

Why the Failure of the Prison Service and the Parole Board to Acknowledge Wrongful Imprisonment is Untenable

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Abstract: This article analyses key documents that were produced in collaboration between the Prison Service and the Prison Reform Trust. It identifies an organisational inability on the part of the Prison Service and the Parole Board to acknowledge that the courts can return incorrect verdicts and that wrongful imprisonment can, and does occur. It argues that this renders the ways in which the Prison Service and the Parole Board deal with life prisoners who maintain that they are innocent of the crimes for which they were convicted untenable. To demonstrate this, the article distinguishes two broad categories of wrongful imprisonment. It concludes that those charged with a duty of care for, and the possible release of, those given custodial sentences by the courts must, therefore, be prepared to 'think the unthinkable' and make adequate provision for the innocent victims of wrongful imprisonment that are sure to come their way.

Two key sources of information given to life prisoners about the structure of their sentences and the procedures through which they might possibly achieve release from prison are the Prisoners Information Booklets *Life Sentenced Prisoners 'Lifers'* (Prison Reform Trust and HM Prison Service 1998) (to be referred to as *Lifers* in subsequent references in this article) and *Parole Information Booklet* (Prison Reform Trust and HM Prison Service 2002). 'Possible release' because there is no certainty that a life prisoner will be released if they do not satisfy the release procedures (Prison Reform Trust and HM Prison Service 1998, p.2). The format of the booklets is a deliberate 'user-friendly' attempt to inform prisoners through a 'frequently asked questions and answers' guide written from a prisoners' 'voice' that is answered from the institutional 'voice' of the Prison Service and Parole Board.

'Lifers'

Perhaps, the two most important questions and answers contained in *Lifers* to this discussion are as follows. Firstly, the prisoner asks:

What do I have to do to prepare for release? (Prison Reform Trust and HM Prison Service 1998, p.8)

The answer from the Prison Service seems fairly straightforward and to give eminently practical advice about how to progress through the prison system:

The first thing to do to prepare for your release is to work on any areas of concern which contributed to the offence or offences which you were convicted of (known as the 'index offence'). Prison staff will expect you to work with them to see what these areas are when they are preparing your life sentence plan. This may involve you taking part in offending behaviour programmes such as the Sex Offender Programme, or you may have to have drug or alcohol counselling. Working on the areas of concern should help to reduce the risk you present to the public. This is the most important factor taken into account when considering whether you are safe to be released or moved to an open prison. The way you behave in prison plays an important part in decisions about your progress. You need to try to show that you are likely to be able to steer clear of trouble on the outside. (Prison Reform Trust and HM Prison Service 1998, p.8)

It is at once apparent, however, that the answer from the Prison Service does not allow for the possibility that some life prisoners might be innocent of the crimes for which they were convicted. On the contrary, it assumes a particular *kind* of person as constituting the typical life prisoner. Such people are likely to need counselling for either sex offending, alcohol or drug problems; they need to be cured of these problems before they can be released from prison in order to protect the public; and, they need to be able to demonstrate the ability to stay out of trouble.

Perhaps, even more significantly, the prisoner then explicitly asks:

What if I say I am innocent? (Prison Reform Trust and HM Prison Service 1998, p.9)

The answer from the Prison Service is unequivocal:

Prison staff must accept the verdict of the court, even if you say that you did not commit the offence for which you are in prison. They need to be sure that areas of concern and offending behaviour are identified and that you work on them. Whether or not you are eventually released will depend on an assessment of the risk you might be in the future, rather than whether or not you have accepted the court's verdict. (Prison Reform Trust and HM Prison Service 1998, p.9)

There is a curious contradiction about this answer. By including the question in a frequently asked questions booklet that advises lifers about the terms and conditions of their sentences and release plans, the Prison Service is implicitly signalling that a significant number of life prisoners would be likely to ask such a question. The answer, however, betrays the organisational inability of the Prison Service to even consider that some life prisoners may be innocent. Instead, they completely side-step the question and merely reaffirm the Prison Service's official position – it does not matter what life prisoners may say, or whether or not they accept the verdict of the court, they are regarded as guilty of the offences for which they were convicted.

