away.

The judge granted bail and set a date a month later for sentencing. As I left the court, I said goodbye to the security guard with whom I'd been chatting. We joked about his lost bet and I was still smiling about it as I passed Andrew's mother in the foyer. She was standing up now, waiting to hear the news. I suspect my smile turned into a look of pity, and I felt the shadow of

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a wall between us as she met my gaze placidly, sincerely. I was reminded of the stare I'd been given by the woman in the Magistrates Court and I suddenly regretted my presence there, my interest in the case. Who was I? Andrew's mother craned her neck to see if her family's lawyer was in sight somewhere behind me. I was conscious for a moment that I already knew the verdict and that she did not, and part of me wanted to stop and speak to her. Instead, I looked away and walked on; I didn't know how to begin.

Outside, the cold winter air on Salamanca Place forced me to pull up my collar. Here I was reminded of my old friend and her impossible travel guide. In the ten days or so I'd been in Hobart, I'd been picking up all sorts of glossy tourist brochures about trips to Port Arthur and the like. So far, I hadn't taken any. And now I felt as if I had just travelled the state vicariously from the back rows of the local courts. There was nothing more to see.

As I continued along the footpath, I couldn't bring myself to think about simple things like what I was going to eat for dinner or whether I would walk straight down the block or turn right at the next corner. I was suddenly very unsure about everything. I felt completely disoriented.

The image I couldn't get out of my head was this: the beer bottle – that gleaming brown glass appearing from nowhere and about to shatter against the skin of a young man's face. The glass shards themselves are beautiful, in my mind's eye, glistening and almost liquid, just before they turn into blades. Here is a single, frivolous action: from it will come the wounding, then the retaliation, and then the police, the court room, the mother in the foyer, me, the armed guard, the jury ... all the way to an overcrowded cell at Risdon. But right now, I'm locked on this image of the action. How did it come to be, this raised hand, this sinister magic bound up in the moment before impact? What was it born of?

"Andrew!" I wanted to call out to him, even to grab hold of him, like a mother might. "You didn't mean to do it, did you?"

(Silence.)

For references, see the Productivity Commission's Report on Corrective Services for 2003–04.

Julienne van Loon teaches creative writing at Curtin University, and was the winner of *The Australian/Vogel Prize* 2004 for her novel, *Road Story* (Allen & Unwin 2005).
