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We welcome enquiries from any member of the public interested in and supportive of FACT’s work, including academics, lawyers, politicians, journalists, students and any involved in the care of children and vulnerable adults, in either a professional or voluntary capacity.

We invite articles, letters, poetry, cartoons, photos, obituaries, &c. for publication. Items must be copyright-free or have the owner's written permission to publish. Submissions are included at the sole discretion of the Editor. Copyright remains the property of the author(s). Contact details must be provided but names may be changed upon request. Articles published in FACTion do not necessarily reflect the views or policy of the Editor or of FACT as an organisation.

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Confidential FACT Help Line 0843 289 2016

Whilst we are unable to give legal advice we do offer support to professionals in positions of trust facing false allegations, charges and/or convictions, or those found innocent but suffering problems resulting from any associated public hysteria & rumour. We also offer support to family members and friends. Calls cost around 5p per minute from a BT landline, but may vary on other networks and could be much higher from a mobile phone.
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Forthcoming Events & Committee Meetings

29th September, 2018  AGM & Conference
17th November, 2018  Committee Meeting
26th January, 2019  Committee Meeting
23rd March, 2019  Committee Meeting
18th May, 2019  Spring Conference
22nd June, 2019  Committee Meeting

Venue: St Luke’s Church & Conference Centre
Refreshing, encouraging and supportive are just a few of the words used to express people’s experience of FACT’s Spring Conference held in Birmingham on the 12th May 2018. The conference commenced with a short reception with refreshments and was then formally opened by Sister Frances Dominica FACT’s President. Sister Frances welcomed everyone and congratulated them on their strength to attend and join together to share and take encouragement from each other. The conference then heard a short message from the Secretary for FACT before dividing into three groups to discuss and share with each other. The groups focused on three issues namely ‘What can FACT do to help and campaign for those affected by false allegations’, ‘Self Help’ and ‘Disclosure Issues’.

These groups proved very effective and gave many people opportunity to speak about their experience and to learn from each other. Feedback scripts from these groups are available in this issue of FACTion. Following on from the verbal feedback we heard from our main speaker for the conference John Hemming. John was a deputy leader of Birmingham City Council some years ago as well as a former MP who has a great interest in justice and helps people through the family court system. John spoke openly and passionately about our justice system and its current flaws, from the system of selecting expert witnesses giving questionable opinions to courts to the procedure to gain convictions irrespective of the evidence. He commented on the culture within the CPS which appears to have encouraged false allegations and created a situation where they and the police are to believe each and every complainant without investigation to verify the accounts given. John advocates for a better system to correct this imbalance and explained how the media could help in doing this. John took many questions from the floor and was extremely helpful to all assembled by sharing his experience on how things work and giving comprehensive replies to observations and enquiries.

This was followed by a short delivery of disturbing facts from Simon Warr. He referred to the words of the Director of the Crown Prosecution Service who stated that she did not believe that people were imprisoned wrongly. Simon pointed out that its own inquiry had found there to be a culture of disclosure failures amongst police and prosecutors which has led to steady stream of miscarriages of justice. He referred to the many innocent people clutched from society and wasting their life behind bars due to the very flawed justice system we now have to contend with.

There followed a break when members could share again and purchase the two books we had on sale at a special conference price from Biteback Publishing. The book by Gurpal Virdi a former Metropolitan Police Officer (Behind the Blue Line) and Simon Warr’s book ‘Presumed Guilty’, were both available for a special conference price and were a sellout.

The conference ended with a panel session hosted by the speakers plus other specialist individuals who again were able to respond openly to many questions from floor. The conference was felt to have been the best one for many years in so much as the content and opportunity for individuals to share was a very much-welcomed feature. Some
new members were welcomed and for two of these came the comments that this was the first time they had felt amongst friends and had been able to draw support and encouragement since their ordeal began.

This was the also the finding from the group which met in the morning discussing what FACT does and were it should go. FACT receives many, many calls to its helpline number and deals with many email requests for help. Although many of these callers do not become members for them it is a lifeline and has diverted people from despair to hope. Horatio and Brian who deal with the majority of enquiries where congratulated for their commitment and diligence in doing this full-on task. This is perhaps what FACT does best. It was acknowledged that FACT appears to be unique in the world and that the many enquiries we receive from overseas confirms this. FACT has no example to follow; it has made its own history and has evolved a style of its own. The conferences provide a supportive platform environment twice a year for people to meet and share plus learn from professionals as well as serving as a public front for those people wrongly accused. The addition of a Church Service in London each year to highlight this and offer even more support was felt to be a welcomed new addition to FACT’s meetings. It was also pointed out that we do need to campaign and gather facts and statistics which can be used to change and influence the system which is broken. It was argued that even though campaigning seemed to be at odds with requirements by the Charity Commission, with whom we have sought to register, it is a necessary function. We have to be more than a talking shop.

We hope in the coming year to further extend our helpline, and to encourage more people to join us. In a country which seems to have all but abandoned the legal principle and human right of the presumption of innocence, FACT’s work is vital to give continuing support to those who fall foul of the broken justice system, which is a disgrace to the country and which causes unnecessary trauma and devastation to innocent individuals who have dedicated their own lives to service.

B Hudson, July 2018
A little about me

Just before the General Election in 2015 I was a suspect in a two year police investigation into a false claim that I sexually abused a girl. Prior to that I was a Liberal Democratic MP and before that Deputy Leader of Birmingham City Council. At University I studied Atomic and Nuclear Physics at Magdalen College, Oxford.

Locking people up in secret

Over many years I have been a supporter of those whom the legal system has let down. I have fought against and exposed a legal system that places reporting restrictions relating to those it has imprisoned; that is locking people up in secret; usually people from the very margins of our society, with very little money who fall foul of our courts and found themselves in prison with a gagging order. Once you can lock people up in secret, the power of the State is ultimate and hence I have spent a lot of time over the years campaigning on cases involving secret imprisonment.

Adoption

Another area of interest is adoption. I believe that in England and Wales there is an obsession with adoption. [At this point John quoted some cases he has been involved in]. I believes that the cases I’ve just quoted and some other very strange cases point to a system that is wrongly driven by targets; targets that are related to funding for local authorities. As Deputy Leader of Birmingham Council, I found that the problem with adoption targets is that they go all down the line to the poor social worker, who is put under pressure to reach the adoption targets.

I had a case from Leicester where a social worker was fired because she did not want a child to be adopted. She took this to an employment tribunal and she was ‘cost bullied’ out of keeping the case going. She was fired because she would not give the expert evidence that the boss wanted her to give.

Targets

This point about targets is critical. If you put pressure on people to achieve a particular outcome and their mortgage depends on them achieving that outcome, then the management might be pressurising them to do the wrong thing. That is a problem with numeric targets. Procedurally we have to be extremely careful before having anything that is a numeric target. You can look at the numbers, that is fair enough, but when we say that we need more convictions, then you have a problem.

Independent Experts

The concept of an independent expert, independent of both parties, is a good concept. Unfortunately the experts tend to say what those instruct them want them to say, or they may not get more work in this area. Five thousand or ten thousand pounds for a report, it is nice to keep the money rolling. It is what is sometimes called, ‘repeat player prejudice’.

You can have two experts on adoption, one sceptical and the other for, so who will the local authority employ? Obviously the one who matches their opinions.

CPS Culture:

Protecting those making false allegations

I believe that Keir Starmer [Director of Public Prosecutions 2008-2013] has created a culture at the CPS, protecting those making allegations to such an extent that people feel immune from whatever they do. Therefore, you have, I think, a CPS that has created a culture that encourages false allegations to be made. This is the challenge, although our constitution has the separation of powers, it has a problem with the executive having considerable control over the legislative, which you do not have in the USA. In this country the situation is that we don’t have a proper system for looking at procedures operating outside of the courts.
Tolerance
I raised the concern in parliament in 2007 about the tolerance of child prostitution in Birmingham and yet children were being banned from making toast for each other. Well we made progress in allowing children to make toast, but the problem of child prostitution carried on for another few years until Rotherham turned up. Everyone knew, they just tolerated it.

Don’t Mock the Media
We need to recognise the impact of the Internet, particularly with its immediacy and the impact of social media; it has its good points and its bad. Newspapers are struggling to survive. So those who are investigative journalists have to produce many articles in a short time, for there is no longer the money to pay for the very difficult investigative journalism. It has reduced the time available to research stories that are available. So journalists need easy straightforward cases where there is incontrovertible evidence and no complicated issues of judgement.

The difficulty for the media is they need people to buy newspapers or click on the programme; human cases are of interest to their customers, whilst procedural issues are dry and relatively boring. Human interest sells papers. It is very difficult to get anonymous stories in the newspaper; this is why names are very important. Therefore, people will not report on just procedural issues, they need a few human interest cases that point to what changes need to be made.

Lots of problems with the procedural issues.
We all should be looking at procedural issues. This is where the flaw in our legal system often lies and where we can challenge and ask for change.

Effecting change
1. You, as an organisation will need to identify what are the systemic changes that need to be made, because if you don’t know what you want you are not going to get it.
2. You will require identifying cases that illustrate why the system needs to change. Cases where people are willing to talk about themselves.
3. I am very happy to be of assistance to you, but my time is limited.

Questions from the floor
Parole: Regarding a prisoner who refuses to accept that they are guilty, it is possible to be paroled if the parole board believe that the person is longer a risk, but this is very rare and usually unless a prison says they are guilty they will have to serve their full term.

Brexit: There are three European Courts. The Council of Europe is completely separate from the European Union, so will remain an influence in this country. With regard to present European laws that we have adopted in this country, Parliament will be very slow to change any, assuming that they wanted to, due to lack of parliamentary time.

Cautions: Caution comes under the 1933 Act and accepting it is not getting away with it, it goes on your record. The police very often don’t know what the law is and it is left to individual police officers to interpret them.

ACPO have no statistics regarding wrong interpretation of Acts and so we have a completely murky area of the law; it can cause all sorts of havoc.

Court Orders: You have to remember that people are not perfect, and things do go wrong. You must assume that and make sure things like that don’t happen. If the Courts make an Order they would normally send out a sealed version to the parties, but you must be proactive and make sure that whoever the Order is for receives them and that you have proof of that.

How Can FACT move forward?
   a. Know what you want changed.
   b. Have people willing to speak out and be identified.
   c. Make sure you have good documents referring to the cases you are quoting.
   d. Use Judicial Review. It is is not a perfect process but I like Judicial Review because they force people to put their reasons in writing.

For example, Challenge the College of Policing - they are a public authority - by asking them if they are going to endorse the Henriques report. If they don’t, take them to Judicial review – that is a possibility.1

1. See Private Eye article on page 33
The past 6 months have been an eventful period for those of us who are concerned about false allegations and their impact upon innocent men and women, especially those of who work, or who have worked, in the caring professions. We carers and teachers are the most vulnerable groups in modern Britain, which is still reeling from the 'Savile Effect'. Despite the fact society depends on us, it is nevertheless quick to cast us asunder as soon as one of the myriad opportunists/cranks/liars accuses us of either a recent or historical sex allegation. Historical allegations are generally favoured by the liars because they are harder to disprove. These reprobates are tempted to tell their lies because they are all too aware it is immensely lucrative and there isn't a chance of them facing any sanctions if they are exposed as lying: all to gain and nothing to lose.

If someone complains that another person has threatened him or her with a knife and the complainant is subsequently proved to be telling lies, he or she will be punished, at the very least with wasting police time. Make a false SEXUAL allegation and the authorities will do nothing: no one will care a fig, or they will lack the courage to care a fig.

Despite repeated claims that false allegations of rape and sexual assault are 'very rare', recent almost daily reporting of just such crimes in the national, and on social, media is revealing to the world the sheer scale of the crisis within our palpably dysfunctional justice system. All of us here who have been involved for a number of years in FACT's work have been bleating about this crisis for some time and it is a relief to know that, at last, the wider public is getting the message: false allegations are not rare and they destroy innocent people's lives, even when the lies are exposed. We, as members of FACT, must strike while the iron is hot: it would be a dereliction of duty to sit back and allow these vile opportunists to continue to behave so recklessly, some might say diabolically. We have a duty to speak up for all those suffering - whether they are waiting for a CPS charging decision or waiting for an appearance in court or if they are spending time behind bars.

What have been the recent key events?

Firstly, I mention 'the failure by the police to disclose evidence' scandals. Those of us who have already been through the criminal justice system, or who have a family member who has experience of it, or who represent individuals who have been falsely accused or wrongly convicted, are all too aware of the serious impact of failure to disclose evidence that could assist the defence. With the collapse of the Liam Allan case late last year, we have been beset with a steady flow of 'abuse in procedure' cases, proving once and for all that the statement uttered last year by our DPP, Alison Saunders, 'I do not believe there are any innocent people in prison' is as infantile as it is alarming.

The CPS Inspectorate's recent report on disclosure found: 'there has been a culture of disclosure failures among police and prosecutors and this has inevitably led to a steady stream of miscarriages of justice'.

