

## **4<sup>th</sup> National Miscarriage of Justice Day Public Meeting**

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On 15 October 2005, United Against Injustice held its 4<sup>th</sup> National Miscarriage of Justice Day Public Meeting at Friends Meeting House, Manchester. The structure of the Meeting was a series of three morning workshops, followed by two afternoon sessions of guest speakers.

In the first workshop, Dr Andrew Green, INNOCENT, and Kevin McMahon, Merseyside Against Injustice, presented a strong message about the need to share knowledge of how to retrieve information, crucial to the investigation of the case, to aid an appeal against a wrongful conviction. In particular, they highlighted a useful 'document' checklist on the United Against Injustice website ([www.unitedagainstinjustice.org.uk](http://www.unitedagainstinjustice.org.uk)), designed to build up a network of advice. The checklist will benefit victims of miscarriages and their families and friends, who are fighting cases. It shows clearly what you need to collect from the Police, the court, defence lawyers and other authorities to build up an appeal. Andrew gave the audience copies of the checklist and asked them if they had any extra suggestions, as the checklist is designed to expand through people's experiences with miscarriages of justice.

UAI's aim for the checklist is not only to build up a network of advice but also to help breakdown the problems with disclosure. As Andrew and Kevin argued, disclosure is a real problem, as we do not always know what information is hidden. But with the help of the checklist we can see what is available to aid cases and then retrieve this valid information. For example, the checklist suggests that if you are helping with an appeal or CCRC case you should get from the Police; scene of crime logs, forensic logs, officers' pocket books and desk diaries (have to be requested by solicitor). The checklist, therefore, lets you know what your rights are if the Police say that you cannot have a document due to the Public Interest Immunity (PII). As Andrew and Kevin argued, knowledge is power, so we should create more knowledge together.

Doreen Strettle hosted the second skills workshop. She carried on Andrew and Kevin's theme of knowledge being power and gave the audience important advice on how to gain information for cases. She stated that you have to get hold of as much information as possible, even information that was not used at court. She noted how useful the Data Protection Act was, for example section 13 allows you to correct documents that are inaccurate and it states that you have to be given documents within forty days. Doreen explained how the Police can be problematic; giving you false information, saying they have lost your documents or not giving you information. However, this workshop showed the audience how you do have a right to see your case documents and that Police Forces keep information for four years. Doreen explained how useful it was in her husband's (Barry Strettle) CCRC case to have collected phone records from BT and compare them to the police phone records, this was a crucial move and very beneficial. Another important message from Doreen (confirmed by members of the audience) was to get your case known; go to Local Police forums (four times a year) and involve your local MP. It was apparent from the workshop that the audience, many of whom were, themselves, victims of

miscarriages of justice or supporting friends and family, were very productive in giving their tips and support to each other. The workshop was insightful and useful. It highlighted the important of taking ownership of your own case.

Steve Crampton, a retired policeman, in charge of ID parades (1996-2000) in Merseyside led the final workshop, a useful and constructive critique of this form of identification evidence. He went through his leaflet on 'identification issues', which is also available at [www.unitedagainstinjustice.org.uk](http://www.unitedagainstinjustice.org.uk). It was excellent to have a specialist to bring to attention, some of the problems with ID parades, as knowing the limitations can be beneficial to your case review. For example, Steve said it was worth finding out from the Police, how tall the witness was and their ethnicity. As witnesses are more accurate in their description of the accused, if they are of a similar height or ethnicity as the accused. The audience were also advised that it is beneficial to obtain all parade documents, especially the witness's first description of the accused (often in the form of the initial call to the police) and then compare it to the witnesses official statement, as descriptions often vary greatly and thus not be so reliable. Steve Crampton confirmed many of the audience's suspicions that ID parades are not a hundred percent accurate. As 20% of all witnesses select a volunteer and 90% expect the offender to be present, despite the fact that 95% remember the cautionary instruction that he/she may not be present. ID parades can also be insufficiently and unfairly carried out and Steve clearly set out what the Police can and cannot do prior and during the identification procedure. For example, if the witness is showed photographs, there must be no less than 12 shown and a record should be kept.

Following the workshops, the main meeting was introduced by Kevin McMahon and chaired by Bruce Kent. Bruce is best known as a peace campaigner and is particularly known for his involvement and contribution to the Campaign For Nuclear Disarmament. Bruce's interest in the fight against miscarriages of justice derives from his experience as a prison visitor to a prisoner maintaining innocence and as part of Progressing Prisoners Maintaining Innocence (PPMI).

Graham Huckerby spoke first about his personal experience as a victim of wrongful imprisonment. He served three years of a 14 year sentence when he was convicted as the 'inside man' in the robbery of £6.5 million cash and cheques from his Securicor van in Salford, in 1995. He highlighted the importance of the media as a tool to keep the public reminded of the wrongly convicted and as a means of maintaining public interest in the case. Public opinion, with the help of the media, can turn to pressure which will be extremely helpful to overturn a wrongful conviction. Graham gave accounts of the various campaigning events held by his supporters, such as placing a goat where the robbery occurred to symbolize that Graham was a 'scapegoat' who had been convicted because the police had no-where else to go with their enquiries. He emphasized how important it is to constantly remind the public about a wrongful conviction by holding campaigning events on occasions such as birthdays. Such little acts serve to raise interest among the public and the media which is extremely crucial. They also give hope to prisoners that they have not been forgotten.

