ALBERT BOROWITZ

Whether Alice Crimmins was guilty of the crimes for which she stood trial remains an open question. As Ann Jones and other feminist scholars have pointed out, she may have been convicted more for her free-wheeling sexual behavior than for the conflicting evidence against her. This judicious account of the case is by Albert Borowitz (b. 1930), a life-long aficionado of crime literature who began producing his own articles on the subject while practicing corporate law in the Midwest. Following his retirement in 1995, he created a major reference work, *Blood & Ink: The International Guide to Fact-Based Crime Literature*, published in 2002 by Kent State University, which also houses his extensive collection of crime books and memorabilia. In his various essays, Borowitz often focuses on the relationship between artists and crime. As he told an interviewer for *Legal Studies Forum*: "I study with particular interest writers, intellectuals, musicians, and artists who have directly confronted crime in their own lives or were inspired by actual criminal cases to create significant works of the imagination." While the Alice Crimmins case has not generated any literary masterpieces on the order of Dreiser's *An American Tragedy*, it did serve as the basis for the 1975 thriller *Where Are the Children?*, the book that launched the career of best-selling mystery writer Mary Higgins Clark. The playwright John Guare, best known as the author of *Six Degrees of Separation* and *The House of Blue Leaves*, also drew on the Crimmins case for his 1977 black comedy *Landscape of the Body*.

The Medea of Kew Gardens Hills

On the morning of 14 July 1965, Eddie Crimmins received a telephone call from his estranged wife Alice, accusing him of having taken the children. When she had opened their bedroom door, which she kept locked by a hook-and-eye on the outside, she had seen that the beds had been slept in but Eddie Jr, aged five, and his four-year-old sister Alice (nicknamed Missy) were gone. The casement window was

cranked open about 75 degrees; Alice remembered having closed it the night before because there was a hole in the screen and she wanted to keep the bugs out. The screen was later found outside, leaning against the wall beneath the window, and nearby was a 'porter's stroller'—a converted baby-carriage with a box on it.

Alice's husband, an aeroplane mechanic who worked nights, protested that he knew nothing of the children's whereabouts and, alarmed by the message, said he would come right over to see her. Alice and the children lived in a dispiriting redbrick apartment complex flatteringly named Regal Gardens, located near the campus of Queens College in the Kew Gardens Hills section of the New York City borough of Queens. Shortly after joining his wife, Eddie called the police, and the first contingent of patrolmen were on the scene in a matter of minutes. By 11 a.m. precinct cars were parked all around the grassy mall adjoining Alice's apartment building at 150–22 72nd Drive.

Jerry Piering, who was the first detective to arrive, quickly made the case his own. Hoping for a promotion to second grade on the Queens' detective command, he immediately sensed that he had stepped into an important investigation. It took only one glance at Alice for him to decide that she did not look the picture of the anxious mother, this striking redhead in her twenties, with thick make-up, hip-hugging toreador slacks, flowered blouse and white high-heeled shoes. Patrolman Michael Clifford had already filled Piering in on the background—the Crimminses were separated and in the middle of a custody fight, but the role that the vanished children might have played in their skirmishing was still obscure.

The first fruits of Piering's look around the premises confirmed the unfavourable impression Alice had made. In the garbage cans there were about a dozen empty liquor bottles that Alice later attributed to good housekeeping rather than over-indulgence, explaining that she had been cleaning the apartment in anticipation of an inspection visit from a city agency in connection with the custody suit. Still more revealing to Piering was a proverbial 'little black book' that Alice had dropped outside; the men listed outnumbered women four to one.

While Piering was making his rounds, Detective George Martin found trophies of Alice's active social life in a pastel-coloured overnight bag stowed under her bed. The greetings and dinner programmes that filled the bag documented her relationship with Anthony (Tony) Grace, a fifty-two-year-old highway contractor with ties to important Democratic politicians. Alice's souvenirs showed that Tony Grace had introduced her to such party stalwarts as Mayor Robert Wagner and Senator Robert Kennedy; messages from Grace and important city officials addressed her as 'Rusty'.

Piering took Alice into her bedroom and questioned her about her activities on 13 July. Between 2.30 and 4.30 in the afternoon she and the children had picnicked in Kissena Park, six blocks from the apartment. They came home after stopping to pick up some food for dinner; at Sever's delicatessen in the neighbourhood she had bought a package of frozen veal, a can of string beans and a bottle of soda. When she arrived home she called her attorney, Michael LaPenna (recommended to her by Grace), to discuss the custody case which was scheduled for a hearing in a week. She was concerned about a former maid, Evelyn Linder Atkins, who claimed that Alice owed her $600 and, according to Alice, had hinted that if she were paid she would not testify against her in the proceedings. Evelyn had a worrisome story to tell the judge if she decided to do so, for Alice had without warning abandoned the children one weekend while she took a boat trip to the Bahamas with Tony Grace and his friends. Alice told Piering that it was not her fault; she had thought she was aboard only for a *bon voyage* party but the men had playfully locked her and a girlfriend in a washroom and carried them off to sea. Perhaps LaPenna shared her concern about the maid, because the lawyer did not seem as optimistic about her chances of retaining custody as he usually did.

