



A Fair Trial Catch-22: The Problem With The Teacher's Pet Podcast

By Hannah Marshall on September 16, 2018 Media & Culture

One of the world's hottest podcasts right now has helped shed light on the disappearance of a Sydney woman. But at what price of a fair trial, asks Hannah Marshall.

"The best way to dispose of a body, if you live in the bush, is to put it in the bush, and that's what I think he did on the Friday night."

There is a problem with The Teacher's Pet. The podcast and the slew of surrounding media could be so sensational and prejudicial that if he is prosecuted, Chris Dawson can't get a fair trial.

The podcast is a true crime story about a woman, Lyn Dawson, who disappeared from Sydney's northern beaches in 1982. Her body has never been found. The investigating journalist accuses her husband, former Newtown Jets player Chris Dawson, of murdering her. He denies it. Two coronial inquests have recommended prosecution but none has ensued.

The picture painted of Chris Dawson is not good. There's his affair with a schoolgirl, allegations of physical abuse, allegations of an attempt to hire a hitman, inconsistent statements, and two small daughters left without their mother.

The Teacher's Pet is compelling and sad and reveals some great injustices; to the two daughters, the schoolgirl, and Lyn's family as well as to Lyn Dawson herself.

But in its eagerness to seek justice for her 'probable murder' it risks doing exactly the opposite. It could result in Chris Dawson avoiding facing a jury, or even avoiding a murder trial altogether, regardless of the strength of any evidence against him.

The obvious upside to this kind of investigative journalism is the chance that new, meaningful evidence could be found that will help get a conviction. But that has to be balanced very carefully against the risk involved in broadcasting information that is prejudicial and unlikely to be admissible as evidence in court.

To be fair, a lot of the information presented in *The Teacher's Pet* is unproblematic. Written statements and evidence from the coronial inquests for example. But a lot of other parts of the podcast are prejudicial and prejudice Dawson's guilt. Here are just a couple of examples.

A new witness alleges that she saw Chris Dawson assault his wife twice, well before Lyn disappeared. The inference is that he is a violent person and therefore more likely to have killed his wife. Courts call this 'tendency evidence' and treat it with extreme caution. It is only admitted in very particular circumstances. Whether this new testimony would be admitted into evidence is highly uncertain. But the podcast doesn't tell you that.

Then there's the treatment of a claim that Chris Dawson said he tried to hire a hitman to kill Lyn, but didn't go through with it. The allegation comes from Dawson's schoolgirl lover, and later wife and divorcee. She first told the police of this after the marriage breakdown, which raises a question of her motivation.

The podcast at least acknowledges the possibility that her statement isn't true. But it omits the challenges to that evidence asserted by Dawson's lawyer in the 2003 coronial inquest, based on inconsistencies between her statements given in 1990 and 1998.

Instead it offers as corroboration the fact that Chris Dawson had a teammate in the Newcastle Jets who was a criminal (Paul Hayward), and he had a brother in law who was a hitman (Neddy Smith). A third team mate says he saw Dawson sitting at a table with Hayward two years before Lyn disappeared. There's no chance any of this would be allowed into evidence. Absent of any direct evidence that Dawson tried to contract Smith to kill his wife, it's irrelevant. But it gets a lot of airtime in the podcast.

A third team mate is also certain Chris Dawson killed Lyn and buried her. There is a pattern of this speculation from most of the witnesses interviewed and the presenter himself; offering strong opinions of Dawson's guilt. But they are just that – speculation. They are prejudicial, and they would not be admitted as evidence in court. But they're repeated like a chorus throughout *The Teacher's Pet*.

These kinds of claims plus the success of the podcast (over 17 million downloads globally) risk making it impossible to get an impartial jury for a trial of Chris Dawson. There are a few possible outcomes if this happens. The most severe is that Dawson could avoid facing charges altogether.

In extreme cases the courts can shut down a prosecution or throw out a conviction if there has been so much adverse publicity that it is impossible for the accused to get a fair trial.

Child-sex offender Michael Glennon had his conviction overturned in Victoria because of Derryn Hinch's on-air attacks. The High Court reinstated it, but only just; it was a split decision 4-3. The courts refused to exercise the power in other highly publicised trials like those of Bilal Skaf (labelled by the media as a pack rapist) and Robert Hughes (aka *Hey Dad!*).

Admittedly it would be an extraordinary case for Dawson to avoid prosecution altogether because of the adverse publicity arising from *The Teacher's Pet*, but it's a possibility.

Alternatively, Dawson could seek a judge-only trial with no jury. There are a few examples of this being done in cases of adverse publicity; the second Luke Lazarus rape trial and the Brothers for Life gang murder of Joseph Antoun are examples. This is only an option if Dawson wants it; the DPP can't get a trial by judge to protect a conviction unless Dawson is on board.

If Dawson goes for it but the DPP doesn't, then it comes down to what's in the 'interests of justice'. Justice favours a jury trial in normal cases, even in adverse publicity cases where there are questions of community standards. For federal offences, the Constitution goes further and requires a jury trial. But Dawson would be prosecuted under NSW law, and judge only trial could well appeal.

The latest news is that the DPP is considering a fresh brief of evidence, which could lead to a decision to prosecute. The police are digging up the Dawson's yard looking for Lyn's remains. A prosecution would crystallise these issues and others.

If published after Dawson is charged, *The Teacher's Pet* would be a contempt of court. The DPP might seek orders for it to be taken down. Then they'd probably also have to go after the huge volumes of related press; it would be a massive exercise. Maybe there would be suppression orders over the trial. Maybe the whole thing would be delayed till the heat cooled down; which could be years.

Whatever steps are taken to try to preserve the trial, the risk remains that a judge sees the damage done by *The Teacher's Pet* as too great. So the unhappy irony is that publishing *The Teacher's Pet* could readily make it harder to get justice for Lyn Dawson.