It is within this context that the recommendations of the Parole Board about whether or not life prisoners should be released need to be considered. On this matter, *Lifers* describes the organisational remit and

purpose of the Parole Board. It outlines the differential procedures for the different types of 'lifer'. It spells out the time between reviews and the time taken by the Parole Board in reaching its decisions. But, most significantly, it emphasises the importance of the role of prison staff in preparing the dossiers that are considered by the Parole Board when making their decisions (Prison Reform Trust and HM Prison Service 1998, pp.12–15). This serves to undermine the official organisational independence of the Parole Board in terms of its formal relations with the Home Secretary and the Prison Service. Informally, there is little doubt that the parole process is entirely dependent upon the forms of discourse that are constructed by prison staff about whether or not all prisoners, including lifers, should progress through the stages of their sentences in their recommendations.

Parole Information Booklet

The extent to which the Parole Board embodies the policy of the Prison Service is confirmed in the following question and answer exchange from the *Parole Information Booklet*. First the prisoner maintaining innocence enquires:

What happens if I maintain my innocence? Can I still get parole?' (Prison Reform Trust and HM Prison Service 2002, p.8)

The answer from the Parole Board corresponds almost exactly with the Prison Service's policy:

You do not have to admit your guilt prior to making an application for parole, nor is denial of guilt an automatic bar to release on parole licence. It is not the role of the Parole Board to decide on issues of guilt or innocence, and your case will be considered on the basis that you were rightly convicted. The Board will consider the likelihood of you reoffending by taking into account the nature of your offence, any previous convictions, your attitude and response to prison, reports from the prison and probation service and your own representations. (Prison Reform Trust and HM Prison Service 2002, p.8)

This emphasises the problem that is commonly referred to as the 'parole deal', which is very much akin to a 'plea bargain' for it attempts to make innocent prisoners acknowledge guilt for crimes that they did not, in fact, commit. For Peter Hill (2001), significantly, both offer the same essential 'deal' in an attempt to obtain judicial finality in cases: 'We say you are guilty. Admit it and you get something in return'. The rationale behind the parole deal is connected to a range of 'cognitive skills', 'thinking skills', 'reasoning and rehabilitation' and various other 'offending behaviour' programmes and courses that have come to dominate regimes within prisons in England and Wales over the last decade. These courses are almost universally based on the work of psychologists in the correctional service of Canada and work from the premise that as offenders 'think' differently to law-abiding citizens, once their 'cognitive distortions' are corrected then they can be released with a reduced risk of reoffending (Wilson 2001). The effect is that whilst the Prison Service officially acknowledges that it is unlawful to refuse

to recommend release solely on the ground that a prisoner continues to deny guilt, it tends to work under the simultaneous assumption that denial of offending is a good indicator of a prisoner's continuing risk.

In a similar vein, David Wilson (2001), conceptualised the situation as one which political philosophers would describe as a *thoffer* – the combination of an offer or promise of a reward if a course of action is pursued, with a threat or penalty if this course of action is refused. This plays out with the prisoner being offered an enormous range of incentives including more out-of-cell time, more visits and a speedy progress through the system, to follow the course of action desired by the prison regime – to go on an offending behaviour course to ensure that the prison's performance target is met. This is made to appear as an entirely rational and subjective choice, especially as it will be the basis for ensuring early release through parole. At the same time, if the prisoner does not go on a course and accept guilt for criminal offences that they did not commit, the threat of continued imprisonment remains, as the prisoner will be deemed too much of a 'risk' for release at all (Berlins 2002; Hill 2002a, 2002b; Woffinden 2000, 2001). An often cited example is the case of *Stephen Downing* whose conviction was quashed in January 2002 after he had spent 27 years of incarceration for an offence for which he might normally have served twelve years had he not been classified 'IDOM' – in denial of murder (see Editorial 2002). To emphasise the problem of the parole deal, it was reported when Stephen Downing's conviction was quashed by the Court of Appeal (Criminal Division) (CACD) that: 'All the prison officers knew Stephen was innocent. They were begging him to say he had done it [murdered Wendy Sewell] so they could release him' (Hill 2002c).