We here at FACT are part of a support organisation, that raises the awareness in society of the issues that have unjustly altered the lives of our members. We need to ensure that this serious issue of wrongful convictions arising from withheld or concealed evidence is discussed widely among politicians/legal practitioners and investigative journalists and, as FACT's media spokesperson, I make daily efforts to spread our concerns. FACT's publicity and outreach continue to bring specific cases to the wider public attention. The role of social media is key to engaging with the public: some of my own tweets concerning the whole tawdry world of false allegations and their impact on innocent people's lives are regularly seen by more than 6,000 readers. I would request that FACT members who use social media re-tweet and circulate FACT's official tweets to as wide an audience as possible. Any ideas for media initiatives, please don't
hesitate to contact me.

The on-going case in the Supreme Court about compensation for those who have been wrongfully convicted and jailed for years - including Victor Nealon, whose solicitor Mark Newby is a long-standing pillar of FACT - also has the potential to raise public awareness of the awful injustices being perpetrated within the once highly respected British justice system.

Another recent development has been the publication of new books, which highlight the ubiquitousness of false allegations and wrongful convictions. Gurpal Virdi has recently had his book, Behind the Blue Line', published by 'Biteback', a house owned by LBC presenter Iain Dale. 'Biteback' is leading the way in the publication of these accounts - my own book, 'Presumed Guilty', was published last year and hot off the press this week is Jon Robins' 'Guilty Until Proven Innocent'.

FACT continues to fulfil its role as a support and information hub for those who have faced, or are facing, false allegations. We now have an opportunity to step up pressure on the police and CPS by sharing our stories, working with sympathetic journalists, lobbying politicians, telling the world about the devastation that being wrongly accused can have on an individual's life.

Please support FACT in any way you can.

Simon Warr
12/5/18

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Chris Saltrese Solicitors

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Chris Saltrese Solicitors
is a law firm providing a premium service
in representing clients accused of
sexual offences and domestic violence,
in criminal proceedings.

We have unrivalled expertise in these areas,
both regionally and nationally.

Many of our clients face allegations as a result of domestic or relationship disputes, contract disputes, mental health problems, financial incentives and have no prior experience of the criminal justice system. Often these allegations involve uncorroborated, historic allegations.

In this complex area, specialist legal advice and representation is vital, especially as recent changes in the law designed to convict genuine offenders, also put the innocent at greater risk of injustice.

We particularly welcome carers, teachers and health care professionals who have been accused of abuse and are likely to be subject to criminal investigation.

Where allegations have been made we would be happy to advise, whether or not criminal investigations are underway.

For further information please contact

Chris Saltrese Solicitors
3 Regent Road, Southport,
PR8 2RB
Editors’ note:
The bullet points used by Kevin in his presentation are highlighted in bold below, including the titles of his slides. Some of slides used are reproduced in the following article.

**What is happening?**

There is a *moral panic about child abuse*. We are fixated on this as a society. It is so easy for anybody to make an allegation, especially relating to young children. If a young child makes even a silly allegation such as “My grandmother has abused me emotionally because she has called me a ‘spoiled brat’”, then the safeguarding officer, who has to take all complaints seriously, will record, investigate and maybe refer it on.

**The Savile Impact.** This is what solicitors use to say to me has caused the pendulum to swing from one extreme to another. In the past the criminal justice system let down victims. I use the word ‘victims’ *after* the accuser has been convicted; *before* that they are complainants.

**Victim not complainant**

I looked at two thousand and three hundred and eight assault charges involving domestic violence and sexual assault charges. These women were really let down by the criminal justice system. Their past history was brought up; they were not believed. People walked out of those court rooms clearly guilty in my opinion. It has now gone the other way and the idea that you are innocent until proven guilty, in my opinion, does not now exist. The criminal justice system, I would argue, is broken. Just read ‘The Secret Barrister,’ I would strongly advise you to read. *(The Secret Barrister is reviewed on page 44 of this issue.)*

**Corroboration**

In England and Wales, sex allegations do not need any corroborative evidence whatsoever and that is the crux of it.

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**Savage Sentencing**

The sentencing is savage. I was contacted last week by a lady whose husband just got nineteen years, and she was desperate, and I said I have one option for you. A barrister, who is well known, and she will review your entire file for a flat fee of two and half thousand pounds. There is no guarantee that she will find any review points, but she might. She is doing two other cases for me. One is a former FACT member. It was found, unbeknown to him, that at a disciplinary hearing in the Care Home he ran exonerated him completely. Surprisingly the two files never made it together. Also, his legal team were blissfully unaware of it or did not look at it. That is fresh evidence, which is always hard to get. That case is now before the CCRC.

**Electronic Communication**

It is astonishing that last minute disclosures are sent electronically at the last minute. Some of these electronic communications are a thousand pages long; who is going to read it and will they find the time to do it justice? Liam Allan’s case of last December shows that we need to read all the disclosures. On the first day of the trial his barrister applied to the judge to request the police release the phone records of the complainant, which the police had previously refused to hand over. His barrister said, “I read them [40,000 messages] through the night and into the next morning. It was laborious, but I found messages that completely undermined the case.” They do not get paid for that bit, they get paid by the day in court.

Pamela Radcliffe, who I heard speak a few weeks ago calls historic allegations *‘the elephant in the room’*, because even though they are looking at non-disclosure, nobody is talking about the people who...
have or are going to be convicted due to a failure to disclose all the evidence.

Alison Saunders, Director of Public Prosecutions, on radio 4’s today programme (17th January, 2018) claimed that she ‘does not think’ that there are innocent people are in prison because of failures to disclose vital evidence. This is a fantasy beyond belief. Her statement says a lot about the beliefs held by those in position of authority within the CPS.

National Fixation on Sexual Abuse Allegations

This is fuelled by Media Coverage especially the VIP cases.

There are two distinct data sets on this and we should not be confused on this; there are far too many victims. Sexual abuse is widespread. I know some and they are not making it up.

Regarding Harvey Weinstein, delayed reporting of sexual abuse is very understandable. With regard to Barry Bennell, there is no question about his guilt. I know this because one of those footballers standing outside Liverpool Crown Court giving a statement is a friend of mine. But we also have fantasy cases.

Rape juries some make good decisions and some not. The court room is a terrifying place. Crown Court proceedings are loaded against the accused.

A Herd of Elephants in the Room

I have not come across a case that does not involve mental health. Some fantasists really believe what they are saying. That does not make it true. How can you prosecute the complainant if they are unwell and genuinely believe in the allegation?

There is a complete lack of understanding about memory including legal teams and judges. It does not work like a video recorder. Just try and remember where you were on this day ten years ago, twenty years ago, thirty years ago, forty years ago? Unless today is a significant day, such as your birthday, you will not be able to remember; and this can undermine the defence.

Police Investigators. I want to be clear on this, I do not believe that all the police do a poor job. I know some police teams that give full disclosure. They recognise that it is not their job to decide on guilt or innocence, that is the court’s role.

Confirmation of bias is where the police have an idea, a hunch. They believe the complainant and they will ignore any evidence that undermines their case and will introduce anything that supports it.

Myth of Progress

This is my personal view point. There is a view that as society advances it improves. Well I don’t think we have. We had witch hunts 370 years ago. We seem to have gone back in our thinking and our ability to rationalise things. Using one’s knowledge and one’s brain to look at the evidence, that has all gone.

The ‘Irish’ Cases

Judith Ward, the Birmingham six, the Maguire 7 and the Guildford four; we thought we had solved the mistakes of the past. Miscarriages of justice are not new. Sadly, recent high-profile cases show that the police and our justice system are still making mistakes. Many people still believe in the myth that our British Justice is the best in the world. How many people, with their eyes closed have said, “Don’t worry, I have not done anything, I won’t be convicted”, is not true as you all know.

Legal Cuts have had a massive impact, just read ‘The Secret Barrister’ who points out that some solicitors may be working for less than the minimum wage.

There is a prevalence of sex cases in our criminal justice system. 50% of the cases in the criminal courts are now to do with sex allegations.
**Accused is disadvantaged at every single level**

- ‘Believe the victim mantra’
- Special measures v the ‘Glass Dock’
- Historical dimension to contemporary events in that genuine complainants had a terrible experience in the court room
- Justice on the cheap
- Brain Surgeon, Henry Marsh: ‘Do No Harm’
- Caveat Emptor

**Caveat Emptor** – ‘let the buyer beware’ – If you are accused or you know someone who is, open your eyes. Do not think that you will go to court and it will all go well. It may, or it may not.

**Recent case Studies**

**Helen** was always going to trial. I was present in all her court appearances. We instructed an expert witness to look at the statement of the complainant, and of course, the Crown instructed their expert witness. Guess what happened? They both agreed. Now these allegations were sincerely believed by the accuser, who was an intelligent person, but they were not credible, and the charges were dismissed. The complainant appealed the not guilty decision, but the appeal judge upheld the not guilty verdicts.

‘H’ was on trial in 2016 and faced seventeen accounts from two complainants. What happened here was that we were able to get hold of Face Book and other social media material; the jury came back within thirty minutes with a not guilty verdict.

‘R’ Is present here today with his wife. The accuser was a fantasist, making a specific allegation describing the accused penis as ‘white, curly and cobra like snake’. I said where has that come from? We found it on the first page of a Mills and Boon novel. I told them that they would have to instruct their solicitor about the discovery and insist that he instructs the barrister about this. The barrister said that he did not wish to become known as the ‘Mills and Boon barrister’, but we made the barrister bring this point up and the jury, in thirty minutes, returned a not guilty verdict.

‘E’ is an interesting case because this person was formally a magistrate; chair of the bench. Two people accused him and over the two years it took to get to court, he did all his work and including using a private detective. At the end of the trial the judge said that he was leaving without a stain on his character.

**Susan** got a big sentence and is now in prison. We have now got her case to go to a full court of appeal. And it is a very strong appeal, but who knows what might happen in the Court of Appeal? It is a lottery!

**Anita** is in prison and her appeal is on its way to a single judge. That appeal is very strong. We shall see what happens. I think only 70% gets beyond the single judge stage.
Bill is interesting example of why timelines are important and why we should not assume that the police will check every detail. One day, whilst serving his sentence, he suddenly realised that he could not have done the crime because he happened to have previously been in prison at that time. Why did the police not realise this? He went to the court of appeal, and of the seventeen accounts of guilty, fourteen were overturned. Because he could not account for a three-week period in his life in 1970’s, they upheld the others, for which he got seven years.

Sister Frances – I use her as an example of how easy it is to make an allegation. This is a woman who has devoted her whole life to helping people and was accused by two people, who I am sure in my mind had false memories. She was not supported at work, and although no charges were ever brought, the fantasies of two people have had a dramatic affect upon her life. If you can make a false allegation against Francis, you can make one against anybody.

What can be done?
1. Be proactive. This first point is the main one, it is crucial not leave it all to your legal team.

2. Construct a time-line of events and gather any photographs. The devil is always in the detail, so assist you solicitors with this information, make it easy for them. It is very, very hard, because we are working in the past.

3. Check all the checkable facts, do not accept anything. Question everything.

4. Scrutinise all statements and all assumptions. Don’t take anything for granted.

5. Use an experience legal team; it may seem obvious, but you need a team who has specialised knowledge.

6. Instruct your legal team to interrogate wide sources. Use any lines of inquiry or any witnesses that could assist you, but remember, you have to push that because they are overworked and underpaid and so you have got to help them.

7. ABC: Assume nothing; Believe nobody; Check everything. That has to be the approach.

8. Stay networked. I like the two recent books produced by members of FACT, because it makes the public more aware.


10. Raise Awareness

11. Write to your MP. Go to your elected councillors.


13. Use every available source: legally, physically; spiritually.

14. I understand that I am preaching to the converted.

Thank you.

What can be done?

- Be proactive from the outset
- Construct a timeline of events
- Check all checkable facts
- Scrutinise all statements and assumptions
- Use an experienced legal team
- Instruct legal team to interrogate wider sources
- ABC: assume nothing; believe nobody; check everything
- Stay networked
- Keep campaigning
- Continue to raise awareness
- Contact your MP
- Keep going
- Use every available resource: legally; physically; spiritually
- Preaching to the converted

The above article is a summary of Dr Kevin Felstead’s talk; published with his approval.
SELF HELP DISCUSSION GROUP/WORKSHOP NOTES

The allegations and bail conditions might make you feel isolated and those ‘investigating’ like you to be silent about your situation. It is important that you know who you can talk to and that you keep telling your story. This is one way of combating the presumption of guilt which accompanies sexual allegations and perhaps to obtain character references.

Those contributing reported mixed experiences with solicitors. You have the greatest knowledge of your case and the events surrounding it so you need to exercise control and scrutinise statements and documents and carry out your own research.

The understanding of false allegations in the wider world ranges from poor to non-existent. This lack of perception means that it may be impossible to mourn what you have lost. There may be added difficulties, such as risk assessments, which deprive you of your normal social contacts and support groups.

Don’t waste your time looking for the reason why this has happened to you. Do something else, look in the mirror, clean out the shed!

Indemnity insurance. You may find the insurance legal helpline useful.