After dinner, Alice took the children for a ride in the direction of Main Street, wanting to find out the location of a furnished apartment to which her husband had recently moved. Knowing that Eddie had planted a crude 'bug' on her telephone, she was hoping to retaliate by

finding him to be living with a woman. She drove around for more than an hour until it was almost dark and then gave up the search.

Upon returning home, Alice prepared the children for bed about 9 p.m. (Theresa Costello, aged fourteen, Alice's former babysitter, later told the police that it was at this very moment that, passing below the bedroom window on her way to a babysitting job, she heard the Crimmins children saying their prayers.) Alice brought a replacement screen from her room to the children's bedroom but noticed that it had been fouled by her dog, Brandy. She therefore reset the children's punctured screen in the window without bothering to bolt it into place. Mindful of the coming agency visit, she disposed of wine and liquor bottles and made a pile of old clothing; by 10.30 p.m. she was tired, and collapsed on the living-room couch to watch *The Defenders* on TV. The programme did not make her forget that Tony Grace had not returned the call she had made earlier in the day. She reached him at a Bronx bar and to her jealous questions he responded that he was alone. After she hung up, Alice received a call from a man Grace had apparently replaced in her favour, a house renovator named Joe Rorech. Alice had met Rorech in January 1964 when she was working as a cocktail waitress at the Bourbon House in Syosset, Long Island. After Eddie had moved out of the Crimmins apartment, another Bourbon House waitress, Anita ('Tiger') Ellis, had come to live with Alice. For a while they had shared the favours of Joe Rorech, but 'Tiger' had soon moved on to new attachments. In their conversation last night, Joe Rorech asked Alice to join him at a bar in Huntington, Long Island, but she evaded the invitation, pleading the unavailability of a babysitter.

After talking to Joe, Alice returned to her television set. At midnight she took little Eddie to the bathroom but could not wake Missy; she thought she had re-latched the bedroom door. (The door was kept locked, she explained, to keep Eddie from raiding the refrigerator.) Afterwards, Alice took the dog Brandy for a walk, then sat on the front stoop for a while. She told Piering that she may not have bolted the front door at

the time. When at last she was getting ready for bed, her husband called and angered her by repeating the maid's claim that Alice owed her money. Alice calmed down by taking the dog out again and, after a bath, went to sleep between 3.30 and 4 a.m.

Alice and Eddie, childhood sweethearts, had been married seven years. They were reasonably happy for a while but, soon after the birth of their son, they quarrelled frequently about Eddie's staying out late working or drinking with friends. After Missy was born, Alice decided to have no more children and Eddie, brought up a good Catholic (as was she) never forgave her after he found birth control devices in her purse. Their relationship went from bad to worse until, on 22 June 1965, he went to the Family Court to seek custody of the two children. By then, the couple were already separated, the children living on with Alice at the Regal Gardens. The custody petition charged that, immediately after the separation, Alice 'began to indulge herself openly and brazenly in sex as she had done furtively before the separation'. It was further detailed in the petition that Alice 'entertains, one at a time, a stream of men sharing herself and her bedroom, until she and her paramour of the evening are completely spent. The following morning, the children awake to see a strange man in the house.'

Combining a high degree of jealousy with a flair for the technology of snooping, Eddie had devoted many of his leisure hours to surveillance of her relations with men. He had much to observe, for when Alice gave up her secretarial work to become a waitress at a series of Long Island restaurants and bars, her opportunities for male acquaintance multiplied. To keep his compulsive watch, Eddie bugged her telephone and installed a microphone in her bedroom which he could monitor from a listening-post he had established in the basement below. Once he had burst in on Alice and a usually overdressed waiter named Carl Andrade, who had fled naked out of the window to his car.

Eddie liked to think that the purpose of his spying was to gather evidence for the custody case, but he ultimately admitted that he had often invaded Alice's apartment when she was out just to be near her

'personal things'. During their separation, so Alice said, Eddie told her that he had exposed himself to little girls in a park, but Alice disbelieved him, thinking that he was trying to play on her sympathy for his loneliness and distress.

