

Brianna Ghey's Murder: Unpacking Transphobia, Offender Anonymity, and the Impact of Sentencing Remarks

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The death of 16-year-old Brianna Ghey at Culcheth Linear Park in February 2023 sent shockwaves across the United Kingdom. On 20 December 2023, Scarlett Jenkinson and Eddie Ratcliffe were found [guilty](#) of Brianna's murder, subsequently receiving life imprisonment [sentences](#) on 2 February 2024. From the brutality of the crime to the debate over whether the perpetrators' names should have been published and the speculation about the potential influence of violent media on their actions as to whether their acts had been influenced by violent media, this case is reminiscent of James Bulger's murder over three decades ago. A notable difference, however, is that the victim in this case was a transgender girl.

Brianna's murder against the backdrop of the trans rights debate

Official figures reveal a concerning surge in police-recorded transphobic hate crimes in England and Wales in recent years (11% up from the year before in 2022/23 and a staggering 186% rise over the last five years). The latest Home Office [report](#) acknowledges that comments made by politicians and incendiary media discussions on trans issues might have contributed to this trend. In the current socio-political climate, where the polarisation between trans and women's rights groups over gender self-identification can reach ['toxic'](#) levels, there is a serious risk that victims like Brianna Ghey will - as the domestic abuse commissioner Nicole Jacobs [warned](#) - be 'denied their dignity'.

Recognising the role transphobia has played in this violent crime is vital to tackling that risk. Yet, *The Times* were quick to ['deadname'](#) Brianna, i.e. report the news of her murder using the victim's pre-transition (male) name, triggering a strong backlash by trans advocates. Similarly, *BBC News* and *Sky News* also faced criticisms for initially failing to mention the victim was trans. Meanwhile, Fair Play for Women, a gender-critical campaign group which views sex as immutable, [argued](#) that the victim's transgender identity was not relevant to stories about her murder and should have been omitted from them. Notably, Cheshire police [did not consider](#) the murder to have been motivated by hatred against Brianna's transgender identity. DCS Mike Evans explained that Jenkinson and Ratcliffe had previously discussed killing other children, suggesting that, had they not been able to kill Brianna, they would have found another victim.

Why did Brianna's murderers not remain anonymous?

Due to the defendants' age, restrictions were in place throughout the trial to prevent the publication of any information likely to reveal the identities of the two perpetrators as the defendants in these proceedings. However, some controversy arose when the decision was made to publicly name the two teenagers at their sentencing. Mrs Justice Yip took the unusual step to [revoke](#) anonymity orders shielding the assailants' identities, following an application by press representatives.

As there has been some [misunderstanding](#) around this issue, it is worth explaining how the anonymity orders worked in Brianna's case. It will be recalled that the two perpetrators were tried before the Manchester Crown court, which is an adult criminal court - not a youth court (of note, a young person charged with murder cannot be tried or sentenced by a youth court because of the seriousness of the charge). While there is no automatic ban on identifying individuals under 18 as being concerned in the proceedings of adult criminal courts, section 45 of the Youth Justice and Criminal Evidence Act 1999 empowers criminal courts to grant anonymity to a juvenile defendant, victim or witness in adult criminal proceedings *while they remain under the age of 18*. This power is *not* available to youth courts. The intention of Parliament in enacting this provision was to widen the scope of protection available to under-18s.

Section 45 allows an adult criminal court to impose a **discretionary** reporting restriction. If the court so wishes, it can choose to impose no restrictions at all. The law draws, therefore, a distinction between young people appearing in youth courts, who are automatically entitled to [anonymity](#), and those appearing in adult criminal courts, who must seek a discretionary reporting restriction.

This is critical. It means that in a youth court, there must be a good reason for lifting the anonymity order which applies by default, whereas under section 45 of the 1999 Act, there must be a good reason for imposing - or continuing with the imposition of - the anonymity order. So, in the case of section 45, there is a strong presumption in favour of open justice, placing the burden of justifying reporting restrictions on the party seeking to derogate from this fundamental principle.

The defendants in Brianna Ghey's case, both 16 at the time of their conviction, would lose the anonymity protection upon reaching adulthood in 2025 by operation of the law. In the meantime, however, a court may consider lifting or relaxing restrictions in two circumstances: either when the court is satisfied that doing so is 'necessary in the interests of justice' (section 45(4)); or when it is satisfied that the reporting restriction unduly limits the coverage of the proceedings *and* it is 'in the public interest' to remove or modify the restriction (section 45(5)). A list of factors to be considered in an assessment of where the public interest lies in such situations is provided in [section 52](#) of the Act.