Other points.

Keep telling your story.
Don't be afraid to tell your story but be prepared for rejection as some people just cannot cope with the enormity of what you are telling them. When this happens don't chase them and feel there is a need to convince them. Instead readjust your opinion of them. It hurts when a close friend does this and it can be shocking when a family member does it.

When telling your story be alert to you making changes.
Such changes could come from a genuine memory and could be significant. Sadly and very understandably, a change might come in response to a reaction by the person to whom you are telling the story. This might lead to 'embellishment' which can sometimes be unhelpful.

They like silence;
Most letters of suspension, from employers, inform you to not speak to fellow staff, service users/pupils and/parents; in effect committing you to a distressing loneliness. This is against your Basic Human Right to do anything reasonable to assist in building your defence. Should a case eventually go to tribunal the employer will attempt to claim there was a misunderstanding in the original suspension letter.

Need to know;
Should someone ask if there is anything they can do, invite them to write their contact details on/in a notebook which you carry. That act creates as sort of commitment to you and helps when you ask them to give a character reference. These are very useful in a Criminal Court. A judge will read all such references even if the character witness is not invited to stand in court. These are people who believe in you, so keep a copy of all such references in one file as they can be a boost at the times you feel down and have doubt.
Presumption of guilt;
It can be quite overwhelming to face presumption of guilt by agencies which should act intelligently. One can feel very alone. You know you are innocent so be at least one person who tells you. Look in the mirror and tell yourself you are innocent. It might sound silly but it can have a good effect.

Mixed experience with solicitors;
Should you have doubts about your solicitor you have the right to raise such concerns with the firm's senior partner who is designated to be responsible for customer care.

Scrutinise statements. You have a significantly different knowledge than does your solicitor. Share with your solicitor this knowledge and let them choose what might be significant for the legal arena.

Can't mourn what you have lost;
There will be occasions when someone whom you felt was crucial to your defence is unable to help and so is lost to you. This can be devastating. You however are in survival mode fighting for your freedom. Try to avoid wasting time mourning your loss as in the end you will still be without them. Focus instead on all the resources you have left. Helpful witnesses can be put under enormous pressure, often outside the law, to deny their support of you there is nothing you can do to get them back.

Poor awareness of false allegations;
Society is not well informed of false allegations, so it is likely that when one comes your way it is most shocking. FACT does show up when 'false allegation' is entered into a search engine. It can be an enormous boost to learn there is someone supporting the falsely accused and doing something about it. Taking a look at the 'Advisory Panel' found under 'About Us' can be very reassuring and counters the feeling of being alone.

Risk assessments;
Be prepared to reassess the risks associated with your normal activities. For instance someone highly trained in First Aid may find themselves considering the wisdom of approaching a child who urgently needs help.

Social media;
Seek ways to get advantage from your accuser and/or their friends posting pertinent evidence on social media.

Don't search for the reason why;
The falsely accused has no influence on why the allegation has been made. It can of course be blindingly obvious and share this knowledge with your solicitor. Don't waste time searching for a reason if it isn't obvious. You won't be able to effect change as without your accuser's say so you will never be sure.

Look in the mirror/ clean the shed; (see presumption of guilt)
Avoid doing nothing for long periods. Cleaning out the shed, doing the hoovering, are two activities which you can do and think about other things at the same time. Doing such tasks have huge benefits to your state of mind as well as your fitness.

Indemnity Insurance;
Look at your Household Insurance to see if you have been paying for Legal Expense Cover. If so your insurer can direct you to a legal helpline funded by many such insurers. You only need to tell your original insurer that you need some advice. Once through to the legal helpline you can tell a bit more in order to get to the correct advisor. Make a note of their name. Even if what you have been accused of is an excluded item on your policy, help will still be given as Insurers should still act as if you are innocent until proven guilty.
Introduction

Dr Burnett gave an introduction to disclosure issues and provided a fact sheet (attached). Of particular note:

Criminal Procedure and Investigation Act 1996 (CPIA) and the related Code of Practice, section 3.5 which states:

‘In conducting an investigation, the investigator should pursue all reasonable lines of inquiry, whether these point towards or away from the suspect. …’

Failures of disclosure and poor practice are not a new concern, but recent high profile cases (featured in recent Panorama programme) made this a matter of urgency – and has led to:

- A joint review of the disclosure process in the case of R v Allan: Findings and recommendations for the Metropolitan Police Service and CPS London
- National Disclosure Improvement Plan (NPCC, CPS & Coll of Policing, Jan 2018
- revised CPS Disclosure Manual Feb 2018

In progress:

- A Justice Committee Inquiry into Disclosure (access submissions online. Report to follow)
- The Attorney General is reviewing existing Codes of Practice, protocols, guidelines and legislation on disclosure.

N.B. These are important developments and documents that can be referred to in defending current cases, and in potential applications to the Criminal Cases Review Committee.

Arguments and Examples from those present in the group

1. Police are trained to hide evidence.

2. Judith Ward case as a famous example of ‘Catch 22’ in the rules on disclosure: the defence can’t present material that the Crown possesses but has not revealed.

3. The issue of disclosure or the lack of it highlighted the fact you cannot give a defence statement because of the lack of secondary disclosure. How are you going to run your defence until you get it? It is a double-edged sword.

4. The Defence are always struggling to get disclosure especially the unused material as that’s where the golden nuggets are for the defence. The police and CPS ignore directions and dates given by the judge especially relating to disclosure yet nothing is done about it.

5. ‘Disclosure Officer’ is the one responsible to disclose material, this officer may be a very junior officer and may not understand the importance of disclosure. (note: The recent Improvement Plan refers to appointment ‘champions of disclosure’ to make it fairer).

Example – of how disclosure was not provided. Solicitor and Defendant made enquiries to track down witnesses. Disclosure came the Friday before start of trial on Monday.

Example – disclosure being withheld due to National Security

Example – ask for the Crime Report / Investigating Officer’s log as it will detail actions taken by investigating team. Some reports are redacted.

Example – ask for everything and present to solicitor. Some solicitors will not do the work. There also may be a conflict between Police & CPS as to who is running the case.
Discussed HOLMES (Home Office Large Major Enquiry System) national database.

Discussed ‘No comment’ interviews as they could work in favour or detriment to the case.

Discussed Public Interest Immunity (PII) - Principle by which the government can request that sensitive documents are not used as evidence in a trial, on the grounds that to do so would be against the public or national interest.

Discussed other methods to obtain information on defendant
Either by subject access reports, Freedom Of Information (FOI) requests and by applying online to the Information Commissioner’s Office. Apply to local authority for information held.

Discussed the option of accepting a warning or caution from the police.
Many think it is a slap on the wrists but it does come to haunt you. There are different tests to disclosure many organisations rely on the balance of probability, in that, if police are investigating then the balance does not favour the defendant. This topic then led to Disclosure and Barring Service (DBS) issues. Specialist solicitor present went into details. In general, you should keep your files as something small could lead to bigger things in the future as some professional organisations will put you on their database on the flimsiest of evidence. If acquitted keep your files as they be useful years later.

Example of a matter not gone to court and disclosure not made.

Example of a junior barrister not passing information to senior barrister. As defendant you have to be very pro-active in the case.

Example of someone married to someone convicted and it affects their career and job prospects. This is appealable.

Disclosure Handout

Legislation and Key Documents

- **Criminal Procedure and Investigations Act 1996 (CPIA)**
  consists of Part I Disclosure; Part II Criminal Investigations; also has Parts III–Part VII + Schedules

- **CPIA Part I, s3 (referred to as The Disclosure Test)**
  Initial duty of prosecutor to disclose
  (1) The prosecutor must
  (a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused
  (b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a)

- **Part II, s23 stated**
  (1) The Secretary of State shall prepare a code of practice containing provisions designed to secure—
  (a) that where a criminal investigation is conducted all reasonable steps are taken for the purposes of the investigation and, in particular, all reasonable lines of inquiry are pursued;
  (b) that information which is obtained in the course of a criminal investigation and may be relevant to the investigation is recorded;
  (c) that any record of such information is retained;
  (d) that any other material which is obtained in the course of a criminal investigation and may be relevant to the investigation is retained;

- **Code of Practice** (for CPIA Part II Criminal Investigations)
  s. 3.5 In conducting an investigation, the investigator should pursue all reasonable lines of inquiry, whether these point towards or away from the suspect. What is reasonable in each case will depend on the particular circumstances. For example, where material is held on computer, it is a matter for the investigator to decide which material on the computer it is reasonable to inquire into, and in what manner.

  (Criminal Procedure and Investigations Act (CPIA) 1996 (s. 23(1)) Code of Practice, s 3.5)

Development/publications since recent high profile cases:
- A joint review of the disclosure process in the case of R v Allan: Findings and recommendations for the Metropolitan Police Service and CPS London
- National Disclosure Improvement Plan NPCC & Coll of Policing Jan 2018
- revised CPS Disclosure Manual Feb 2018

In progress:
- Attorney General’s review of existing Codes of Practice, protocols, guidelines and legislation on disclosure.
- Justice Committee Inquiry into Disclosure.

Before the recent high profile cases:
- Joint Inspection on Police and CPS Disclosure by HMICFRS & HMCP 2017
  “Making it fair: A joint Inspection of the disclosure of unused material in volume crown court cases.’ July 2017
- Mouncher Investigation Report 2017 by Richard Horwell QC

Follow-up: Evidence on disclosure problems submitted by
Chris Saltrese Solicitors to the Justice Committee Inquiry:
FACT’s Submission to the All Party Parliamentary Group on Miscarriages of justice, 2018

FACT was founded 18 years ago as a voluntary charitable organisation to support, advise and campaign on behalf of teachers, carers and other professionals (including volunteers) who have been falsely accused of abuse throughout the UK and who are defending their innocence. We are run by a national committee and are supported in expertise by an international voluntary advisory group made up of experts (details appended to this document).

FACT started as a response to the decisions of various police forces throughout the UK to undertake investigations into alleged historical child abuse in many institutions, initially in former children’s homes and residential schools. The first police force to do this on a significant scale was North Wales in 1991. The police were widely criticised for using trawling methods to increase allegations and many innocent people were caught up in these investigations. Some were wrongfully convicted. All suffered serious consequences, and needed an organisation that could support them and, just as importantly, their families. It soon became clear that how false or wrongful allegations are dealt with is absolutely crucial and cannot be viewed as something to be acted upon on a trial and error basis until it is got right. The lifelong effects on both the accused and their family are devastating regardless of how far the allegation goes through the system. Even ‘just’ being investigated leaves a blot on a person’s record (DBS and employment), often a loss of career, and deep trauma. There is also significant damage to children within the accused’s own family. Often prior to any verdict of guilt the accused is removed from their home and not allowed to live with their own children, with access only under supervision!

We received much feedback from a growing membership such as:
“\textit{This is a country where innocent people are being thrown in prison for crime where no witnesses, in fact no evidence of a crime taking place [other than the accusation] was ever found, and yet, they were arrested and questioned as if they were guilty, all because of an ill-conceived promise by the government and the police of that nation to would-be victims that ‘If you come forward, we \textbf{WILL} believe you. Some stories sounded believable, others were fantastical, and yet the accused, because of that very promise, was assumed to be guilty until proven otherwise’}.”

It was initially thought FACT would only be needed for two or three years as its voice would be heard. Shockingly some 18 years later the problem has not been reduced but gone the other way and reached epidemic proportions. In a 2016 House of Lords debate it was stated that the Chief constable of Norfolk, Simon Bailey, the National Police Chiefs’ Council’s lead for child protection, reported there had been an 80% rise in child sex offence allegations in the three years to 2015 and that there were 70,000 investigations in just the past year alone! Most alarmingly he said to the Times newspaper that if that rate of increase continues they could be investigating \textbf{200,000 cases by 2020}! What is not recorded or made available to the public is how many innocent people are included in those figures (not charged/acquitted) and what lasting effect that
has on them and their family. If an accused is not charged or acquitted due to a false or wrongful allegation the court system and police do not record that as a false or wrongful allegation, leading to an incorrect assumption that the number of false allegations are few. What is true is that the act of recording of false or wrongful allegations is low! This is a really important point as false or wrongful allegations are notoriously difficult to collect figures on. It is only organisations specialising in this field who experience the reality on a daily basis as they are contacted by people in need of support. The numbers of innocent people being affected and in need of help is substantial.

Experience has shown that not all allegations of abuse are true. And indeed, wrongful allegations are made alongside false allegations. Some people may deliberately lie, motivated by revenge or the possibility of financial compensation or by the need for attention (False Allegations). Others may not knowingly lie, but may have a false memory of an event in the distant past or may have misinterpreted something that took place several decades earlier (Wrongful Allegations). It is important to realise that 30 or 40 years ago people were not so aware of the prevalence of child sexual abuse and the risk of wrongful allegations, and what was then perfectly acceptable behaviour could be misinterpreted decades later as complainants are asked to come forward with anything that might have constituted sexual abuse by today’s standard.