The Parole Board's Reply

In response to the publicity of Stephen Downing's successful appeal and the public's concern with the parole deal, the Parole Board (2004) responded that:

There was a considerable misunderstanding about the position of those maintaining innocence in prison and how this affects their eligibility for parole.

In fact, they argued:

A myth has grown up that unless a prisoner admits and expresses remorse for the crime that they have been sentenced for, they will not get parole. This is not true.

In support of their argument, the Parole Board lists five points that they say disprove the existence of the parole deal. Despite this, this section considers each of the Parole Board's points in turn and shows that they do not disprove the parole deal, they actually prove that prisoners who maintain their innocence are less likely to be recommended for parole. Moreover, it appears that life prisoners who maintain their innocence who refuse to go on offending behaviour programmes, on the grounds that they have no offending behaviour to confront, may be deemed too much of a risk to ever be recommended for release.

First, the Parole Board (2004) acknowledges that it would be unlawful to refuse parole solely on the grounds of denial of guilt or not being able to take part in offending behaviour programmes which focus on the crime committed. In the same breath, (same paragraph) however, they state that despite this:

The Board is bound to take account not only of the offence, and the circumstances in which it was committed, but the circumstances and behaviour of the individual prisoner before and during the sentence.

This entirely undermines any notion that the Parole Board takes seriously the existence of innocent prisoners. It gives hope to prisoners maintaining innocence that they have an equal chance in law of achieving freedom with prisoners who were guilty of the offences for which they were convicted. It, then, demolishes that hope by insisting that they must take account not only of the offence for which they were wrongly convicted, but also their behaviour during their sentence.

Second, the Parole Board (2004) argues that:

It is important to understand that the Board is not entitled to 'go behind' the conviction and overrule the decision of a judge or jury . . . The Board's remit extends only to the assessment of risk, and the bottom line is always the safety of the public.

I do not know of anyone who expects the Parole Board to overrule the decisions of the courts; that would be a truly bizarre situation. But, the way in which they hide behind their organisational remit and refuse to acknowledge the reality of innocent prisoners cannot be justified. As I will show in more detail below, the courts are not infallible. Wrongful imprisonment can, and does, occur, not only for crimes that innocent men and women did not, in fact, commit, but, also, for crimes that did not, even, occur. This fact has been proven in dozens of high-profile cases that have been overturned in the Court of Appeal.

Third, the Parole Board (2004) reports that:

The figures for 2003 show that in 24% of cases where prisoners maintained their innocence, parole was granted. This compares with 51% of all applications granted. This shows, according to the Parole Board, that the belief that 'if you don't admit the crime, you don't get parole' is patently untrue.

The statistics presented do, indeed, show that *some* innocent prisoners achieve a parole licence. At the same time, however, they actually emphasise that prisoners who maintain their innocence are less likely to achieve parole against prisoners who are guilty or acknowledge their guilt on pragmatic grounds in the hope of achieving release. They have half as much chance. This does not dispel the 'parole deal' it proves it!

Moreover, the figures just cited by the Parole Board do not only relate to life prisoners, they, also, include all 'long-term prisoners' who receive a custodial sentence in excess of four years (Prison Reform Trust and HM Prison Service 2002, p.1). As such, they can very much be conceived as a 'red herring' to the charge of the parole deal, as there is no way of knowing

how many of the 24% were life prisoners who maintained their innocence and did not go on offending behaviour courses and, yet, were still recommended for release.

Fourth, the Parole Board (2004) employs a particularly perverse logic. They say that their:

Core task of assessing the risk of future harm to the public is often made more difficult when dealing with those who deny guilt. This is because there may simply be less information to go on, particularly where the prisoner has not been able to undertake any relevant offending behaviour work. Detailed reports of a wide range of offending behaviour programmes are a key source of information for Board members in working out how a prisoner operates and copes with life and therefore what the risk to the public of a future offence might be.