No judge takes such decisions lightly. As the Court of Appeal has previously [emphasised](#), judges are tasked with meticulously weighing the competing public interest factors at play *on the particular circumstances before them*. So, neither the open justice principle nor a young person's best interests automatically dictate the conclusion in a given case. Pre-conviction and during the trial, a defendant's welfare is likely to take precedence over the public interest in disclosure. However, *post-conviction and sentencing*, factors such as the offenders' age and the severity of the crime acquire [particular relevance](#) in determining whether publication is warranted.

As Mrs Justice Yip observed in Brianna's case, 'the shock generated by [her] murder and the circumstances of it has spread well beyond the local community, across the nation and indeed internationally. The public will naturally wish to know the identities of the young people responsible as they seek to understand how children could do something so dreadful. Continuing restrictions inhibits full and informed debate and restricts the full reporting' of an 'exceptional' case.

But the lifting of the discretionary reporting restrictions under section 45 was driven not only by the sustained public interest in knowing the identity of Brianna's murderers, but also because of the likelihood of continued media attention regardless of the timing of disclosure as well as

the defendants' extended custody and rehabilitation process into adulthood. While acknowledging the distress to the defendants' families, Mrs Justice Yip underlined that the powers under section 45 were not designed for convicted defendants' family members, and the risk of harassment to the defendants' families was deemed likely regardless of the timing of identification. It was the combination of all these considerations that favoured publication.

Sentencing in Brianna's murder as a catalyst for confronting transphobia

Brianna's murderers were named the day they were sentenced for her murder. Even though Cheshire police had dismissed transphobia as a motivating factor, Mrs Justice Yip expressly recognised in her sentencing [remarks](#) that the crime had been, at least partly, driven by hostility towards Brianna's trans identity. Distinguishing between the young offenders' motivations, the judge determined that Jenkinson was primarily seeking to act out her 'sadistic' fantasies and had a 'deep desire to kill' while Ratcliffe was, in part, driven by transphobic sentiments. This hostility towards trans people had, according to the judge, been 'undoubtedly displayed' in the dehumanising language Ratcliffe used in the WhatsApp messages he had sent to Jenkinson, in which he described Brianna as a 'femboy thing' or 'it', revealing that he wanted to 'see if it will scream like a man or a girl'.

Such messages make for a harrowing read and it is easy or even convenient for our society to brush off the transphobia reflected in them as merely the hateful words of one 'bad apple'. The truth is, however, that Brianna Ghey's murder has shed light on a harsh reality: abuse often becomes a distressing aspect of vulnerable trans individuals' lives, even if this does not always escalate to extreme violence. The Conservative Government's and the UK mainstream media's trans-othering rhetoric has been repeatedly criticised by several international human rights organisations. Indicatively, the Council of Europe's Commissioner for Human Rights, Dunja Mijatović, [warned](#) of the risks deriving from an 'increasingly toxic' anti-trans political and media discourse built upon 'deeply discriminatory stereotypes [...] based on ideas of predatory determinism.' This 'culture war' against trans people has also been [cited](#) by the International Lesbian, Gay, Bisexual, Trans and Intersex Association as one of the reasons behind the UK's continuous drop in its annual rankings for LGBT rights across Europe.

During PM Questions on 7 February 2024, Rishi Sunak [faced](#) a backlash after his remark about Labour leader Keir Starmer's purported difficulty in 'defining a woman' while Brianna's mother was in the public gallery during the exchange. Trans allies, including Brianna's father Peter Spooner, [expressed](#) 'shock' and 'disgust' towards the PM's 'degrading comments', calling for an apology which Sunak has [refused](#) to offer. Amid the increasing tensions between the two main political parties, it is vital that trans people's lives are not reduced to a bargaining chip in their bid to win the upcoming general election. Despite the tragic circumstances surrounding Brianna's murder, her story has the potential to catalyse a wider and more constructive dialogue on the consequences of 'othering' an already marginalised community. There are undoubtedly valuable lessons to be gleaned from this landmark case. The pertinent question remains: are our leaders prepared to heed them?