We wish to make it clear from the outset that we have no doubt that some children and adults are abused by carers, teachers and other professionals employed in positions of trust and that this has occurred in both historical and a contemporary context. However, we believe that the extent to which this is said to have occurred is exaggerated. We fully accept, and wholeheartedly support, that all complaints of abuse must be thoroughly and properly investigated and that any form of abuse perpetrated on children and other vulnerable groups is wrong and that the police and investigative agencies have a difficult but essential job to do. We also know failure to do that job correctly destroys lives. In 2015 we worked in cooperation with The University of Oxford as they undertook a study on the impact of being wrongly accused in occupations of trust: Victims’ Voices. The report clearly demonstrates the destruction of the accused’s and their family’s prior life, including: suicide; suicidal thoughts; stigma; trauma and stress; insomnia; family break up; loss of work/career; financial loss; permanent psychological damage; loss of reputation and standing; victimisation and discrimination; loss of home. Oxford University study report, [https://www.law.ox.ac.uk/research-and-subject-groups/impact-being-wrongly-accused-abuse-occupations-trust-victims-voice](https://www.law.ox.ac.uk/research-and-subject-groups/impact-being-wrongly-accused-abuse-occupations-trust-victims-voice)

Why is it too easy to be falsely accused and convicted of abuse when factually innocent?

Genuine concerns to protect children has spawned a massive child protection industry. The term industry being used because it has a part of it based on power and financial motivation. An industry made up of organisations with considerable influence and power (both at home and abroad) and which are viewed as being the unquestionable leading experts and preferred advisors to the government. Public accounts show there is even one organisation with annual turnover in excess of £100m per year with thousands of employees/volunteers. This industry does not want to see its power decline and few dare to speak out against it to insist on balance. The emperor’s clothes syndrome. This is an area the government does not want to openly discuss as it will open a can of worms on all its past decisions, but one that is a significant contributory part of the problem we now face, whether we want to hear it or not.

Since the early 90’s there has also been a steady series of individual changes brought about which have compounded to create the situation we have today these include the growth of the child protection ‘industry’, social changes, the Internet and changes in the law and policing policy…. ■

The full letter (9 pages) can be downloaded from our website [https://factuk.org/](https://factuk.org/)
Opening Address and Introduction
By Brian Hudson

Good afternoon and welcome to this service of encouragement and remembrance for all those affected by false accusations of abuse. My name is Brian Hudson and I am currently secretary for this organisation. I am pleased to see that so many of you have attended today and following the service in the lower church room please assemble for refreshments fellowship and sharing. We are particularly grateful to Rev. Lucy Winkett for allowing us to be present here today and to Pam Coffin for arranging the service. Special thanks to our guest singer Anna McGarahan who is currently starring in Les Miserable at the Queens Theatre.

FACT has been representing people wrongly accused and convicted of sexual abuse (many historic) for 20 years and has come a long way from its humble beginnings in Liverpool. We are used extensively by many people seeking support in this sensitive and unsavoury area of law, our web site, email and helpline are continually active 7 days a week. What concerns us a lot is that as yet there has been little or no attempt to change the justice system to at least try and prevent the innocent getting caught up with the guilty. There has been a moral panic built around abuse and society has reacted with unprecedented fervor creating a climate of vindictiveness and suspicion resulting in the capture and imprisonment of innocent individuals. It is reprehensible that recommendation upon recommendation has been ignored by the government and justice departments, recommendations which would help to bring an end to the plethora of false allegation cases leading to a wrongful conviction.

Today like many other days innocent hard working, honest families and individuals will be suffering needlessly and undeservedly because of an allegation which will be false. The turmoil, upheaval and dolorous effects this has on these people is long term and even if and when acquitted of a false allegation in this area the euphoria soon dispels to leave a feeling of depression and fear which will last a lifetime. There is no escape for anyone who is wrongly accused; it is like no other crime. The consequences are far reaching and the shame and other psychological damage are irreversible.

FACT as an organisation in itself needs support and encouragement. We need more individuals to take up the challenge of fighting for justice against the tide of contempt and suspicion. At the centre of FACT there has always been a core of individuals some of whom have themselves faced the trauma of a false allegation and who somehow find the strength to help others. We have to consider burnout in this task and over the years this has been a problem for those at the hub of the wheel. Ideally we should like some more individuals to take on key roles and deliver strategies which will lead to an arrest of this out-of-control epidemic.
It is for these people that FACT exists and is here today to remember in a place of worship in the country’s capital city. We know from many testimonials and letters that FACT has and does help people to face up to the consequences and deal with the effects of false allegations. We are by no means a panacea for such distress but we can, and do, help and as we participate in worship, prayer and fellowship today we turn to the Lord and seek his hand in all we do. We know we have a just God but we live in an unfair world which is unreliable and volatile. We know the justice system in this country once admired by the world is now broken and no longer fit for purpose. With this in mind we ask the Lord’s blessing on all we do and hope that our meeting today and sharing afterwards will be one more step on the way to bringing justice back to the people of this country.

Footnote: Psalm 35 written over 3000 years ago shows that we still suffer the same persecution and false witness from authority. Worth a read. BH

These Services of Fellowship welcome people of all faiths and none, who are supporters of FACT and who want to contribute to the spirit of support for those falsely accused.

The next service is on 6th April, 2019

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Stop Press

Disqualification by Association (DbA) for schools to end

A member of FACT has informed us that on 2nd July 2018, the Department for Education (DfE) quietly published its consultation response to the call to scrap its controversial ‘disqualification by association’ regulations and issued new draft guidance that would come into force on 31st August 2018, dumping this draconian policy.

Campaigners had been calling for it to be scrapped for nearly four years since October 2014 when the DfE first issued the supplementary guidance to Keeping Children Safe in Education (2014). This guidance stated that school staff were disqualified from working in a school, when they lived or worked in the same household as someone who is barred from working with children or young people, even if they would not otherwise be disqualified themselves.

The requirements originated from the Childcare Act 2006 and the Childcare (Disqualification) Regulations 2009 and were never relevant to schools and other registered settings that were already required to have stringent safeguarding practices in place. However, the supplementary guidance of 2014 made it clear that they now also applied to primary schools.

Since the introduction of DbA, campaigners such as Unlock, the charity for people with convictions and the NAHT, the professional association for school leaders, had been calling for it to be scrapped.

After nearly two years, in 2016, a Government consultation on amending the disqualification arrangements in schools and non-domestic registered settings finally took place. The legislation had never been appropriate for schools and other settings away from the home. They had been intended to apply to people like childminders who looked after children in their own homes, as they could obviously be in close contact with other household members.

According to the new draft regulations, from 31st August 2018 disqualification by association “does not apply to staff in a relevant school setting; disqualification by association is only relevant where childcare is provided in domestic settings (e.g. where childminding is provided in the home) or under registration on domestic premises. Accordingly, schools should not ask their staff questions about cautions or convictions of someone living or working in their household. Schools should review their staffing policies and safer recruitment procedures and make changes accordingly.”

A deeply moving account of how ‘disqualification by association’ had a devastating affect upon an individual’s life can be found on the FACTUK.org website under latest news.
All of us, I imagine, feel that we have in many different ways tumbled into this - and now we find each other on very uncertain terms indeed. I feel I have tumbled into this address too. The reason that I am here is simply because I was kindly invited and I accepted.

On the twenty second of October 2015, an organisation called the ‘Church of England’, made a statement that it had achieved an out of court settlement concerning an allegation of sexual abuse laid against Bishop George Bell, of Chichester; who died in 1958. The statement was devised in such a way as to incite a public judgment. This shocked all of those who knew something of George Bell, as he was a man regarded once as one of the great, compassionate and courageous figures of the twentieth century Christian Church. He had been the constant friend of refugees from tyranny. He had saved many lives, an honour unknown to any other Anglican Bishop. He had befriended those who had sought to resist Nazism in Germany and stood by them as they paid the price.

This statement was an assault, premeditated and deliberately calculated, against the integrity of a man who was wholly absent, undefended, unrepresented. It was an assault against a particular Christian civilisation now virtually extinct in this country, which had lived by the highest moral standards and possessed the character to withstand the onslaught of totalitarianism abroad. It was an assault against the reality of knowledge itself, for no scholar who knew anything about this man, his patterns, his age, had been consulted: such knowledge evidently possessed no authority at all. Those of you who followed the story over the last two and half weary years will realise that it has now reached an interesting stage. All I can say today is that trying to rescue the figure of George Bell from this extraordinary situation is rather like trying to rescue a hapless British national who has fallen into the hands of a despotic foreign state.

My stock in trade is teaching history and writing history and I often ask myself the question, ‘What actual use can a historian be now?’ What use can I be to you today? Many obvious things might well be said: political historians are predictable, after all, in pointing out that something apparently new has happened at least several times before. Social historians are familiar with denunciations and accusations: they are part of the currency of social life. They also know how a climate of public dread, inspired by all kinds of institutions, might foster such things. Historians are well placed to tell us that the integrity of a society is to be found in the testing of such things and not the making of them. The historians of oppressive states may offer little consolation. For them, by and large, the individual in any age makes their way as best they can through an ocean of arbitrariness, cruelty, irrational power, self-serving ambition, corporate indifference. There is little assurance of justice or vindication to be found in these places. Yet to any historian it is also clear that no individual is wholly alone: they can never be wholly isolated. They are always a part of a bigger picture and that is where the weight of judgement falls.

The psalmist asked, “When the foundations are destroyed, what can the righteous do?” [Psalm 11:3] This sense that the ground on which we tread daily has evaporated beneath us in many ways expresses the crucial moral crisis of the twentieth Century, a crisis in which the individual and society meet. It was an age which George Bell knew at very close quarters indeed. Many of those who were his friends knew it for themselves. In January 1943, three months before he was arrested, the German pastor Dietrich Bonhoeffer asked if there had ever been any a generation with so little ground beneath its feet?

We might well ask ourselves what has become of the Christian Church in such a world as this? Certainly, we cannot be sentimental. The Church, however we may try to define it, is certainly not a unique repository of righteousness. Since October 2015, I have often been

George Bell: regarded as one of the great compassionate and courageous figures of the twentieth century.
struck by how people outside the Church of England have expressed dismay and anger at what has been done to George Bell. But there has been very little of this inside the Church itself, a church now with many official positions, all of them filled by people with a public responsibility. Only the other day, I heard from a Roman Catholic priest who had been approached by a woman after a Holocaust Memorial Day event in Westminster. ‘Are you Church of England?’ she had said to him. ‘No’, he replied, ‘I am a Roman Catholic priest.’ ‘Thank goodness’, she said, ‘George Bell helped to save my parents. He is our hero. It is shameful what has been done to him.’ Perhaps such a reproach hardly matters.

That statement of 22 October 2015 was made to the press on behalf of a corporation. Any questions that were subsequently made were answered by an anonymous ‘spokesperson’ of the Church of England. Since then I have heard a succession of bishops speak on the matter, and they have always claimed to present the view of the Church itself. It is hardly surprising that many Christians have become sceptical about the church as a public corporation. The Roman Catholic priest, Peter Carr, whose trials and imprisonment and death seem to me as authentic a Christian martyrdom as anything I have seen in this country for the last half century, wrote towards the end of his shortened life, ‘Institutions have an amazing tendency to protect themselves. If an individual has to be sacrificed for that end, then so be it, justice and fair hearings for the individual take the back seat.’ I am not sure that anybody here today would feel able to challenge such a perception. But what is the Church? And who is the Church? Any historian knows that the Church is not a corporation, even if it is led by people who are prepared to proceed on the principle that it is. The Church is something greater and deeper, and something far more diverse. No authority, however it sets itself up, can in any meaningful way claim to represent this with a policy or a statement. It is irreducible to a simple formula or a doctrine. It is something known only to God. Today you are as much a part of the Christian Church as anyone else.

There is an immeasurable reality at work in the Christian Church to which we must we must hold, because it is the reality in which we find our own place. And this is fundamental, as it was fundamental to George Bell in his own lifetime. Those who sought to maintain the Christian faith in the context of National Socialism seldom looked to bishops, senior clergy and Church bureaucracies for any consolation or support. They knew they were on their own. But what this produced was precious and rich with significance. The historian Klemens von Klemperer has written of an intensification of devotion and understanding, a ‘piety of resistance’. It was not a piety of the institution, but a piety found whenever two or three, men or women who pursued righteousness were to be found together. It was, at the last, the single possession of the man or woman who was betrayed, abandoned and abused, before execution.