Eddie's preoccupation with his wife's love life dominated his activities on 13 July, as he recounted them to the police. At 7 a.m. he had played a poor round of golf at a public course at Bethpage in Nassau County. Afterwards he drank three beers in the clubhouse with a friend and watched the New York Mets baseball game on television, leaving around 2 p.m. before the game ended. He then drove to Huntington to see whether Alice was visiting Joe Rorech but was disappointed to find no sign of her four-year-old Mercury convertible there. He arrived home at 5 p.m. and spent the evening watching television. Then, about 11 p.m., he drove along Union Turnpike to a small fast food stand near St John's University, bought a pizza and a large bottle of Pepsi Cola, and returned home. Alice, though, was still very much on his mind. After driving back to the Union Turnpike and drinking gin and tonic at a bar until 2.45 a.m., he drove into the parking lot behind his wife's bedroom window; he thought he saw a light there and in her living-room. He went home and called up Alice to talk about the maid. When Alice hung up, he watched a movie on television, read briefly and fell asleep by 4 a.m. A detective who checked out Eddie's story found that the movie he claimed to have seen on the CBS channel had actually been on much earlier.

In addition to questioning Alice, Jerry Piering, a fledgling in his job, directed the police inspection and photographing of the apartment, apparently with more enthusiasm than expertise. Piering later claimed that when he first came into the children's room, he observed a thin layer of dust on the bureau-top, which in his mind eliminated the possibility that the children had left the room through the window since they would have had to cross over the bureau. However, technicians had covered the top of the bureau with powder for detecting fingerprints before the bureau could be photographed in its original condition. It was Piering's further recollection that when he had moved a

lamp on the bureau, it had left a circle in the layer of dust. This story was later disputed by Alice's brother, John Burke, and others, who agreed that the lamp on the bureau had tripod legs. Also, many people had come into the room before Piering arrived; Eddie Crimmins had leaned out of the window to look for the missing children, and, of course, Alice on the previous evening had removed and replaced the screen; it seemed unlikely that Piering's dust-film would have remained undisturbed amid all this activity. In any event, neither the layer of dust nor the impression left by the lamp base was noted in Piering's first reports.

In the early afternoon of 14 July 1965, the Crimmins case was transformed from mysterious disappearance into homicide. A nine-year-old boy, Jay Silverman, found Missy's body in an open lot on 162nd Street, about eight blocks from the Regal Gardens. A pyjama-top, knotted into two ligatures, was loosely tied around her bruised neck. An autopsy, performed with the participation of Dr Milton Helpern, New York City's distinguished Chief Medical Examiner, found no evidence of sexual assault; haemorrhages in the mucous membranes in the throat and vocal cords confirmed that Missy had been asphyxiated. The contents of the stomach were sent to an expert, who reported finding, among other things, a macaroni-like substance. This discovery rang a bell with Detective Piering, who recalled that on the morning of 14 July he had seen in Alice's trash can a package that had held frozen manicotti and had also noticed a plate of leftover manicotti in her refrigerator. However, none of this evidence had been preserved—nor had Piering's discoveries been referred to in his contemporaneous reports.

Following the discovery of Missy's body, the search for young Eddie intensified. A false alarm was raised in Cunningham Park when what looked like a blond-headed body turned out to be a discarded doll. On Monday morning, 19 July, Vernon Warnecke and his son, walking together to look at a treehouse used by the children in the neighbourhood, found Eddie Crimmins on an embankment overlooking the Van Wyck Expressway. The boy's body was eaten away by rats and in-

sects and in an advanced state of decay. The site was about a mile from Alice Crimmins's apartment and close to the grounds of the New York World's Fair that was then in progress.

After the children were buried, Alice and her husband, reunited by their tragedy, faced a relentless police investigation which explored many trails, always only to return to Alice. Detectives pursued reports of strange intruders in the Crimmins neighbourhood, including a so-called 'pants burglar' who broke into homes only to steal men's trousers. A closer look was taken at the boyfriends whose names filled Alice's black book. Anthony Grace admitted in a second interview that he had lied when he told the police he had never left the Bronx on the night of 13/14 July. He now stated that he had driven over the Whitestone Bridge to a restaurant called Ripples on the Water with a group of 'bowling girls', young married women who partied around town under the pretext that they were going bowling. Grace maintained that he had stayed away from Alice during the period of the custody battle and had not seen her much recently. She had called him several times on 13 July but he was preoccupied with business and had taken his wife to dinner without remembering to call Alice back. At 11 p.m. she phoned him again at the Capri Bar, telling him that she wanted to join him for a drink. He had put her off by telling her that he was about to leave and had denied her well-founded suspicion that he was with the bowling girls.