This shifts the focus of why prisoners who maintain their innocence are less likely to be recommended for parole to the victims of wrongful imprisonment themselves. It blames them for *their* own failure to comply with the needs of the Board and undertake relevant offending behaviour courses and provide the detailed information to assist Board members in their deliberations. This brings the parole deal into clear view and puts life prisoners who maintain their innocence in an impossible catch-22 position. The only realistic way of achieving release is to acknowledge that they are guilty of the criminal offences for which they were wrongly convicted, murder, rape or sex abuse, and work with prison staff on that aspect of their behaviour, even if they have never behaved in such a way.

Finally, the Parole Board relies on further statistical evidence in the form of a breakdown of 50 release cases recommended by the Board. 'The fifty were all serving mandatory life sentences for murder. Of these, nine had maintained their innocence in whole or in part throughout their sentence' (Parole Board 2004).

Again, this reference to statistics only serves to further strengthen the concern that prisoners who maintain their innocence are at a disadvantage in terms of Parole Board decisions. This is because the survey cited decreases the statistical average from 24% of successful applicants to the Parole Board in 2003 who maintained their innocence to a maximum of 18% of the mandatory life prisoners surveyed. This figure is decreased still further when it is taken into account that an unknown of the 18% referred to did not maintain their innocence for the whole of their sentences, but only part of it. This leaves us none the wiser and raises the crucial question: How many of the nine mandatory lifers who the Parole Board recommended should be released *did* maintain their innocence for the whole of their sentences and did not attend offending behaviour programmes?

As a final insight into the mind-set of the Parole Board, it is interesting to note that the 'majority' of the mandatory lifers who were recommended for parole, whether or not they maintained their innocence, *had* 'also undertaken a variety of offending behaviour work such as anger management, assertiveness, thinking skills, all of which helped the Board' (Parole Board 2004).

Whatever the Parole Board might say, then, they have not provided any evidence to support their claim that the parole deal is a 'myth'. On the contrary, the evidence that they put forward actually proves that the parole deal does exist. Prisoners who maintain their innocence and are unable to take part in offending behaviour programmes because they have no offending behaviour to confront are less likely to be considered for parole than offenders who admit their guilt and comply with the requirements of the prison and parole regimes.

Critique

As integrated institutions of the criminal justice system, it is, perhaps, not surprising and, to some extent, highly understandable that they work from a premise that the other parts of the system are functioning correctly, and that, therefore, the verdicts of the courts, for instance, are accepted as correct. The fundamental flaw in such a logic is that it contradicts common sense: no human system is infallible. As such, the courts, inevitably, convict the innocent; some prisoners who maintain their innocence *are* innocent and innocent victims of wrongful imprisonment are certain to go before the Parole Board.

This was not only openly acknowledged by the most recent overhaul of the criminal justice system, the Royal Commission on Criminal Justice (1993), it was the working premise:

All law-abiding citizens have a common interest in a system of criminal justice in which the risks of the innocent being convicted and the guilty being acquitted are as low as human fallibility allows . . . mistaken verdicts can and do sometimes occur and our task [when such occasions arise] is to recommend changes to our system of criminal justice which will make them less likely in the future. (pp.2-3).

Contrary to this, the failure of the Prison Service and the Parole Board to acknowledge that the courts are fallible and put in place strategies to provide for the needs of innocent life prisoners can not only be conceived to be disingenuous, it borders on the illegal. These could take the form of more appropriate cognitive skills courses that inform life prisoners about the possible avenues open to them to overturn their wrongful convictions. They could take the form of workshops that assist life prisoners who maintain their innocence to deal with the loss of liberty, frustration and anxiety of wrongful imprisonment and the impacts upon family relations (Keirle and Naughton 2003).