Then what has become of our sense of Christianity? How and where is it to be found? I am more than ever struck by the greatness of what we are all given in the wisdom of our scriptures, and in the prophetic life of a canon of ancient literature which was not given to a Church alone, but given to the world itself. It remains before us, whatever church authorities and the like may do. It is part of the birth right of every man or woman we shall see as we leave this church today. No one can define, or confine it. It is at large in the world. I once found myself sitting in a stall in the choir of Westminster Abbey between two elderly ladies. They had been widowed for half a century; both their husbands had been executed by the Nazi state. Neither was a regular churchgoer, or conventionally religious. We were attending a service of choral evensong. As the psalm of the day was sung one of them, Freya von Moltke, would simply nod in silent acknowledgement as a particular phrase touched her own experience and moved her. The source of Christianity is still to be found where it has always been, in the story of an innocent, wrongly accused man, abandoned by respectable company, tried by a secret political tribunal, judged by a class of arguments which no one with any independence of mind could credibly maintain, cast before crowds and taken away to be crucified. This stark narrative remains, perhaps, the central, crucial contribution made by Christianity to civilisation altogether. Because of it no one can really argue that such things denunciation, trial and judgement are merely peripheral matters and they
can never be regarded with simple indifference. They are always fundamental, essential and inescapable. And the figure of Christ remains with us even when the corporation of the church disowns us. Father Peter Carr may have lost his ministry as a priest and been ejected from his Religious Order, but he knew that what lay before him was not oblivion but what he called ‘the Way of the Cross’.

Those who endured the disaster of National Socialism chose their company very carefully after 1945 and remained very wary indeed of trusting anybody in public life. But in these years Freya von Moltke once wrote to Bell, ‘You are one of us’. Bell would certainly have cherished this. After his death, the German pastor Martin Niemöller, who spent seven years in a concentration camp, remarked on a radio programme that Bell was ‘a Christian who was led and driven by the love of Christ Jesus himself. He couldn’t see somebody suffering, without suffering himself. He could not see people left alone, without becoming their brother.’

George Bell
Could not see somebody suffering, without suffering himself.
Could not see people left alone, without becoming their brother.

George Bell today may well be claimed as a patron saint of those who are falsely accused, not simply and merely because he has been falsely accused himself, but because this figure offers so much that remains eloquent, resonant and encouraging. There is no doubt at all in my mind where to place him. He would readily have taken his place with us here with us today. He was one of those very rare individuals who are somehow able to hold together those disparate realities which are so rarely found in harmony: the dimensions of authority and powerlessness; the public word and the private intervention; an established religion and a confessing Christianity, the possession of privilege and security but the use of those things, daily, on behalf of those who knew only danger.

W H Auden once wrote:
‘True, love finally is great,
Greater than all, but large the hate,
Far larger than Man can estimate.

What is the price of such hate, in such a world as ours? And when we are failed by every principality and power, secular or ecclesiastical, to what assurance, if any at all, can we still lay claim? Bell certainly saw the destructive power of hatred; and he knew it for himself. But he also found what lay beyond it. In the Autumn of 1945 he visited two elderly people in a suburb of the ruined city of Berlin. They had never met before, but he had known one of their sons well and had loved him. In fact, Karl and Paula Bonhoeffer had now lost two sons and they had also lost two sons-in-law, all of them executed by the Nazi state. For years they had not seen once a daughter who had in earlier years married a Jew and who had lived safely, under Bell’s keeping, in exile. This must have been an intense, profound moment. The bishop and the bereaved couple spoke together only for half an hour but when Bell left they gave him a book which had belonged to Dietrich Bonhoeffer. It was The Imitation of Christ by Thomas à Kempis.

In The Imitation of Christ I find these words:

Let not therefore thy heart be troubled, neither let it be afraid. Trust in me, and put thy confidence in My mercy. When thou thinkest thyself farthest off from Me, oftentimes I am nearest unto thee. When thou judgest that almost all is lost, then oftentimes the greatest gain of reward is close at hand.

All is not lost, when a thing falleth foul against thee. Thou must not judge according to present feeling; nor so take any grief, or give thyself over to it from whencesoever it cometh, as though all hopes of escape were quite taken away. Think not thyself wholly left although for a time I have sent thee some tribulation, or even have withdrawn thy desired comfort; for this is the way to the Kingdom of Heaven.’
Unfounded’s Letter Writing Campaign

The Secretary of State for Justice and the Ministry of Justice are the bodies which would implement the Henriques recommendations. Therefore we need to ask our MPs to apply pressure on / encourage the Ministry of Justice to act by implementing the Henriques report.

If you cannot see your MP face to face, you can use the the template letter, printed below, which can be downloaded from Unfounded’s website, http://www.unfounded.org.uk. However, it is better to write it in your own words. Any letter appearing to be duplicated or obviously ‘cut and pasted’ will not be acceptable.

Please can you email any feedback from your MP to: secretary@unfounded.org.uk.

EXAMPLE LETTER

<your address>
<date>

<your MP’s name> MP
House of Commons
LONDON
SW1A 0AA

Dear <your MP’s name>

Henriques Report: A call for Action

I am writing to you to express my deep concerns about the growing number of wrongful allegations of sexual abuse. While Operation Midland has been the focus of criticism in the media the same problems apply to many who are not celebrities. This is illustrated by an alarming increase in requests for help made to various organisations which support the wrongfully accused. Wrongful allegations have a traumatic, devastating and long lasting effect on innocent lives and this has been evidenced in a recent research paper produced by the Oxford Centre for Criminology. https://www.law.ox.ac.uk/research-and-subject-groups/impact-being-wrongly-accused-abuse-occupations-trust-victims-voice

The Henriques report has illustrated many problems in Operation Midland. We would hope that all the recommendations in the Henriques report would be implemented but the following are of particular importance in avoiding miscarriages of justice.

Recommendation 1.
Throughout both the investigative and judicial process those who make complaints should be referred to as ‘complainants’ and not as ‘victims’.

Recommendation 2.
The instruction to ‘believe a ‘victim’s account’ should cease. Instead an officer interviewing a complainant should investigate the facts objectively and impartially and with an open mind from the outset.

Recommendation 4.
Investigators should be informed that false complaints are made from time to time and should not be regarded as a remote possibility.

Please may I urge you to consider taking steps to support the implementation of the recommendations of the Henriques report as a matter of urgency to prevent further miscarriages of justice and to help the public regain trust in the police and justice system?
The Tyranny of “RAPE Myths” Dogma

by Peter Joyce

New Zealand Author of ‘Dry Ice: The True Story of a False Rape Complaint’

“No no no!” said my lawyer, as if it would have been plain to a five-year-old. My wife and I thought we’d done rather well to dredge up all the facts about where I was more than two decades ago, facts which proved I could not have repeatedly raped “Verity”, the woman (then a girl) who had accused me of this outrage – and whom I had never met. “You don’t want the police to see you as a guilty man trying to prove his innocence, or any future jury, if it comes to court.”

Sometimes whatever you say is a waste of breath. In Monty Python’s Life of Brian, the protagonist is hounded by a doting rabble convinced he is the Messiah. When he protests, a woman in the crowd shouts, “Only the true Messiah denies his divinity!” Brian’s exasperated response is, “What sort of chance does that give me? All right – I am the Messiah,” whereupon the crowd chants, “He is the Messiah!” It’s less amusing when, in effect, your life is at stake. Unseen and powerful people seemed to be chanting “He is a child rapist!” no matter what I did or didn’t do, and no matter what I said or didn’t say. Facts were irrelevant. If I had no evidence which could prove I didn’t do it, I looked guilty. But I now learnt that if I produced such evidence I looked just as guilty. By contrast, Verity was in the box seat: nothing she said or did could strip her of her survivor status. What sort of chance did that give me?

It was only later, when I first heard the term rape myths, that I realised I had been struck by a pendulum. It seems hard to believe when the only rape accusation you know about is the false one against you, but there was a time when real rape victims were fobbed off by callous and disbelieving police, judges and many of the general public. In recent years the evidential pendulum has been tilted to give real victims a better chance of obtaining justice. To right these historic wrongs, accusers are now to be believed. Hence the new notion of “rape myths”: allegedly baseless beliefs about rape which allegedly persist and which allegedly prevent rape and other sexual crimes from being successfully prosecuted.

In her article Rape Myths: Is Elite Opinion Right and Popular Opinion Wrong? the late Helen Reece, reader in law at the London School of Economics and Political Science, quoted Heike Gerger’s definition of rape myths as “descriptive or prescriptive beliefs about rape... that serve to deny, downplay or justify sexual violence that men commit against women.”

Reece also participated in the fascinating LSE debate Is Rape Different? (still available here on Youtube: https://www.youtube.com/watch?v=z7jLzEYMkdw, in which her main point is that most people hold enlightened attitudes towards rape, but dubious research tends to reinforce the conclusion that the public is “in thrall” to supposed rape myths. She says

If you are in any doubt about this, try typing rape myths into Google, and you’ll see that [on] every website...the discussion goes along the lines of... “These are the five rape myths to watch out for”...[or] “These are the ten most common rape myths...Don’t fall prey to them.” You will not find...an internet forum that debates the question of whether rape myths are widely held.

She adds that when any notion in the broad field of social science archives such wide consensus, there is a danger that any research reinforces what is already accepted. I am sure she is right. Perhaps this article will in some small way help encourage more balanced discussion.

I would like to deal first with one of the most common supposed myths, but one which is an outlier because it does not affect perceptions or decisions in the courtroom, so in that sense it doesn't matter. Nevertheless it is useful because it shows the loose generalisation behind the wider rape myth agenda. Number 0 is the intuitive assumption that rape is about sex rather than power. The reverse – that rape is about power – has become enshrined as unquestionable truth, backed by all the emotion and wishful thinking that underpins any faith. I wrote in some detail about sex and power in my book, Dry Ice: The True Story of a False Rape Complaint.¹ I am no psychologist, so my opinion on this subject comes from nothing more than surfing through life with my
eyes open, so it may count for little. However, the same
can be said of most who so vehemently advocate the
opposite view.

Any crime can be about power, so the claim is largely
meaningless. Rape can surely have all kinds of
motives, including what it looks like – sexual desire.
Assigning motives was hard enough when rape was a
narrow concept, but its more recent, broader definition
has complicated the psychology. Can anyone – and
especially any woman – really know enough about why
some men rape to ascribe all instances to the same
underlying cause? Insofar as power is involved, what
role does it play? The claim “rape is about power”
implies that sex is a means to an end, but perhaps it is
the other way round. Don’t influential men often use
their power as a means to get sex?

The power which supposedly motivates all rapists is
often said to involve control and humiliation. As I write
this, American entertainer and comedian Bill Cosby
has just been convicted of abusing a woman years ago
(technically just one, though others are alleged). He
took her to his apartment, gave her Quaalude
sedatives and violated her. I cannot pretend to
understand the reasons why anyone would derive
satisfaction from sexual contact with an incapacitated
partner, but surely humiliation can play no part in any
explanation. Humiliated in front of whom? These
(assuming they were plural) were the most private of
crimes. Cosby appeared to derive some perplexing
satisfaction from reducing his victims to biological
commodities. It resembles the sexual curiosity of a
child.

In short, the victims became meat. Fired CIA director
James Comey commented that one of the reasons
Donald Trump was morally unfit to be president was
that he treated women “like meat”. This is a quaint
cliché now, rendered obsolete by the more
sophisticated rape myths. Yet like all clichés, it caught
on because it was considered true, and perhaps it
remains valid for many rapists: their victims are just
bodies deprived of a consciousness. If this is so, it
seems the very opposite of the power / control /
humiliation hypothesis, which requires the victim to
remain human in order to be aware of her subjugation.
Sometimes things are what they appear, and rape can
be just about sex, reduced to its most basic and base
components.

Now to the alleged rape myths which matter
because they have consequences in the courtroom
(though the first three only marginally). The canon of
myths has almost become standardised, though it does
vary a little. Here are ten of its most common articles,
placed in what I consider their rough order of validity.
The contentious term victim has sometimes been used
because these statements presuppose rape has
occurred. Although they consistently refer to rape, any
can be applied to lesser sexual assault. These, then,
are beliefs which the dogma insists are A) false and B)
commonly held.

1. Rape is violent.
2. Rape is usually committed by a stranger.
3. Rape is committed by single rather than
repeat offenders.
4. Some women ask for rape by what they
wear.
5. A drunk or otherwise incapacitated victim is
fair game.
6. Non-consent is always agitated or forceful.
7. Consent can be a complicated matter.
8. If the complainant’s story is inconsistent,
she’s making it up.
9. Any victim is openly hostile towards her
violator.
10. Women “cry rape” all the time.

They are very different kinds of statements. Numbers
1, 2 and 3 are factual claims which can easily be
rejected. However, I doubt they can be called myths,
because these days most people probably consider
them false.

Another minor objection to number 2 runs as follows. If
the kind of “traditional” or “real” rape most people
supposedly have in mind when they think of the crime
– committed by a violent stranger lurking behind the
bushes – is comparatively rare, I wonder about the
point of the so-called “slut-walks”, in which placard-
wavering women dress mock-provocatively in order to
“claim back the streets”. If streets are considered safer
these days than bedrooms and even living rooms,
“slut-walks” are reduced to tacky street theatre.
The Tyranny of “Rape Myths” Dogma by Peter Joyce, continued ……

Numbers 4 and 5 belong together because they are both concerned with personal responsibility or, as rape myth exponents would have it, victim-blaming. Of course no rape victim can be said to have “asked for it” because of what she was wearing. I object to number four not because I agree with the statement – which I find obnoxious – but because I am sure almost everyone agrees with me. Perhaps some dinosaurs still indulge in such real victim-blaming, but I have yet to hear it except from one memorable drunk misogynist. Rape activists are quick to overplay comments anyone makes about a victim's attire. Archaic and insensitive police investigations are said to violate her all over again by asking loaded questions about what she was wearing. Yet surely this is a necessary part of a sexual investigation, because her clothing may provide forensic information essential to the case. As for the general public, many may insist that it is naive or foolish for a woman to dress or to behave too provocatively in certain places among certain people at certain times, but that in itself is not victim-blaming but merely a suggestion to behave responsibly in the real world.