Joe Rorech told Detective Phil Brady that he had called Alice twice on the night of the disappearance, first after 10 p.m., when she declined his invitation to the Bourbon House bar, and then at 2 a.m., when there had been no answer. Rorech had been drinking all night and admitted he might have misdialled the number. On 6 December 1965 the police administered the first of two sodium pentothal 'truth tests' to Rorech. Satisfied with the results, and finding Rorech's self-confidence weakened by business reverses, they conscripted him as a spy. Joe took Alice to motel rooms where recorders had been planted, but their conversations contained nothing of interest.

At first Eddie Crimmins had been more inclined to cooperate with

the police than Alice. He submitted to a session with the lie detector, and persuaded Alice to take the test. However, after she agreed and the preliminary questions were completed, she refused to continue. With the exception of Detective Brady, the police now decided to forget about Eddie and concentrate on Alice. Before the Crimminses moved into a new three-room apartment in Queens to avoid the eyes of their unwanted public, the police, succeeding to the role long played by Alice's jealous husband, planted ultrasensitive microphones and tapped the telephone wires. Detectives monitored the apartment around the clock from the third floor pharmacy of a neighbouring hospital, but could not pick up a single incriminating statement. Their failure was not remarkable since Alice seemed well aware of the police presence, beginning many of her conversations, 'Drop dead, you guys!' Unable to overhear a confession, the secret listeners were tuned into the sounds of Alice's sexual encounters, which resumed shortly after she took up her new residence. As their high-tech recording devices picked up Alice's cries of physical need, her pursuers became more certain of her guilt, convinced as they were that grief for the dead children would demand an adjournment of the flesh.

According to reporter Kenneth Gross, who has written the principal account of the case, police investigators vented their hostility against Alice by interfering with the love affairs that they were recording so assiduously. When the tireless eavesdroppers overheard Joe Rorech and Alice making love, they informed Eddie Crimmins, who promptly called and was assured by Alice that she was alone. The police, hoping for a confrontation between lover and outraged husband, flattened Rorech's tyres, but he managed to have his car towed safely out of the neighbourhood before Eddie got home. When Alice moved out of the apartment to live with an Atlanta man for whom she was working as a secretary, the police thoughtfully advised the man's wife, and when she came to New York, helped her destroy Alice's clothing. Undaunted by this harassment, Alice reappeared in her familiar nightspots, now as a customer instead of cocktail waitress.

The investigation dragged on for a year and a half without result,

and meanwhile there was a growing public clamour for action. At this point New York politics intervened to step up the pace of events: Nat Hentel, an interim Republican appointment as Queens District Attorney, was soundly defeated for re-election and decided to convene a grand jury before his term of office expired. The grand jury failed to return an indictment, and a second grand jury impanelled under Hentel's Democratic successor 'Tough Tommy' Mackell also disbanded without indictment in May of the following year. Then, on 1 September 1967, Assistant District Attorney James Mosley went before still another grand jury to present the testimony of a 'mystery witness', who was soon identified as Sophie Earomirski.

Sophie's original entrance into the case had been anonymous. On 30 November 1966, she had written to then District Attorney Hentel telling him how happy she was to read that he was bringing the Crimmins case to a grand jury. She reported an 'incident' she had witnessed while looking out of her living-room window on the early morning of 14 July 1965. Shortly after 2 a.m., a man and woman came walking down the street towards 72nd Road in Queens. The woman, who was lagging about five feet behind the man, was holding what appeared to be a bundle of blankets shining white under her left arm, and with her right hand led a little boy walking at her side. The man shouted at her to hurry up and she told him 'to be quiet or someone will see us'. The man took the blanket-like white bundle and heaved it onto the back seat of the nondescript automobile. The woman picked up the little boy and sat with him on the back seat; she had dark hair, and her companion was tall, not heavy, with dark hair and a large nose. Sophie apologised for signing merely as 'A Reader'.

Shortly after he was entrusted with the Crimmins case by Mackell, Mosley came across Sophie's letter, and the hunt for her began. The police obtained samples of the handwriting of tenants living in garden apartments from which the scene described in the letter could have been viewed, and they identified Sophie, who recognised Alice's photograph as resembling the woman she had seen. Sophie's testimony before the third grand jury was decisive, and Queens County finally

had its long-coveted indictment, charging Alice Crimmins with the murder of Missy. The prosecution had persuaded the grand jury that there was reasonable cause to believe that the bundle of blankets Sophie had seen contained the little girl's dead body.

