

Setting up an Innocence Project – First Steps

The following outlines the ‘first steps’ in setting up a member innocence project and the things that students can do to put the foundations of their innocence projects in place in readiness for undertaking live client casework.

Part One: Getting the foundations in place

Basic Knowledge

- Ensure that the basic information about INUK is understood by student caseworkers. For instance, they need to know the details of the INUK caseworking protocols, the INUK Student Handbook and, crucially, the Client Care Letter (all available in the INUK Innocence Projects’ Starter Pack) so that they know the basics about what the INUK is, what an innocence project is and the operational practices for member innocence projects.
- All student caseworkers need to be familiar with the workings of the CCRC (or the SCCRC for member innocence projects in Scotland). A good starting point is the CCRC/SCCRC website, which links to the key statutes that govern its operations. Students may also want to read the critical analyses on the limitations of the CCRC contained in:
- Naughton, M. (2009) (Editor) *The Criminal Cases Review Commission: Hope for the Innocent?*, Basingstoke: Palgrave Macmillan.

This book is the product of the Inaugural Innocence Network UK (INUK) Symposium that was held on the 10th Anniversary of the establishment of the Criminal Cases Review Commission (CCRC), 31 March 2007, University of Bristol. It brings together critical perspectives on the operations of the CCRC from victim-support workers, practitioners and academics from the UK, the United States and Canada in terms of its limitations to deal with claims of innocence. It shows how the CCRC's help to the innocent is, at best, merely incidental.

Forewords By Michael Mansfield QC and Professor Michael Zander (Emeritus, LSE). (Both INUK Patrons).

Introduction at:

<http://www.palgrave.com/PDFs/9780230219380.Pdf>

INUK members can purchase copies for £25 by sending a letter with the number of copies required and a cheque for the amount payable made out



to INUK/UoB to Pat Hammond at: INUK, Wills Memorial Building, Queens Road, Bristol, BS8 1RJ

- They could be looking at the CPS website to see what the documents they get should look like, to get them used to the MG6 schedules etc., that should assist them in working out what evidence was used, what was unused etc.

All innocence project students should also read Naughton, M. with Tan, G. (2010) *Claims of Innocence: An introduction to wrongful convictions and how they might be challenged*, Bristol: University of Bristol. If your innocence project does not have copies they can be supplied by INUK for postage costs.

Practical Matters

- Set a day and time for the innocence project to meet, for instance, the University of Bristol Innocence Project meets every Wednesday during term time from 1 p.m. onwards. Also, you may want to consider:
 - Where and when will there be student meetings, and where and when will there be staff meetings? When will you meet with the solicitor/barrister? – what is the general plan?
 - How are minutes of meetings going to be recorded?
- You may wish to make contact with local solicitors and/or barristers telling them about your innocence project and inviting them to assist your casework (template letters are available in the INUK Innocence Projects' Starter Pack).
- Setting up the office:
 - Secure filing cabinet and a dedicated PC so that the innocence project complies with data protection and the INUK caseworking protocols?;
 - Headed paper with INUK logo and individual innocence project university logo?;
- Organising your innocence project:
 - Who will lead the investigation?
 - Virtual Learning Environment (eg. Blackboard) with names of students, contact emails, and work out a system of contacting each other via this system, which will also be the place where minutes of meetings etc are recorded.
- Are students expected to produce a reflective diary so that they can usefully reflect upon and record their learning experiences? If so, what form will this take, and how often will staff member look at this?
- How is the innocence project going to be funded?



- How is the innocence project going to be launched? Students can give some thought to how and when this might be appropriate and think of the practicalities of room bookings, invitations etc for any such events.

Student Welfare/ Health & Safety Considerations

- Does your university want to have in place a Risk Assessment Strategy?
- You could make contact with Student Counselling within your university and explain the kind of work that the students will be undertaking and the forms of material that they will be exposed to (photos of dead bodies, graphic letters of serious crimes) and arrange for a point of contact that may be able to support any students who may need it.

Part Two: Raising awareness

In terms of raising students' awareness on miscarriages of justice and wrongful convictions, films and documentaries offer an enjoyable way of understanding the issue and encourage team bonding within the group.