Another question investigators need to ask anyone alleging rape is whether she had been drinking and, if so, how much (number 5). This is not victim-blaming either; rape is partly about intention, and police need to confirm the alleged rape wasn't the result of miscommunication – likely when either party is drunk, and even more likely when both parties are. The more a definition of rape diverges from the “traditional” violent model (and the more alcohol is involved), the more it becomes bound up with mistaken perceptions. Of course, the law now states that an incapacitated person is incapable of consent. However, it is a lot to demand of a man who has himself been drinking that he must assess her capacity to consent. Drunkenness, it hardly needs be said, presents all kinds of dangers. When two people are drunk and abandon all self-control, it seems unjust always to assign total responsibility for any consequences to the man.

Rape Myths

4. Some women ask for rape by what they wear.
5. A drunk or otherwise incapacitated victim is fair game.
6. Non-consent is always agitated or forceful.
7. Consent can be a complicated matter.

The victim-blaming slur is central to the rape myth narrative. In Is Rape Different? Helen Reece concentrates on the claim, much repeated through the UK media, that one in three of the public blame women for rape. She says that Amnesty International researchers asked respondents to decide whether an imaginary woman was responsible for being raped in specified situations, for example she had been flirting or drinking. The options were yes, no or partly. Unsurprisingly, a third of the public answered either yes or partly. However, researchers switched the word “blame” for “responsibility” when analysing the results. Reece points out that responsibility is softer and more nuanced than blame; it “points towards notions of causal attribution, of increase of risk.” However, the media do what they do, and the more accurate headline “Some People Say Some Women Should Take Some Responsibility for Some Rapes” doesn’t boost reader numbers.

Number 6 is also factual, but it is murkier than 1, 2 and 3. Rape sceptics, sadly including many judges, have dismissed valid rape accusations because “she didn't protest enough.” Apparently some still do. A genuine victim may just freeze, and it is enlightened to accept this as reasonable. It doesn't matter whether this response is immediate and intuitive – just how the body instinctively reacts – or it is more rational and considered, based on the victim's fear that resisting may make the ordeal even worse.

However, sex is complicated. The very suggestion will outrage many people, but the thicket of sexual communication conceals degrees of consent, so number 6 should be paired with number 7. Circumstances matter here, but it is a complex issue tied in with new definitions of rape and consent. Imagine a woman tells her friend that she didn't really want to sleep with that guy last weekend but she'd had a couple of drinks and went along with it. She said no but, she concedes, not very forcefully. She even dated him the next day but, her vision no longer enhanced by an excess of cheap pinot noir, she cringed at the thought that she'd hooked up with that. The assertive
and socially aware friend responds with “You were raped!” and next morning the stunned offender finds himself trembling in a dank cell looking through a list of duty solicitors. The law allows allegations to be made using such assisted hindsight, especially since, as Helen Reece points out, “only 60% of those whose experience could legally be classified as rape self-classified it as rape.”

If she said no, she was indeed raped, according to new and broader definitions. Simple. Yet it is hard to sift out the truth in cases like this. Perhaps his actions were close to traditional rape, because he heard her no but just disregarded it. Perhaps he didn't hear or notice. Perhaps he heard but thought his words or actions had won her over, because he noticed no further rejection. However, there is a good chance that the “victim” did not protest vigorously because her attitude towards the sex was equivocal or mildly opposed. The new, broad definition means that a sexual encounter may count as rape even though her sense of violation is so slight that it takes someone else to convince her that the event has irrevocably altered her life.

We are now told many smug truths about consent, as if people in government offices and the researchers they consult have figured out all the myriad ways normal people communicate in the bedroom. Consent must be verbal and “enthusiastic”. Above all, consent is simple. In fact, according to the promotional cartoon video released by the UK's Crown Prosecution Service in 2015 as part of their #ConsentIsEverything campaign, sexual consent is as straightforward as asking someone if she wants a cup of tea. Alison Saunders, head of the CPS from 2013 to 2018, supported the video and unequivocally labelled the notion that consent is complex as a rape myth. In Dry Ice I wrote that undercurrents and nuances of communication and perception in the primal dance of love and intimacy make sexual consent infinitely more complex than a simple offer of tea. There are grey areas even in those few situations where the silly analogy can be used. For example, what if she enthusiastically drinks the tea but the following morning has bitter regrets and insists she didn’t really want it? What if she eyes the teapot provocatively and expects you to read the signs, but doesn’t ask for tea and doesn’t answer when you ask, because words would be a turn-off?

A year or two ago the TV news showed a street protest against sexual assault. There were the usual placards listing causes of rape, with every one crossed out except rapists, implying that only a cretin could miss the simplicity. But the one that interested me was the one that screamed, “Consent doesn't mean convince me!” Not her, perhaps, but seduction by definition involves convincing someone who may initially be reluctant. All those Don Juans I envied in my youth did a lot of successful convincing because they took an initial no as a challenge to try harder, which it often was. Should I call them rapists now? I don't think so, because I assume they eventually – if not after the third appeal then after the thirteenth – received a yes, in unambiguous deed if not in word. Not always, because they acknowledged some failures, which they shrugged off because they were thick-skinned enough not to be concerned if women saw them as sex pests – and there was always next weekend. As for their many successes, to my mind they are innocent until I or anyone can prove that they couldn't take a final and emphatic no for an answer.

**Rape Myths**

8. If the complainant’s story is inconsistent, she’s making it up.
9. Any victim is openly hostile towards her violator.

Numbers 8 and 9 belong together. Denying these statements in every case can imply rape occurred when there is a fair chance it did not. Claire Biggs, in an article on MTV.com, offered examples of tweets featuring the hashtag #TheresNoPerfectVictim. One insisted that “Changing your story or misremembering details is a classic sign of trauma, not an attempt to fool people. #TheresNoPerfectVictim.” If changing your story is a classic sign of anything, it is untruthfulness. In any other situation except sexual crime, we accept that the reason some people don’t get their stories straight is that they are not telling the truth. This doesn’t mean someone who remembers events incorrectly is always lying, but we risk injustice to a defendant if we do not entertain this as a strong possibility. How strong depends on the circumstances of each case, but it is naive to assume that in sexual accusations, discrepancies and lies can never be the same thing. After all, they are assumed to be for another group of people suffering severe trauma: suspects. I’m not aware of a #TheresNoPerfectSuspect hashtag offering us any equivalent “get out of jail free” card.
New definitions of rape make it easier to deny number 9, but it is surely nonsense to assume investigators should not start by being sceptical about a complainant who is friendly with her alleged attacker after the event. It is hard to imagine any victim of a “traditional” rape appearing enthusiastic during the ordeal itself or sending playful messages to her rapist after the crime, even if she knew how to contact him. Yet we are now asked to believe that such lingering affection is yet another manifestation of the trauma. If this is the case, why do we never hear of such behaviour from victims of assault, for example? In the Is Rape Different? debate Helen Reece said that rape myth thinking omits valid comparisons with other crimes:

There is a fault line that runs through discussions of rape, rape research, rape debates, that the comparison between rape and other crimes is very rarely made...When it is made it leads to some quite interesting results...It's important to make comparisons with other crimes and to do that repeatedly.

Rape trauma certainly could not explain the actions of Iowa student Robin Levitsky, who in 2013 accused a man of abducting her at knifepoint and sexually assaulting her. The accused man had photos of their sexual encounter which showed that it was almost certainly consensual. A friend of Levitsky said that she saw the complainant leave the event quite willingly with the accused. Presented with this information by detectives, the complainant eventually came clean: she had made it all up to explain away the indecent photos her grandmother found on her mobile phone. Rape myth advocates may consider them unenlightened, but if these detectives had graduated from Rape Myths 101, an innocent man would still be in jail.

Number 10 is presented as a straw man that exaggerates the number of false accusations in order to have the claim dwarfed by the contrasting number of unprosecuted rapes. Of course, no one can know the real number of wrongful sexual allegations, but they are more than usually revealed.

My article False Rape Allegations: Figuring the Figures (https://accused.me.uk/2018/03/false-rape-allegations-figuring-figures/) looked at the data in some detail. It revealed that the low estimates were consistently based on the numbers of convictions for false allegations. Yet prosecutors are even more reluctant to take false accusers to court than they are to take rapists to court. This figure therefore tells us nothing about the numbers of false allegations but everything about charging policies.

Some social commentators tolerate an alarming number of false positives. For example, women's issues writer Jessica Valenti has claimed that known false rape numbers are “rare: somewhere between two and ten percent.” The number excludes the unknown, which may be much higher, but that isn't the point here. What is more disturbing is that she acknowledges the figure may be as high as ten percent and yet dismisses this as “rare”. It means that in the UK alone over two hundred innocent men would have their lives ruined every year. How many would be enough to matter?

In summary, rape myths are debatable but never debated. They are a curate’s egg of the true but generally accepted, the questionable, the unknowable, the meaningless and the false. The tyranny comes from their indiscriminate use. Among those who campaign against sexual crime rape myths are self-evident and universal. For example, Rape Crisis England and Wales quotes Rachel Krys, Co-Director of End Violence against Women (EVAW), as saying: “...conviction and charge rates for rape are still alarmingly low, the causes for which are rooted in sexist stereotypes and rape myths.” To the faithful, the truth is always simple. Yet police do not pursue some rape complaints for many sensible reasons, including lack of evidence.

Dogma is harmless unless powerful people believe it and act upon it. Yet this is exactly what has happened. For police, believing in the prevalence of rape myths has become a defining feature of sex crime specialisation and helped determine policy. The myths seal the “believe the victim” orthodoxy as a necessary truth. They are used as trump cards, to be played any time an accuser is doubted. Is an investigator entitled to
call a complainant's story into question because she gave contradictory descriptions of her attacker? No, that's a rape myth, because we cannot expect real victims to get their stories straight. Her account must be seen as true, and doubting it is more offensive than just being mistaken; it is revictimising a survivor and even perpetuating the patriarchy. She says she was raped, but why did witnesses see her arm-in-arm the next night with her alleged attacker? “Rape myth!” The defence no longer has any useful cards to play. All statements or actions that may once have formed part of a legitimate defence are trumped with “rape myth!...rape myth!...rape myth!”

Posting on The Times website in 2018, retired Ulster chief detective Alan Simpson recalled that some years earlier he attended a two-week course designed to offer a deeper understanding of rape. The syllabus centred on a book written by “a non-police female academic who also directed the course.” The attendees were told to accept allegations of rape unquestioningly. He objected to such a biased assumption but “as this went against the grain of what the instructors were saying I was effectively cold-shouldered for the duration.”

The “believe the victim” assumption has become mainstream legal practice in many countries, including the UK. After a case was abandoned in early 2018 when the complainant was shown to be a serial fantasist, the presiding judge glibly said that bringing prosecution was “in line with enlightened modern practice.” New Zealand, where I live, has become similarly enlightened. When I received my police file back under the Freedom of Information Act I learnt that Verity had been interviewed eight times for a total of over seventeen hours. How could she string her interviewers along with her transparent contradictions, featuring tall tales of depraved goings-on in houses I never owned at times when I was provably elsewhere? She could do this because her interviewers had done such a course. I know this because a senior police officer made the mistake of telling me – as if it should make me feel better. If detectives with the commendable sense of Alan Simpson had interviewed the woman who made our lives a misery for over seven months, old-fashioned evidence-based police work would have meant she was shown the door much earlier. Verity could fool “my” detectives because they had been attentive to the rape myth “experts”, asked no tricky questions and received their certificates.

New Zealand Law Commission Report
The Justice Response to Victims of Sexual Violence: Criminal Trials & Alternative Processes

In 2015 the New Zealand Law Commission released a novel-length report which floats ways sexual crimes can be better handled and complainants more compassionately treated. It suggests specialised courts, because all-complainants are too alienating. It also recommends more funding to “ensure wraparound care”. Defendants are assumed to be self-reliant, because it offers them nothing at all. Of course, no mention is made of false accusations. The report says every judge presiding over a sexual case should “have a designation to do so.” This is terrifying. In Dry Ice I asked where such a designation would come from. If it means that the presiding judge has had “training”, who administers it, and what does that administrator believe about the number of false accusations and the role of corroboration? It also says that defence and prosecution should agree on “a written statement for the jury dealing with myths and misconceptions around sexual violence.” I doubt that rival figures about false rape statistics or rival theories about “recovered” memories ever find their way into a courtroom, but if they ever do, this provision does not convince me that the truth will get a fair hearing. The whole court, from the judge through both lawyers to the jury, is to be schooled in the rape myth gospel as “enlightened modern practice”. Heresy is to be legislated away. Sexual crimes are to be treated as inherently different from others, because victimhood is a given and transcends the traditional presumption of innocence.