On 9 May 1968, the trial began in the ground floor courtroom of the Queens County Criminal Court Building amid widely varying perceptions of the defendant. To the sensationalist press, Alice was a 'modern-day Medea' who had sacrificed her children to a deadly hatred for her husband, and the pulp magazine *Front Page Detective*, invoking another witch from antiquity, called her an 'erring wife, a Circe, an amoral woman whose many affairs appeared symptomatic of America's Sex Revolution'. A group of radical feminists offered to identify Alice's cause with their own, but she declined their help. Between these two wings of public opinion there was a dominant vision of Alice as a manhunting cocktail waitress, and her longer years as housewife, mother and secretary receded into the background.

The prosecution case was presented for the most part by James Mosley's aspiring young assistant, Anthony Lombardino, but Mosley himself scored the first important point while questioning Dr Milton Helpern. The forensic expert testified that the discovery of as much food as was found in Missy's stomach was consistent with a post-ingestion period of less than two hours. If Helpern was right, then assuming that Alice had been the last to feed the children, she could not have seen them alive at midnight, as she claimed.

Lombardino insisted that the prize job of examining the prosecution's star witness was his—his alone. Since the police had first enlisted Joe Rorech's aid, Joe's difficulties had continued to mount; his marriage was in trouble and he had been upset by a brief period of arrest as a material witness. In his testimony he made it plain that he had lost any vestige of loyalty to his former mistress.

The defence, led by Harold Harrison, was unmoved when Rorech indirectly quoted Alice, 'She did not want Eddie to have the children. She would rather see the children dead than Eddie have them.' Harrison had not heard this before, but he did not regard the statement as

damaging; surely the jury would understand that it was just the kind of thing that a divorcing spouse was likely to say in the heat of a custody battle. Rorech, though, had something more to disclose that would change the course of the trial. Though the police had learned nothing incriminating from electronic eavesdropping, Joe testified to a long conversation with Alice at a motel in Nassau County. After weeping inconsolably, she had said again and again that the children 'will understand, they know it was for the best'. At last she had added, 'Joseph, please forgive me, I killed her.'

Stung by the witness's words, Alice jumped out of her chair and banged her fists on the defence table, crying, 'Joseph! How could you do this? This is not true! Joseph . . . you, of all people! Oh, my God!' Harrison was unable to follow Alice's outburst with telling cross-examination for he had no effective means of rebutting Rorech's quotes. In fact, he may have been preoccupied by a dilemma of his own: the next morning he went before judge Peter Farrell and unsuccessfully sought to withdraw from the case on the grounds that prior to the trial he had represented Joe Rorech as well as Alice, to whom Joe had introduced him.

After Rorech's damning testimony, the appearance of Sophie Earomirski, The Woman in the Window, came as an anticlimax. Sophie elaborated the scene she had recalled in her anonymous letter by adding a pregnant dog. She told the jury that the woman had responded to her male companion's order to hurry by explaining that she was waiting for the dog. She had said, 'The dog is pregnant,' and the man had grumbled, 'Did you have to bring it?' In fact, Brandy *was* pregnant that night, but several witnesses swore that nobody had recognised the pregnancy—that when the dog produced a single puppy the week after the killing, Alice and the neighbours were surprised.

The defence tried to destroy Sophie's credibility, but the scope of the attack was narrowly limited by Judge Farrell. The judge excluded an affidavit of Dr Louis Berg to the effect that a head injury suffered by Mrs Earomirski at the World's Fair had resulted in 'permanent brain damage'. Defence lawyer Marty Baron questioned her about two

suicide attempts, but to no avail: the courtroom spectators cheered her recital that she had placed her head in an oven to see how dinner was coming along. A press photograph records Sophie's exit from the courthouse, her hand raised in triumph like a triumphant boxer, still champion, on whom the challenger could not lay a glove.

The principal strategy of the defence was to put Alice on the stand to deny the murder charge and to show that she was not made of granite, as portrayed by certain sections of the media. When Baron's questioning turned to the children, Alice began to tremble and whispered to Judge Farrell that she could not continue. Farrell declared a recess. When the trial resumed, Alice concluded her testimony with a strong denial of Rorech's account of her confession.

The decision to permit Alice to testify gave prosecutor Lombardino the opportunity he had been waiting for: to question her closely about her love life. All the most titillating incidents were brought out: the night Eddie had caught her in bed with the amorous waiter Carl Andrade, an afternoon tryst with a buyer at the World's Fair, a 1964 cruise with Tony Grace to the Democratic National Convention in Atlantic City, and nude swimming at Joe Rorech's home when, Lombardino was careful to stress, the children were dead. To reporter Kenneth Gross it seemed that Lombardino had torn away the last shred of Alice's dignity when he enquired whether she remembered making love with her children's barber in the back of a car behind the barbershop; Alice admitted having had ten dates with the barber, but, straining at a gnat, couldn't recall the incident in the car. Lombardino continued the catalogue of Alice's conquests with obvious relish until the judge ordered him to conclude.