We recommend the following films/documentaries:

- *Conviction*: a film based on a case overturned by The Innocence Project starring Hilary Swank and Sam Rockwell and depicting the case of Kenny Waters and the efforts of his sister Betty Anne Waters.
- *'In the Name of the Father'*: a film based on the Guildford Four, which was one of the key cases in prompting the Royal Commission on Criminal Justice and the establishment of the CCRC.
- *'Ten Rillington Place'*: This is a film about Timothy Evans, who was sentenced to death for the murder of his baby daughter. When it later emerged that Timothy Evan's neighbour, John Christy, was a serial killer who murdered six women on the premise, serious doubts on the safety of Timothy Evan's execution arose which contributed to the abolition of the death penalty in Britain.
- *'Let Him Have It'*: A film on Derek Bentley who was hanged in 1952 for the role he allegedly played in the murder of a police officer. Derek Bentley received a posthumous pardon 46 years after his execution following a referral by the CCRC.
- *'Criminal Justice'*: A recent BBC Drama written by former criminal barrister Peter Moffat on a young man who was charged and convicted for the stabbing of a young woman he could not remember committing. Although this is a drama series, it accurately depicts the harsh reality of the criminal justice process and the abuses that routinely occur in prison.

- *'The Innocents' Brief'*: A BBC Rough Justice documentary featuring five students from the University of Bristol Innocence Project investigating the case of Simon Hall, who has been serving a life-sentence since 2002 following his alleged wrongful conviction for the murder of Joan Albert. The programme is available on the Justice For Simon website at: <http://www.justiceforsimon.co.uk>

There are also a plethora of biographies and general books that the students could read to heighten their awareness of the causes and consequences of wrongful convictions/imprisonment such as:

- Batt, J. (2005) *Stolen Innocence: The Sally Clark Story - A Mother's Fight for Justice* London: Ebury Press. (Sally Clark).
- Callaghan, H. & Mulready, S. (1995) *Cruel fate: one man's triumph over injustice* Amhurst: University of Massachusetts Press. (Hugh Callaghan and the Birmingham Six).
- Cannings, A. & Davies, M. L. (2006) *Against All Odds The Angela Cannings Story: A mother's fight to prove her innocence* London: Time Warner Books. (Angela Cannings).
- Conlon, G. (1990) *Proved Innocent* London: Hamish Hamilton. (Gerry Conlon and the Guildford Four).
- Devlin, A. & Devlin, T. (2000) *Anybody's Nightmare: The Sheila Bowler Story* London: Waterside Press. (Sheila Bowler).
- Foot, P. (1986) *Murder at the Farm: Who Killed Carl Bridgewater?* London: Sidgwick and Jackson. (Bridgewater Four).
- Hale, D. (2002) *A Town Without Pity* London: Century. (Stephen Downing)
- Hill, P. J. & Hunt, G. (1995) *Forever Lost, Forever Gone* London: Bloomsbury Publishing Plc. (Paddy Joe Hill and the Birmingham Six).
- Jessel, D. (1994) *Trial and Error* London: Headline. (Peter Fell, Sheila Bowler, Mark Cleary, Mary Druhan, Gary Mills and Tony Poole).
- Kee, R. (1986) *Trial and error: the Maguires, the Guildford pub bombings and British justice* London: Hamish Hamilton. (Guildford Four and Maguires).
- Mullin, C. (1986) *Error Of Judgement: The Truth About The Birmingham Bombs* London: Chatto & Windus Ltd. (Birmingham Six).
- Naylor, L. (2004) *Judge for yourself how many are innocent* London: Roots Books. (Paul Blackburn and others).

- O' Brien, M & Lewis, G. (2008) *The Death of Justice: Guilty Until Proven Innocent* Y lalfa. (Cardiff Newsagent Three)
- Price, C. & Caplan, J. (1976) *The Confait Confessions* London: Marion Boyars. (Colin Lattimore, Ronnie Leighton and Ahmet Salih).
- Trow, M. J. (1990) *'Let him have it Chris': the murder of Derek Bentley* London: Constable. (Derek Bentley).
- Ward, J. (1993) *Ambushed: My Story* London: Vermilion. (Judith Ward)
- Webster, R. (2006) *The secret of Bryn Estyn* Orwell Press. (false allegations of sexual abuse in care homes in North Wales).