Instead, the Prison Service and the Parole Board ratchet-up the difficulties faced by prisoners who maintain their innocence and apply a policy that is blind to the history of wrongful criminal convictions since the creation of the Court of Criminal Appeal almost a century ago, as evidenced by successful appeals against criminal conviction. This includes the 118 cases of wrongful criminal conviction that have been overturned by the Court of Appeal (Criminal Division) (CACD) following a referral by the Criminal Cases Review Commission (CCRC) since it started handling casework in 1997 and March 2004 (Criminal Cases Review Commission

2004). It includes the 8,000 or so cases of wrongful criminal conviction that have been quashed by the CACD through routine appeals over the last decade. It also includes over 85,000 cases of wrongful criminal conviction that have been overturned by routine appeal procedures in the Crown Court against convictions given in the magistrates' courts over the last two decades (Naughton 2003b). Indeed, from such a perspective, miscarriages of justice can be conceived as a routine feature of the criminal justice process (Naughton 2003a).

As this specifically relates to the problem of wrongful imprisonment, an analysis of previous cases of successful appeal against criminal convictions reveals two broad categories of wrongful imprisonment:

- Victims of wrongful imprisonment for crimes they did not, in fact, commit; and,
- Victims of wrongful imprisonment for crimes that did not occur.

Crimes They Did Not Commit

Wrongful imprisonment for crimes that they did not commit, relates to the conventional view of a miscarriage of justice victim where a criminal offence *has* been committed but the wrong person or persons are convicted (Naughton 2004). In an attempt to reduce the occurrence of such victims of wrongful imprisonment, this category has been the main focus of all existing research into miscarriages of justice (see, for example, Woffinden 1987; JUSTICE 1989, 1994; Huff, Rattner and Sagarin 1996). In reward for their efforts, researches have uncovered a variety of causes of wrongful imprisonment including: the perennial problem of prosecution non-disclosure as, for example, in the case of *John Kamara* who spent 20 years of wrongful imprisonment for the murder of Liverpool bookmaker John Suffield because the prosecution failed to disclose over 200 witness statements taken by Merseyside police to the defence lawyers at the original trial (Carter and Bowers 2000; Liverpool Echo 2000); police misconduct as in the case of *Robert Brown* who spent 25 years of wrongful imprisonment for the murder of Annie Walsh as a result of police corruption, bullying and non-disclosure of vital evidence (Hopkins 2002); problems with identification, for example, the cases of *Reg Dudley* and *Robert Maynard* who each served over 20 years of wrongful imprisonment as a consequence of a 'bargain' between the police and an informant who received a reduced sentence for his part in a robbery (Dudley 2002; Campbell 2002; Campbell and Hartley-Brewer 2000; Woffinden 1987, p.343); and, false confessions, for example, the case of *Andrew Evans*, who spent 25 years in prison following his false confession for the murder of Judith Roberts (Duce 1997; Randall 1997).

Crimes That Did Not Occur

In addition to victims of wrongful imprisonment for crimes that they did not commit, there are victims who have been, and continue to be, convicted

and given life sentences for crimes that did not even occur (Naughton 2003c). This might appear far-fetched, but recent cases of successful appeal have documented well the problem that juries have, for instance, in adjudicating between competing and conflicting expert forensic scientific evidence. For example, Sally Clark overturned a mandatory life sentence for the murder of two of her children when conflicting forensic evidence suggested that the chances were they died of natural causes (Sweeney and Law 2001); Angela Canning was given a double life sentence for the murder of her two children who were, probably, the tragic victims of 'cot death' (Frith 2003); Sheila Bowler was cleared of the murder of her aunt, Florence Jackson, after she had served four years of a life sentence, when new forensic evidence showed that she most probably died of accidental drowning (Jessel 1994, ch.11); Patrick Nichols spent 23 years in prison for the murder of Gladys Heath, a family friend, until competing forensic science compellingly argued that she had probably suffered a heart attack and accidentally fallen down a flight of stairs (Tendler 1998); and, Kevin Callan served three years for the murder of his four-year-old step-daughter, Amanda Allman, until he, himself, became an expert in neurology and was able to counter the convicting evidence and offer the more plausible explanation that she died as a result of a fall from a playground slide (Bunyan 1995). These are just a small sample of such cases that have been overturned following new forensic evidence.