The trial ended after thirteen days on Monday 27 May, and early the next morning the jury returned a verdict of guilty of manslaughter in the first degree; one of the jurors said that a large majority had voted for conviction on the first ballot, but that he had doubts about the proof and did not regard her as a danger to society. At her sentencing hearing, Alice protested her innocence and angrily told Judge Farrell, 'You don't care who killed my children, you want to close your books.

You don't give a damn who killed my kids.' The judge sentenced her to be confined in the New York State prison for women at Westfield State Farms, Bedford Hills, New York, for a term of not less than five nor more than twenty years.

Alice's conviction was far from the last chapter of the case. In December 1969 the Appellate Division of the New York Supreme Court, an intermediate appeals court, ordered a new trial because three of the jurors had secretly visited the scene of Sophie Earomirski's identification of Alice. One of the jurors had made his visit alone at about two in the morning, hoping to verify what Sophie could have seen at that hour. The court reasoned that 'the net effect of the jurors' visits was that they made themselves secret, untested witnesses not subject to any cross-examination'. The State's highest court, the Court of Appeals, agreed, ruling in April 1970 that the unauthorised visits were inherently prejudicial to the defendant, and adding, in a significant aside, that the evidence of guilt 'was not so overwhelming that we can say, as a matter of law, that the error could not have influenced the verdict'. The Court noted that only two witnesses, Sophie Earomirski and Joe Rorech, had directly implicated Alice, and that Rorech's testimony 'was seriously challenged, and the witness was subjected to searching cross-examination'.

When the case was retried in 1971, a change in counsel and the presiding judge and the cooling of community passions resulted in a more restrained courtroom atmosphere. Gone from the prosecution team was Tony Lombardino, replaced by Thomas Demakos, the experienced chief of the District Attorney's trial bureau. The judge to whom the second trial was assigned, George Balbach, planted court attendants in the courtroom and adjacent corridors to assure better order. Perhaps the most significant change was at the defence table, where Herbert Lyon, a leader of the Queens trial bar, now sat in the first chair. Lyon had devised a more conservative defence plan, intended to place greater stress on Alice's grief and loss, and to keep her off the witness stand so that the prejudicial parade of her love affairs could not be repeated.

The stakes had been raised in the second trial, which began on Monday, 15 March 1971. As Alice's first jury had found her guilty of manslaughter in the death of Missy, principles of double jeopardy prohibited her from being charged with a greater offence against her daughter, but the prosecution had compensated for that limitation by obtaining an additional indictment for the murder of young Eddie. Though the state of his remains ruled out proof of cause of death, Demakos offered the evidence of Dr Milton Helpern that murder could be 'inferred' because of the circumstances of his sister's death. Joe Rorech, obliging as ever, adapted his testimony to the new prosecution design; according to his revised story, Alice had told him that she had killed Missy and 'consented' to the murder of her son.

The presentation of defence evidence was already in progress when Demakos, over vigorous objection by Lyon, was permitted to bring a surprise witness to the stand. Mrs Tina DeVita, a resident of the Kew Gardens Hills development at the time of the crime, testified that on the night of 13/14 July, while driving home with her husband, she had looked out of the driver's window from the passenger's side and seen 'people walking, a man carrying a bundle, a woman, a dog, and a boy'. The angry Lyon could not shake Mrs DeVita's story but did much to neutralise its impact by introducing an unheralded witness of his own, Marvin Weinstein, a young salesman from Massapequa, Long Island. Weinstein swore that on the morning of 14 July he, together with his wife, son and daughter, had passed below Sophie Earomirski's window on the way to his car; he had carried his daughter under his arm 'like a sack' and they were accompanied by their dog—who might well have looked pregnant for she had long ago lost her figure. As a final jab at the State's case, Lyon called Vincent Colabella, a jailed gangster who had reportedly admitted to a fellow prisoner that he had been Eddie's executioner, only to deny that report when questioned by the police. On the stand Colabella chuckled as he disowned any knowledge of the crime; he said that he had never seen Alice Crimmins before.

In his closing argument, Lyon cited Sophie Earomirski's testimony that she had been led to tell her story by the voices of the children

crying from the grave; if they were crying, Alice's defence lawyer suggested, they were saying, 'Let my mother go; you have had her long enough!' Demakos had harsher words, reminding the jury of Alice's failure to take the stand, 'She doesn't have the courage to stand up here and tell the world she killed her daughter.' Alice interrupted to protest, 'Because I didn't!' but the prosecutor went on without being put off his stroke, 'And the shame and pity of it is that this little boy had to die too.'