The Abby Honold Act, now being considered in the US, would fund the retraining of sexual assault investigators to prevent any procedure that may induce “victim retraumatisation”. By implication this presumes the complainant is telling the truth. If investigators find that some evidence contradicts the complainant's story, they will not be able to confront her (or him) with any discrepancies because that would retraumatise. No one knows the extent of this, because the wording of the act is vague about what “retraumatisation” might mean.
The Tyranny of “Rape Myths” Dogma by Peter Joyce, continued …

Canadian judges also need educating. In 2017 The Star quoted professor Elaine Craig at Schuhlich School of Law in Halifax, Nova Scotia, as saying

The potential harms that occur in sexual assault trials when judges lack proper training, legal knowledge, and the ability to identify and resist rape mythology are greater than in many other types of legal proceedings.

Of course they have legal knowledge; they are judges! What they may lack is a legal perspective acceptable to particular reformers pushing a narrow agenda that bypasses due process in order to deliver what it sees as social justice. Judges who are qualified and experienced in a general sense will therefore be considered unsuitable if they hesitate to adopt a questionable set of criteria specifically in the realm of sexual crime. The outcome will be close to what the anonymous “Theodore the Canadian” has tweeted:

- Maintain innocence?
  You’re a denier.

- Can prove your innocence?
  You’re manipulating the facts.

- Proclaim the accusation is false?
  You’re blaming the victim.

- Advocate due process?
  You’re re-victimising the victim.

It may not come to this, but if these changes occur they will of course signal a great victory for the “believe the victim” philosophy. The only remaining step would be to do away with trials altogether. What point can any defence have when every sexual complainant’s X statement will have the same value as her not-X? The despair of a suspect in a sexual crime will then be so complete that he won’t even bother to ask the sort of rhetorical question posed by Monty Python’s Brian: “What sort of chance does that give me?”

Editor’s Note:
We are pleased to feature this article by New Zealand author, Peter Joyce. We should acknowledge that, to the extent that some of the above discussion is concerned with consent in sexual relations, it is not relevant to people accused in the context of their work with children, or with adults in their care. The arguments are important though as an illustration of the one-sided reasoning and double-standards that are applied in recent responses to allegations of sexual abuse.

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My Question to Andrea Davidson

By Allan Shipham
FACT member.

On Saturday 28th May 2018, UKIP Wellingborough hosted a meeting with Andrea Davidson via satellite-link to her political asylum refuge in Argentina. I was initially unaware of her contributions to the rise of false allegations and trawling, but took my chance to question her.

Andrea Davidson was an arms investigator and intelligence officer who had access to 10 Downing St. She should have been a star witness for the Chillcot ‘Arms to Iraq’ inquiry but was suspiciously never called. She is pegged by some, as equal to Wikileaks founder Julian Assange, as dangerous enough to bring down governments. After the apparent ‘suicide’ of Dr Kelly, a fellow chemical weapons specialist and break-ins at her home she fled to relative safety in Argentina.

Andrea is also noted as a prominent whistleblower, who reported widely on ‘establishment’ sexual abuse. You can research her articles online, but she takes credit for assisting the initial Police investigations into Bryn Alyn and other care homes in North Wales.

I asked:
“Andrea, we have seen the aftermath of the North Wales investigations. The culture has changed back here in the UK and innocent people have had allegations. People have been through painful investigations, lost family and friends, lost their jobs, livelihood, been imprisoned, and some have even died in prison because of false allegations. I am unable to care or teach now due to false allegations on my own CRB. Do you accept that NOT everyone who has had allegations is guilty of a crime?”

Andrea was not aware that so many people had suffered, but accepted that innocent people had become victims as a result of false allegations. She even referred to ‘person known as Nick’ who had been found out to be an offender himself. In her defence, she stated that at the time she only reported what she was aware of, stressed that everything she’d said about the establishment was 100% true and also that other people in government were aware and had covered up.

I found Andrea knowledge, very intelligent and very friendly. My perception is that, she like others was taken in by accusers whose motives were mostly financial benefit or discrediting a good member of staff. No doubt she did ‘hear things in the corridors of power’, and it wouldn’t be unimaginable to believe abuse was more widespread. Sadly, her own fear of the establishment eliminating her because ‘she knew too much’ has taken her away from the UK and her only source of information from home, will be limited to the propaganda channels. I have sent her a link to our website.

This may not help anyone, but I wanted to share it in the hope that people see the tide is actually turning and that even people who reported events at the time, now have some reasonable doubt in their minds.

Editor’s comments:

Looking at Andrea Davidson’s statement of 14 July 2014 published on the Internet at, http://macurstatement.blogspot.com/ I would like to see her update her views and opinions to reflect her new awareness and understanding of false allegations that Allan brought to her attention.

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In a spirit of openness we aim to print the letters we receive, whilst reserving the editorial right not to publish them. The editor also reserves the right to abridge or edit a letter in any way necessary.
Non-Recent Child Abuse
The Belief System

The current official guidance for police investigating claims of historical child sexual abuse is that officers should automatically “believe” the accuser and always refer to him or her as a “victim”. The *Eye* can now reveal that this guidance is now under review.

The policy of “believe the victim” was brought into sharp focus following Operation Midland; Scotland Yard’s disastrous £2.5 m investigation into so called VIP Westminster paedophile ring and more recently by Wiltshire police’s £1.5m inquiry into the late Sir Edward Heath – which included claims that he was part of a satanic cult that murdered 16 children.

Operation Midland was abandoned in March 2016 with no charges. In subsequent review, the retired high court judge, Sir Richard Henriques made damming criticism of Inspector Knacker* for accepting the veracity of the claims of rape and murder against high-profile figures such as Lord Brittain, Lord Bramall and former MP Harvey Proctor (accused of three murders) – all based on the sole evidence of a witness known as “Nick”, who Henriques concluded was a fantasist.

Henriques’s report, published in October 2016, recommended that people making allegations should be described as “complainants” rather than “victims”, and that the policy of automatic belief – which he said “perverts our system of justice” – should end. He wrote “The present police policy causes those not telling the truth to be artificially believed and, thus, liars and fantasists, and those genuinely mistaken are given free run both unchallenged and unchallenged”.

In a separate statement to the *Eye*, Chief Constable Bailey of Operation Hydrant summarised the current guidance: “When dealing with all reports of crime, police should start from the position of believing the victim until we are given reasonable cause to do so.”

Deep divisions over this among senior Knackers* were exposed when Sir Bernard Hogan-Howe – the former Met Commissioner who presided over Operation Midland and who invited Henriques to conduct his review – told the *Guardian* that “believe the victim” was fundamentally unfair to suspects. The policy was immediately defended by police and crime commissioners. The National Police Chiefs’ Council, the victims’ commissioner, all arguing that any change would deter victims from coming forward.

More than a year on from Henriques request, in the past fortnight the *Eye* has contacted the College of Policing and Operation Hydrant, which coordinates UK police investigations into “non-recent” child sexual abuse and is headed by Norfolk chief constable Simon Bailey. Requesting a copy of the current guidance, we also asked whether it would be changed in the light of Henriques’s recommendation. The answers are carefully nuanced but indicate that a significant shift is being considered.

The College of Policing told the *Eye* that its latest advice to investigators, issued last November, was based on “the learning rationales and decisions taken by a number of senior investigating officers (SIOs) who have led inquiries into high-profile non-recent sexual offences cases … As the document was advice for operational officers it was not made publicly available… A further updated version of the advice, which will be publicly available, is currently being reviewed.”

The College of Policing said it has been “working closely with other agencies and stakeholders to consider the recommendations in the [Henriques] report. We recognise that the recommendations around the use of the terms ‘belief’ and ‘victims’ has potentially wide-reaching implications across not only policing, but also government and criminal justice system.”

Henriques’s Report, 2016

“The present police policy causes those not telling the truth to be artificially believed and, thus, liars and fantasists and those genuinely mistaken, are given free run both unchallenged and unchallenged.”

Page 19, paragraph 1.28
otherwise and must then investigate impartially, thoroughly and professionally without fear or favour.” He added: “The College of Policing is reviewing this position in the light of the findings of the Henriques review and I am supporting that progress.”

Neither he nor the college could say when new guidelines might be produced, but the Eye was assured that they will be published.

* Inspector Knacker:
The British satirical magazine Private Eye has long had a reputation for using euphemistic and irreverent substitute names and titles for persons, groups and organisations; ‘Inspector Knacker’ being one of them. Over the years these names and expressions have become in-jokes used frequently in the Eye without explanation.

Editor’s Comment
In April, 2018, it was widely reported in the press that the London Metropolitan Police were to ditch guidelines to automatically believe sexual assault complaints. Cressida Dick, the Met Commissioner, who took up her role in April 2017, said,

“I arrived saying very clearly that we should have an open mind when a person walks in and we should treat them with dignity and respect and we should listen to them and we should record what they say….From that moment onwards we are investigators.”

However, in her statement to The Times (2nd April, 2018) she continued to use the word ‘victims’ when referring to complainants, ignoring Henriques’ advice.

Sir Richard Henriques’s report of his ‘Independent Review of the Metropolitan Police Service’s handling of non-recent sexual offence investigations alleged against persons of public predominance’ was published in October, 2016; we are still waiting for the College of Policing to published their updated guidelines.
Just when it seemed as though public attitudes might just be changing towards sexual allegations, following the supposed abandoning of the ludicrous ‘you will be believed’ dogma, along comes another example of unthinking ideologically-inspired nonsense peddled by a senior public official. This time it’s the so-called ‘Victims’ Commissioner’, Baroness Helen Newlove.

Baroness Newlove, Victims' Commissioner

On her official Twitter account, the Baroness – or possibly one of her flunkies – has recently posted the following politically-correct twaddle, masquerading as concern for the amorphous mass known collectively as ‘victims’:

I strongly disagree with judges who demand that rape victims are referred to as complainants. A victim is a victim from the moment the crime is committed. They deserve to be treated with respect, sensitivity & feel that their pain is acknowledged. To do otherwise is a backward step.

The Baroness obviously takes the view that everyone who claims to have been raped (or otherwise sexually assaulted) is telling the truth. She doesn’t seem to believe that any sane person is capable of lying about having been abused, which strikes me as naivety in the extreme.

As we have seen in a series of recent scandals over disclosure (in other words ignoring or withholding of evidence by police), the key issue is often whether any ‘crime’ has even been committed in the first place, or whether it merely exists in the imagination of a chancer or fantasist; the tall tale made up in a bid for revenge, or is solely a disgraceful lie emanating from the mouth of a compensation-hungry fraudster. Has it not occurred to Helen Newlove that liars, fantasists and fraudsters exist?

I put it to her in the strongest possible terms that they do and, wherever these people rear their ugly heads, it is the accused and his or her family who are the victims. Is she really advocating that we lurch back to the ‘you will be believed’ school of nonsense?

I find it extremely concerning that this very poor example of a palpably fallacious argument is being advanced by a well-paid public official, who also has a seat in Parliament: since 2010 she has been a member of the House of Lords.

Of course, no-one is suggesting that people who complain that they have been a victim of a serious crime should be treated with anything other than professionalism, kindness and respect by the police, prosecutors and court officials. However, prejudging the outcome of a contested trial by confirming ahead of a jury’s deliberations that a crime has indeed been committed is, in my view, a very backward step indeed, and one that is grossly unfair and totally unjust to any defendant.

What is the next step along this particular road to judicial hell? Judges and prosecution barristers referring to the ‘as yet unconvicted rapist in the dock’ rather than ‘the defendant’? Then, any pretence of a presumption of innocence in sexual trials would really be dead and buried.

It seems that the whole institution of the ‘Victims’ Commissioner’ is another of those ludicrous and expensive quangos established by the last Labour government and indulged by successive administrations. It seems that Baroness Newlove has no particular qualifications, nor expertise in criminal justice, beyond having been herself a victim of a particularly horrific crime when her husband, Garry, was murdered by drunken thugs in 2007. While having every sympathy for her loss, it does seem a strange criterion upon which...
to justify making a senior public appointment. And this is where the problem seems to lie: we are expecting someone with no legal background nor qualifications to act as a public watchdog and advocate.

The baroness’s ridiculous tweet reminds me of the famous court scene in Alice in Wonderland:

‘No, no!’, said the Queen.  
‘Sentence first—verdict afterwards.’

‘Stuff and nonsense!’, said Alice loudly.  
‘The idea of having the sentence first!’

‘Hold your tongue!’, said the Queen, turning purple.

‘I won’t!’, said Alice.

Off with her head!”, the Queen shouted at the top of her voice.

And yet, here in Baroness Newlove, we have the modern equivalent of the purple-faced Queen of Hearts, advocating that we should turn our justice system on its head solely to recognise the pain felt by ‘victims’…

Baroness, some of your so-called ‘victims’ will be liars, fraudsters or fantasists, of this you can be sure. Fortunately, despite her very grand sounding title and generous salary, Helen Newlove has no actual power over the courts. It can only be hoped that judges and sensible politicians will continue to ignore her dangerous, misguided, unqualified opinions.