Part Three: Academic underpinnings

On an academic level, we think that a critical engagement with existing literature in the area of miscarriages of justice will not only enhance students' conceptual understanding of the problem, it will also equip students with a healthy skepticism and critical thinking skills that are fundamental when undertaking casework.

We recommend reading in successive weeks, the first three chapters of Naughton, M. (2007) *Rethinking Miscarriages of Justice*. This can be accompanied by critical discussion within the group on the contents of each chapter.

- Chapter 1: What is a miscarriage of justice?
 - This chapter discusses the definition of a 'miscarriage of justice' and how it is distinct from the wrongful conviction of the innocent.
- Chapter 2: The official miscarriage of justice iceberg
 - This chapter looks at the miscarriage of justice phenomena beyond 'exceptional' cases of wrongful convictions overturned upon referral by the CCRC. Instead, it widens the purview of miscarriages of justice by including the 5,000 or so 'mundane' and 'routine' successful appeals where criminal convictions are quashed through the normal appeals process each year. Of course, these successful appeals in no way denote factual innocence. Rather, they highlight the frequency of errors in the criminal justice system and the flaws of the criminal justice process of which innocent individuals can fall prey.
- Chapter 3: Causation- Beyond the miscarriage of justice iceberg
 - This chapter examines the individual, structural and procedural causes of miscarriages of justice.

INUK members can purchase copies for £25 by sending a letter with the number of copies required and a cheque for the amount payable made out to INUK/UoB to: INUK, Wills Memorial Building, Queens Road, Bristol, BS8 1RJ

In addition, we also recommend that students read the various articles published on the INUK website (under ‘Publications’), particularly:

- *The need for caution in the use of DNA evidence to avoid convicting the innocent* discusses the shortcomings of Low Copy Number DNA, Mixed DNA and Partial DNA.
- *The Right to Access DNA Testing by Alleged Innocent Victims of Wrongful Convictions in the UK?* – makes an argument for contemporary DNA testing to be available to prisoners maintaining innocence in cases where new testing may determine the truth
- *‘Wrongful Convictions and Innocence Projects in the UK: Help, Hope and Education’*- the seminal article on the need for innocence projects in the UK explains the causes of wrongful convictions, the harmful consequences to victims and families, the limitations of the CCRC is guaranteeing the overturning of wrongful convictions.
- *‘Innocence Projects: Learning from the mistakes of law’*- a reflective piece which offers a student perspective on working on cases of alleged wrongful convictions.
- *‘Innocence Projects’* – maps out the key causes of miscarriages of justice, the limits of the appeals system and the CCRC and the unmet legal needs of prisoners maintaining innocence.
- *‘Factual Innocence versus Legal Guilt’*- a long-standing problem faced by life-sentenced prisoners maintaining innocence is their inability to progress through the prison system and achieve release unless they acknowledge their guilt and address their offending behaviour. In seeking to move beyond the deadlock between prisoners maintaining innocence and the parole board/prison service which labels all prisoners maintaining innocence as ‘deniers’, this article examines how the crux of this tension resides in a fundamental failure by each side to understand what the other side means due to a lack of clarity about the precise meaning of the terms ‘innocence’ and ‘guilt’.

Assignments?

- A possible assignment that the students could undertake in the early days of the innocence project could be to write a review of around 500 words of a film, documentary or biography on a miscarriage of justice case that they have viewed or read.
- Alternatively, students could write an academic essay on the causes of miscarriages of justice, the criteria of the appeal system, the limits of the CCRC, the treatment of prisoners maintaining innocence by the prison and parole regimes, for instance.

- Students could also consider some of the cases featured on the INNOCENT website. They could, perhaps, choose a high profile case and see what they can find that is in the public domain about that case. When they get their own case, they will be doing the same, so it gives them an idea of how the Press portray such cases.

We also feel strongly that all innocence project students should be able to answer the following questions drawn from the University of Bristol Innocence Project Basic Knowledge Test:

1. What are the grounds for an appeal and under which Act are they found?
2. Why does the Court of Appeal (Criminal Division) quash criminal convictions, i.e. what is the criteria?
3. What is the difference between a single court and a full court hearing the appeal?
4. When is an appeal out of time and what happens when this happens?
5. What type of evidence would make the Court of Appeal interested?
6. What is the role/function of the CCRC?
7. Why was the INUK established?
8. Why do prisoners maintaining innocence find it difficult to achieve release?