A difficulty that arises in trying to calculate the possible scale of the problem of victims of wrongful imprisonment for crimes that did not occur is that none of the above cases was officially attributed or recorded as such. On the contrary, they were all put down to the failures of individual expert forensic scientists, who either through error, or deceit, corrupted the course of justice. This, effectively, individualises the problem and all sight is lost of the likely scale of the problem. At the same time, it renders invisible the victims in the many similar cases that might never be successfully overturned.

As this relates to convicted prisoners who are currently serving life sentences who continue to maintain their innocence, Nick Tucker is currently serving a life sentence for the murder of his wife who, more than likely, died following a tragic road traffic accident. This case is particularly pertinent as five separate pathologist reports into the case all agree that Carol Tucker died of accidental causes (Woffinden 2002). Similarly, Jong Rhee is also maintaining his innocence following the death of his wife in what contesting forensic science evidence holds to have been an accidental guest house fire (Woffinden 1999). And, following fresh evidence that was found by a BBC programme that challenged the testimony of expert witness Professor Roy Meadow, Donna Anthony, who is currently serving two life sentences for the murder of her two children who it is believed died of 'cot death', is in the process of making a second appeal (BBC News Online 2003). In addition, in direct response to Angela Cannings's successful appeal, 258 parents who were convicted for killing a child under two years old are to have their cases reviewed and, if they relied on expert evidence, they will be fast tracked to the court of appeal (BBC News Online 2004a).

Conclusion

This article has considered two key sources of information available to life prisoners about the structure of their sentences and the criteria that they must satisfy to achieve release. It has, also, considered the Parole Board's reply to the public's concern that life prisoners who maintain their innocence were being denied parole because they would not accept the verdicts of the courts. In so doing, the main conclusion to be drawn is that the organisational inability on the part of the Prison Service and the Parole Board to acknowledge the fallibility of the courts is untenable. As no human system can be perfect, and wrongful criminal convictions are a routine feature of the criminal justice process, it is inevitable that innocent people will be the victims of wrongful imprisonment. This needs to be acknowledged by the Prison Service and the Parole Board and more adequate and appropriate mechanisms for dealing with prisoners who maintain their innocence need to be devised. A failure to do so exacerbates the harm caused to the victims of wrongful imprisonment and their families. It entails significant expenditure in terms of retaining the innocent in prison indefinitely, which the Prison Service can ill afford (Naughton 2001). It calls the penal and parole systems into disrepute and undermines one of the primary aims of the criminal justice system: 'to dispense justice fairly and efficiently and to promote confidence in the rule of law'.¹

Note

- 1 This article was based on a paper given at the Progressing Prisoners Maintaining Innocence Conference, Vaughn House, 46 Francis Street, London, 21 February 2004. Many thanks to all who participated in the session, particularly to Andrew Green and Hazel Keirle.

References

- BBC News Online (2003) 'Donna Anthony – BBC probe suggests cot death injustice', 8 December.
- BBC News Online (2004a) 'Cot death trials face review', 19 January.
- Berlins, M. (2002) 'When innocence and death don't count', *The Guardian*, 18 June.
- Bunyan, N. (1995) 'Prisoner studied neurology in fight for murder appeal', *The Daily Telegraph*, 30 March.
- Campbell, D. (2002) 'Fall guys', *The Guardian*, 10 July.
- Campbell, D. and Hartley-Brewer, J. (2000) 'Torso murders case goes to appeal court', *The Guardian*, 23 June.
- Carter, H. and Bowers, S. (2000) 'Verdict quashed after 19 years', *The Guardian*, 31 March.
- Criminal Cases Review Commission (2004) *Recent Case Statistics* (available on-line at www.ccrcc.gov.uk, 4 March 2004).
- Duce, R. (1997) 'Murder nightmare ends after 25 years', *The Times*, 4 December.
- Dudley, R. (2002) 'We were victims too', *The Observer*, 7 July.
- Editorial (2002) 'Justice on parole', *The Observer*, 20 January.
- Frith, M. (2003) 'Angela Cannings', *The Independent*, 11 December.
- Hill, P. (2001) 'The parole deal', *Inside Time, Autumn*, London: The New Bridge.
- Hill, A. (2002a) 'Robert Brown won't get parole – because he maintains his innocence of murder', *The Guardian*, 3 March.
- Hill, A. (2002b) '25 years in jail for denying that he's a killer', *The Guardian*, 3 March.