The jury deliberations began after lunch on Thursday 23 April and ended at 5.45 p.m. on the following day. Alice was found guilty of murder in the first degree in the death of her son and of manslaughter in the strangling of Missy.

On 13 May 1971 Alice Crimmins was remanded to Bedford Hills prison, and there she stayed for two years while her lawyers continued the battle for her freedom in the appellate courts. In May 1973 the Appellate Division ruled for a second time in her favour. The court threw out the murder conviction on the grounds that the State had not proved beyond reasonable doubt that young Eddie's death had resulted from a criminal act. With respect to the manslaughter count relating to Missy, the court ordered a new trial on the basis of a number of errors and improprieties, including the prosecutor's comment that Alice lacked the courage to admit the killing of Missy: this argument amounted to an improper assertion that the prosecutor knew her to be guilty and, in addition, was an improper attack on her refusal to testify. Alice was freed from prison following this ruling, but the rejoicing in her camp was premature. The tortuous path of the judicial proceedings had two more dangerous corners.

The first setback was suffered when the Court of Appeals in February 1975 announced its final decision in the appeals relating to the verdicts in the second trial. The court sustained the decision of the Appellate Division only in part: it agreed with the dismissal of the murder charge but reversed the grant of a new trial in the manslaughter conviction for the killing of Missy, returning that issue to the Appellate Division for reconsideration. Explaining the latter ruling, the Court of

Appeals conceded that Demakos's comment on Alice's refusal to testify violated her constitutional privilege against self-incrimination. However, in seeming contradiction of its sceptical view of the prosecution case in the first trial, the court decided that the constitutional error was harmless in view of the weighty evidence of Alice's guilt.

The Appellate Division confirmed the manslaughter conviction in May 1975, and Alice was once again sent back to prison to continue serving her sentence of from five to twenty years. Persevering in his efforts for her vindication, Lyon still had one card to play, an appeal from the denial of his motion for retrial, based on newly discovered evidence. A would-be witness, an electronics scientist named F. Sutherland Macklem, had given the defence an affidavit to the effect that, shortly after one o'clock on the morning of 14 July 1965, he had picked up two small children, a boy and a girl, hitchhiking in Queens County. The boy had told him he knew where his home was, and Macklem had let them out, safe and sound, at the corner of 162nd Street and 71st Avenue. The affiant did not learn the children's names, but stated that the boy could well have identified his companion as 'Missy' instead of 'my sister', as he had first thought. He admitted that he had identified his passengers as the Crimmins children only after reading newspaper accounts of the first trial, three years after the incident.

On 22 December 1975, the New York Court of Appeals affirmed the trial court's rejection of this defence initiative. The court was influenced by the affiant's seven year delay in coming forward, and commented scathingly that the affidavit 'offers an imaginative alternative hypothetical explanation [of the crime], worthy of concoction by an A. Conan Doyle'.

In January 1976 Alice Crimmins became eligible for a work-release programme and was permitted to leave prison on week days to work as a secretary. In August 1977 the New York *Post* reported that Alice had spent the previous Sunday 'as she has spent many balmy summer Sundays of her prison-term—on a luxury cruiser at City Island'. (Under the work-release programme, participants were allowed every other weekend at liberty.) In July 1977, Alice married the proprietor of the

luxury cruiser, her contractor boyfriend, Anthony Grace. The *Post* was indignant over the nuptials, furnishing telephoto shots of Alice in a bikini and T-shirt, and headlining a follow-up story with a comment of the Queens District Attorney, 'Alice should be behind bars!'

On 7 September 1977, Alice Crimmins was granted parole, after thirty months in prison and nine months in the work-release programme. When a new petition for retrial was denied in November, she slipped into what must have been welcome obscurity; she had become that stalest of all commodities, old news.

The Crimmins case remains an intractable puzzle. In his opening argument in the second trial, Herbert Lyon invited the jury to regard the case as a troubling mystery that had not been solved. It is always difficult to persuade the community to live at ease with an unknown murderer, but never more so than when a child or spouse has been killed and the evidence suggests that the household was the scene of the crime or of the victim's disappearance. As in the Lindbergh kidnapping or the murder of Julia Wallace, there is a strong tendency to suspect an 'inside job'. Alice Crimmins, who slept close by but claimed to have heard nothing out of the ordinary during the murder night, naturally came under suspicion. She was a mother (perhaps harbouring the nameless daily hostilities familiar to the annals of family murder) and the only adult living in the Kew Gardens Hills apartment, and she had the opportunity to commit the crime—but can anything more be said to justify the certainty the investigators showed from the start that she was guilty? If we reject the equation that the State of New York made between sexuality and murderousness, it appears that Alice displayed only one suspicious trait: despite her avowed grief over her lost children, she does not seem to have shown much interest in helping the authorities to identify the killer. Even this curious passivity may have been due to the defensive posture into which she was immediately thrust by police antagonism and surveillance, and she may also have genuinely believed that the murderer was not to be found in her circle of acquaintances, however wide and casual.