Gary Home, who has directed television programmes on the topic of miscarriages of justice, agreed with, and further emphasized Graham's reading of the importance of getting the media interested in your case. On the negative side, though, he said that only a small percentage of cases would have the required ingredients to attract the media's interest. On a

more positive note, however, he stressed the utility and importance of local newspapers and television stations who are not as constrained and can run with local stories in a way that larger national news agencies cannot. Often, from these local beginnings, national interest can emerge. The message is clear, don't expect to go straight to a national television broadcast. From small acorns, Oak trees grow. Equally, from local support, regional and, even, national support can be generated.

Dr Graham Smith, a lecturer in the Law School, University of Manchester, gave a very personal account of how he became concerned with the problem of police misconduct. In the mid-1980s, he, himself, was subjected to an assault by the police, an event that has shaped his personal stance against police misconduct and malpractice, and also his professional academic career. Between the mid 1980s and mid 1990s Graham worked with Hackney Community Defence Association, assisting people who had also suffered as a consequence of police misconduct and advised lawyers on remedies to police misconduct and constitutional matters, emphasizing the constitutional implications of police crime and the need for accountability. In particular, HCDA was very successful in helping people who had been assaulted by the police. It prevented them from being convicted on charges of assaults on the same police who had assaulted them. It secured compensation for them from the Metropolitan Police. For Graham, all victims of police misconduct experience a miscarriage of justice.

Following the afternoon break, Paul Blackburn, who spent 25 years, in 18 different prisons for attempted murder described the various obstacles involved in overturning his conviction. He emphasized the importance of perseverance and not giving up maintaining innocence. A consequence of his claims of innocence was that Paul spent almost double the length of time in prison that he would have if he had admitted the crime. As an 'in denial' prisoner, he was victim of a catch-22 situation commonly referred to as the Parole Deal: He refused to comply with his sentence plan and undertake offence related courses, because he had no offending behaviour to address; he was, therefore, not allowed to progress through the various categories of imprisonment, and was also denied Enhanced Status and the accompanying privileges. Paul talked about the effects of long term imprisonment on him, the difficulties he faced after his release and how he is still currently learning to cope with them. He highlighted the need for after-care to be provided in recognition of the harm caused to miscarriage of justice victims. Paul is currently fighting for compensation from the Home Office.

Dr. Michael Naughton, Coordinator of the Innocence Network UK and the University of Bristol Innocence Project (<http://www.innocencenetwork.org.uk>), stressed the importance of raising awareness about the specific problems of wrongful convictions, which is not the same as miscarriages of justice, deriving from breaches of due process. He raised issues about the inability of the CCRC to overturn all wrongful convictions. Prior to the establishment of the CCRC, the organisation JUSTICE were concerned not with technical breaches of process, but with the wrongful conviction of the factually innocent. When the CCRC was established, though, there was a general belief that the Commission was the solution to the problem of the wrongful conviction of the innocent, a belief shared by JUSTICE who ceased their concern with the plight of the wrongly convicted innocents. Overnight, the critical 'voice' against the wrongful conviction of the innocent was lost and the emphasis was shifted to a concern with miscarriages of justice. The CCRC was not designed to rectify the errors of the system and ensure that the innocent overturn their

wrongful convictions. Instead, their remit under the 1995 Criminal Appeal Act dictates that they review the cases of alleged or suspected victims of miscarriages of justice to test whether they were obtained in strict accordance with the rules and procedures of the system. If it is found that the procedures of the criminal justice process were contravened and that there is a 'real possibility' that the Court of Appeal will overturn the conviction, the case is referred back to the Court of Appeal. As such, the CCRC will, logically, refer the cases of guilty offenders if their convictions were procedurally incorrect. At the same time, they are often helpless to refer the cases of innocent victims of wrongful conviction if they do not meet the required criteria of fresh evidence or fresh arguments. A particular problem then is that even if the CCRC have evidence that indicates that an applicant is innocent, but this evidence was available at the original trial, the case may not be referred to the Court of Appeal. Michael highlighted the need to resurrect the critical voice on the problem of the wrongful conviction of the innocent by raising awareness of the distinction with miscarriages of justice.

*Rough Justice* reporter Mark Daly gave an insight into his experience of miscarriages of justice through his past investigations. He reiterated Dr. Naughton's view on the CCRC, as an organization not concerned with guilt or innocence, but instead focuses solely on due process and technicality. He emphasized the importance of questioning existing evidence in a case, particularly forensic evidence. Such evidence is prone to mistakes and it is very often determined by the perceptions and subjective judgment of the specific forensic 'expert'. The significance of forensic evidence is that it is one of the key factors in securing a conviction. In the process of working on an alleged wrongful conviction, it is important to re-test such evidence. Emergence of new technologies or simply a different forensic scientist may render the existing result invalid. This may constitute fresh evidence or create exceptional circumstances which will help to bring the case back to the court of appeal.

The meeting ended with an inspirational speech by Susan May, convicted of murdering her 89 year-old aunt Hilda in 1993. Like Paul, Susan had refused to do anything that may have helped her progress during her prison sentence and was labeled as being 'in denial' of her guilt. She again raised the issue of the Parole Deal. However, she is the exception to the rule by being released on her tariff date. Susan accepted release with a heavy heart and summed up her situation in the following terms: 'I am out of prison, but I don't feel free'. This will not happen until she overturns her wrongful conviction. She ended her speech by talking about the fight for truth. She said, the current system is more concerned with protecting itself than to seek truth and justice. Yet, as she so aptly put it, 'What is the system for if not for the truth?'