- Hill, A. (2002c) 'I thought it was love. Now I know that I was wrong', *The Observer*, 2 June.
- Hopkins, N. (2002) 'Man wrongly convicted of murder freed after 25 years', *The Guardian*, 14 November.
- Huff, R.C., Rattner, A. and Sagarin, E. (1996) *Convicted But Innocent: Wrongful Conviction and Public Policy*, California and London: Sage.
- Jessel, D. (1994) *Trial and Error*, London: Headline.
- JUSTICE (1989) *Miscarriages of Justice*, London: JUSTICE.
- JUSTICE (1994) *Remedying Miscarriages of Justice*, London: JUSTICE.
- Keirle, H. and Naughton, M. (2003) 'The problems with attempting to rehabilitate the innocent' (submission to the Home Affairs Committee Inquiry into Rehabilitation of Prisoners, 20 October).
- Liverpool Echo* (2000) 'Police must find out the truth', 31 March (available on-line at www.innocent.org.uk, 14 February 2004).
- Naughton, M. (2001) 'Wrongful convictions: towards a zemiological analysis of the tradition of criminal justice system reform', *Radical Statistics*, 76(Winter), 50–65.
- Naughton, M. (2003a) 'How big is the "iceberg"? – a zemiological approach to quantifying miscarriages of justice', *Radical Statistics*, 81(Spring), 5–17.
- Naughton, M. (2003b) 'Rethinking miscarriages of justice' (paper presented at the Centre for Criminal Justice Studies, University of Leeds, 25 November 2003, unpublished).
- Naughton, M. (2003c) 'Convicted for crimes that never happened', *The Observer*, 19 October.
- Naughton, M. (2004) 'Reorientating miscarriages of justice', in: P. Hillyard, C. Pantazis, D. Gordon and S. Tombs (Eds.), *Beyond Criminology: Taking Harm Seriously*, London: Pluto Press.
- Parole Board (2004) *Denial of Guilt and the Parole Board* (available on-line at www.paroleboard.gov.uk, 20 February 2004).
- Prison Reform Trust and HM Prison Service (1998) *Life Sentenced Prisoners 'Lifers'*, London: Prison Reform Trust.
- Prison Reform Trust and HM Prison Service (2002) *Parole Information Booklet*, London: Prison Reform Trust.
- Randall, C. (1997) 'Ex-soldier wins appeal after serving 25 years for murder', *The Daily Telegraph*, 4 December.
- Royal Commission on Criminal Justice (1993) *Report*, Cm.2263.
- Sweeney, J. and Law, B. (2001) 'Gene find casts doubt on double "cot death" murders', *The Guardian*, 15 July.
- Tendler, S. (1998) 'Man of 70 to be cleared of murder after 23 years in jail', *The Times*, 10 June.
- Wilson, D. (2001) 'The guilt trap', *The Guardian*, 1 February.
- Woffinden, B. (1987) *Miscarriages of Justice*, London, Toronto and Sydney: Hodder and Stoughton.
- Woffinden, B. (1999) 'No, you can't see. It might help your client', *The Guardian*, 4 May.
- Woffinden, B. (2000) 'Extra time for being "in denial"', *The Guardian*, 16 October.
- Woffinden, B. (2001) 'Prisoners win right to challenge governor', *The Guardian*, 6 August.
- Woffinden, B. (2002) 'The case of Nicholas Tucker', *The Daily Telegraph*, 21 April.

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