The prosecution never attributed a plausible motive to Alice. The

presence of Missy and young Eddie in the apartment does not seem to have inhibited Alice's amorous adventures, but if she found the children to be under foot, she could easily have surrendered custody to her husband. It was rumoured that she had never liked Missy much, that she had killed her in anger and then called for underworld help to dispose of her son as an inconvenient witness. Under those circumstances it is hard to visualise the boy going willingly to his doom, a docile figure in the peaceful domestic procession belatedly recalled by Sophie Earomirski in which the murderers and their future victim were accompanied by a pregnant dog. If the theory of sudden anger did not sell, the police investigators were likely to fall back on Alice's own words, that she would rather see her children dead than lose them to Eddie in the pending custody battle. Alice enjoyed a tactical advantage as a mother in possession of the children, and there is no reason to conclude that, despite the lessened optimism she detected in her lawyer's voice during their conversation before the children's disappearance, the prospect was hopeless, or that she thought so. If the uncertainty of the divorce court's ruling provided a viable motive, the police had as good a reason to charge Eddie with the crime, but they never took him seriously as a suspect.

In the mind of Joe Rorech, the theory of underworld involvement in the murder of Alice's son took on an even more sinister tone. After the second trial he told New York *Post* reporter George Carpozi Jr that Alice 'had to have those children out of the way to avoid the custody proceedings' that were to have been held on 21 July 1965. He spelled out his belief that Alice had arranged for three of her girlfriends to sleep with a prominent New York politician, who was afraid that the details of his indiscretion would come out at the custody hearing. Therefore, the man, who was 'deeply involved in New York politics and relied almost solely on the Democratic organisation for his bread and butter', had called on his gangland connections to eliminate the children, thereby averting the hearing. Rorech had no satisfactory answer when Carpozi asked him why the same objective could not have been accomplished with less pain to Alice by the murder of her estranged

husband. Rorech's theory also fails to explain why the politician's scandal was deemed more likely to be publicised in a custody hearing than in the course of a murder investigation that was bound to focus on Alice Crimmins and her florid love life.

If Alice was in fact guilty, the reason for her crime must, despite the best surmises of the police and Joe Rorech, remain wrapped in mystery. Even more puzzling, though, is the autopsy evidence regarding Missy's last meal, which raises doubts concerning the time and place of the child's murder. This strange facet of the case was prominently featured in the dissenting opinion rendered by Justice Fuchsberg when the New York State Court of Appeals rejected Alice's motion for a new trial in 1975. Justice Fuchsberg noted that the testimony of the Queens medical examiner, Dr Richard Grimes, indicated that Missy had died shortly after ingesting a meal including a macaroni-like substance that differed substantially from the last dinner that Alice had told the police she served the children. This evidence suggested to the judge that 'the child might have had another meal at some unknown time and unknown place considerably after the one taken at home'.

Could Alice Crimmins have been so cunning a criminal planner as to have created this enigma by lying to the police about the food she had served on the night of the crime? Apart from the difficulty of finding traits of calculation and foresight in her character, many circumstances militate against the inference that the veal dinner was a fabrication intended by Alice to mislead the investigation. When she first mentioned the purchase of the frozen veal to Detective Piering, neither of the children's bodies had been found. If she was the murderer and had hidden the corpses, she had reason to hope that they would long remain undiscovered. Even if she feared the worst—that the victims would soon be found—it seems doubtful that she was so familiar with the capabilities of forensic medicine that she decided to turn to her own account the possibility that an autopsy might be performed in time to analyse the contents of the last meal.

There would have been a powerful deterrent to Alice's lying about the veal dinner. She told Piering that she had purchased the veal on the

afternoon of 13 July in a neighbourhood delicatessen; she was presumably well known there, and the grocer who had waited on her could very likely have contradicted her story. As events turned out, the grocer did not remember what she had purchased, but she could not have counted on that in advance.

If the Crimmins case is viewed with the hindsight of the 1980s—when a young mother with a strong sexual appetite is less likely to be pronounced a Medea—it seems that Alice is entitled to the benefit of the Scottish verdict: Not Proven.

The Lady Killers, 1991