In theory, at least, the office of the Victims’ Commissioner is supposed to offer:

Inclusivity representing all victims and witnesses, including the most vulnerable members of our community.

Yet, when it comes to the actual definition of what constitutes a ‘victim’, things become much more hazy. It appears that only certain victims actually qualify for such support and representation. For example, I have yet to hear the taxpayer-funded Victims’ Commissioner say one single word about victims of miscarriages of justice or those whose lives and families have been, and continue to be, destroyed by malicious, false accusations, propounded by the plethora of greedy, selfish, heartless liars. Employing a victims’ champion who only represents certain types of victim, while ignoring others, seems to me to be a very poor way of spending public money. What kind of message is this sending?

Are those who have had their life utterly destroyed by these malignant liars and fraudsters, Baroness, the wrong sort of victims?

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Editor’s Note: We wrote to Baroness Newlove to ask if she would like to reconsider her tweet in the light of Simon’s blog. The Commissioner’s Office replied “Many thanks for your email and giving us the opportunity to comment. We are happy to let our tweet stand as it is in terms of a response.”
What Happened to British Justice?

by

a FACT Member

In May this year a 79 year old FACT member was given an ultimatum which flew in the face of what is now the British Justice System. John, not his real name, had been previously been found guilty of offences which he totally denied at an earlier hearing some years ago. John had always maintained his innocence though like many others he could not produce powerful enough evidence to prove a negative, despite the inconsistencies and lies clearly visible in the complainant’s testimonies. This conviction resulted in a 4 year prison sentence, 2 to be served in prison and 2 on Licence. John served this sentence maintaining his complete innocence throughout despite failing health and suffering two strokes. Upon release John felt he could possibly salvage some life for himself and spend the remainder of his retirement with his wife, children and grandchildren, all of whom totally believed in his innocence, especially his wife who had been at his side throughout his ministry and had no doubt about her husband’s total innocence and complete integrity.

Then out of the darkness of the past another approach was made to John by the police stating that another complaint, not apparent at the time of his previous trial, had come to their attention dating back 40 years. They totally believed the complainant despite the inconsistencies and lies clearly visible in the complainant’s testimonies. This conviction resulted in a 4 year prison sentence, 2 to be served in prison and 2 on Licence. John served this sentence maintaining his complete innocence throughout despite failing health and suffering two strokes. Upon release John felt he could possibly salvage some life for himself and spend the remainder of his retirement with his wife, children and grandchildren, all of whom totally believed in his innocence, especially his wife who had been at his side throughout his ministry and had no doubt about her husband’s total innocence and complete integrity.

In the days and weeks leading up to the trial John stated that he would be pleading not guilty as this was totally wrong and that all he had left in life was his honesty and integrity which he stated should not be compromised. In order to prepare for the trial he and his wife had sought the counsel of his legal team to be prepared for the possible outcomes of the forthcoming trial; the news was not good. It was felt that due to the lack of evidence to defend himself it was very likely that he would be found guilty. This was indeed a gloomy prognosis though John took it on the chin and still remained adamant that he could not plead guilty to an untruth and again reminded everyone that all he had left was his integrity and adherence to the truth. To prepare for the worst John and his wife enquired of the potential sentence should he lose the case which now looked very likely and were informed it would probably be a custodial sentence amounting to 3 years. This was traumatic enough but they felt it doable in spite of his poor health and fragility. John stated that he did not wish to die in prison and wanted very much to continue to spend time with his wife, grandchildren and family. It was put to John that he could plead guilty and throw himself on the mercy of the court and receive a less severe sentence, but this was felt by him a betrayal of himself and his family.

The day of the trial, arrived and despite being faced with the stress of this John still had every intention of proceeding in the way of truth and totally refusing to accept guilt, that was until he was dealt a savage ultimatum. John was suddenly, quite out of the blue, told by his legal representatives that the prosecution were aiming to put an 8 year sentence on him should he be found guilty, a sentence John felt he would never survive. His solicitor told his wife that the best they would ever get for him would be 6 years but it would probably be 7 or 8 years if he insisted on going to trial and was found guilty. This was because he would be putting the complainant and her witnesses through the trauma of a trial. It is a fact that this could be a life terminating sentence and he may never be free again during his life time. His health is of great concern and may not stand this incarceration. The prosecution, CPS and police are well aware of his poor health yet this is what he was threatened with. His barrister advised him to accept a guilty plea as he did not feel he could defend him well enough to be sure of a not guilty decision. He was given no choice but to swallow his dignity, self respect, integrity and justice itself and forced to plead guilty, throwing himself at the mercy of the court for a lesser sentence, which would at least give him some chance of life back with his family and loved ones. This was a horrendous decision and choice to have to make and was not justice at all. In the end he has pleaded guilty to something which did not take place and condemned himself in the hope that he would get a short enough sentence which he would survive long enough to be released. During the...
sentencing the prosecution were pushing for 10 years but his barrister pleaded for mercy on his behalf and he received a sentence of 3 years and 2 months, so he will serve 19 months. When she visited him he told his wife that he only changed his plea under duress, afraid of what would happen to him if he went to trial and was found guilty, and thus unable to complete the sentence alive. He said he couldn’t face what he would have to go through and just wanted it all over because he felt he might have a massive stroke that would leave him in a very bad way or may even be fatal.

John was taken straight to prison from the court, no reports were asked for or the condition of his health taken into consideration. There was great concern about his blood pressure when he arrived at the prison, so much so that he had to see the Doctor. After nearly 3 weeks he is still in the first night holding cell as they have no suitable accommodation at the prison he was sent to, nor do they have room for him. It is hoped that he will soon get a transfer nearer to his family.

The point of writing this is to point out that this possibly comes under the heading of a plea bargain though in this case there was no choice if John wished to live long enough to see him through a sentence. Having suffered strokes already and on constant medication he had little option but to make a false confession to what is seen as a false accusation.

Perhaps it is best summed up in our member’s own words:

When I learned of the allegation dating back to 1978 and regarding someone I had no dealings with at the time, and who I had no memory of at all I was both shocked and horrified.

Initially it looked as though it would be a straightforward case of disputing all the statements, but I soon became aware that this was not going to be the case. My health means that I am in a very vulnerable state having had three minor strokes and several TIA’s and being diagnosed with PTSD which means that I suffer from extreme anxiety about everything. I began to feel extremely frightened when I became aware that the prosecution were wanting a huge sentence for an allegation dating back forty years. I understood it would be seven or eight years if I was found guilty because of the trauma that a trial that would put the compliant and the witnesses through, so it would be years before I returned home again, years before I would see my grandchildren having already lost out on a huge amount of their growing up, particularly my granddaughter. I was concerned that the extreme stress would cause me to have another stroke which might be more serious or even fatal. I was also frightened that I would die in prison, given my health and the fact that I shall be 80 next year. All in all it was a frightening scenario and I wasn’t sure that I could cope with leaving my wife and family yet again. The week before the trial my barrister had led me to believe that if I lost the case I would get a three year sentence.

My solicitor and barrister talked to me and suggested that I should plead guilty to the allegations in return for a shorter sentence, the allegations would be reduced from four to three. I was not feeling very well and I felt under tremendous pressure to stop their arguments by agreeing to plead guilty; it was the easier way out rather than fight. I had been backed into a corner. I was persuaded that because of the current attitudes and the previous conviction for which I have always maintained my innocence it would be very difficult to overturn these new allegations. It was under duress that I made the choice to accept what I believed was the lesser of two evils and hope that I would indeed get a much shorter sentence as the sentence I might receive if I maintained my innocence and opted to go to trial was disproportionate. On reflection I am not sure that my legal team did act in my best interests and I am very aware that the prosecution only wanted a conviction regardless of how they got it. There is no way of knowing how the complainant would have stood up under cross-examination but I was made to feel that the risk was too great to take as my barrister said I had less than a 5% chance of winning the case which meant that I was forced to give up my right to maintain my innocence and to a fair trial.

What would any of the rest of us have done in this situation? It certainly seems he was between a rock and a hard place and had to choose life and family over truth and justice.
The Curse of the Volunteer?
by
a FACT Member

Are you someone who is responsible for the educational needs of young people?

Are you someone responsible for organising extra-curricular activities, like a sport club; a youth club; scouts; DoE; drama; dance etc. etc?

If so, then you need to urgently review just how much reliance you place on the contribution of volunteers, towards the success of your operation.

Alternatively are you that volunteer? The one that gives up their free time to support the hard pressed organisations, which educate or offer new experiences for children?

If so, then you need to consider very carefully whether your contribution is worth the consequences to you and your family, in the likely event of an anonymous allegation.

Volunteers, who find themselves the subject of an anonymous allegation are dead in the water.

Why? Because as things stand today, the position of volunteers, who find themselves the subject of an anonymous allegation, are ‘dead in the water’, with the potential of the allegation ‘sticking’ for ever!

Why? Because, unlike those who are paid, a volunteer does not have the protection of a ‘Contract of Employment’, or a Union, to help mitigate the effects of allegations. As a volunteer you are not consulted; don’t have a voice; and have no redress. You are basically dispensable!

The anonymous allegation is likely to be classified as ‘unsubstantiated’, meaning that it is neither proved nor disproved, and there is absolutely nothing you can do about it!

The Safeguarding Officer will take the obvious option of ‘terminating your association’ because it is ‘easy option’; there are no consequences and they prefer ‘not to take the risk’! The children; the school; the organisation; they are the important ones here, not the volunteer!

Now, Local Authorities have protocols that cover allegations, and the protocols actually include the word ‘volunteers’ in the title, but that is where it ends. There is nothing in the protocol that deals with the unprotected position of volunteers, when an allegation is anonymous; when it fails to mention ‘what’ took place; ‘where’ it took place; ‘when’ it happened; and to ‘whom’. It becomes an occurrence that cannot be investigated, because nothing is known! Add to this, the Local Authority protocol is not enforceable; any investigation is down to the organisation. So if they can find a way to avoid it they will!

It gets worse. All Local Authorities have a department called ‘The LADO’. It stands for Local Authority Designation Officer. They provide two things. First, an avenue to report allegations; (with details, and possible sources); and secondly the means of talking to other organisations, who deal with children, like the police; social services; etc.; to see if the accused’s name ‘appears’ elsewhere, effectively corroborating or otherwise, the allegation. With this information ‘The LADO’ decides how to classify the allegation, and who to communicate it to. They act like a conduit to ensure those that need to know get to know. What they don’t do, is to investigate the truth of the allegation, mainly because that has to involve the person being accused, and the best placed people for that, are the Safeguarding Officers in the ‘place of work’.

However, without that ‘Contract of Employment’, there is less hassle just to ask the volunteer to leave, because without an investigation the allegation is likely to remain unsubstantiated; meaning neither proven nor unproven, so, just in case there might be an issue, it is better ‘not to take the risk’. You might think that a long serving volunteer would carry some credibility and the Safeguarding Officer could determine the level of risk, but believe me, in today’s climate ‘risk’ appears to be everywhere! You might think that an anonymous allegation would not carry as much weight as your own word or the words of friends and colleagues, people who have known you a long time. But no, the merest whisper is sufficient to affect the end of the relationship. Loyalty, honesty and a good reputation has no place in safeguarding. It’s interesting; the title ‘Safeguarding Officer’ does not include the word ‘children’. Why? Well because they are supposed to be safeguarding everyone, not just the children, something that...
conveniently gets lost in translation and in achieving the self-protection the schools embrace. As a volunteer it is very likely that the only words said will be “please leave”;

As a volunteer it is very likely that the only words said are “Please leave”, no interview, no consultation, no opportunity to respond; frequently no ‘thanks’ either!

there will be no interview; no consultation; no opportunity to respond; frequently no ‘thanks’ either! You will not get anything in writing to support the decisions and actions, unless you aggressively insist, and then the words are likely to say “we are acting on the information from the LADO…. (so it’s not our fault)” The reality is that the Safeguarding Office/Headteacher will not take the responsibility that the protocol places upon them; and remember, that protocol is not enforceable.

The schools at least have a complaints procedure, which you could explore; but it is carried out by school personnel; it is not independent; it is designed to protect the school; and will support the LADO’s determination. The third level only investigates the procedure and not the decisions, or the basis for the decision, so from a complaints point of view, it is useless!

So what can be done about it? Well, many schools are dispensing with all volunteers; more likely however is that volunteers, discovering the potential pitfalls, will no longer come forward and volunteer. Either way this lucrative, free, and highly beneficial wealth of experience, that retired and other trained people can provide for the ‘life’ education of our children, will disappear. Who will suffer? Well not the volunteer, because there will not be any, but the children! Paradoxically, we have now protected children from the good in society as well as the bad.

FACT Member

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CRB Problems Ltd
Helping you to make a fresh start.

In 2005, I acted for a former client seeking to clear off an unproven allegation of sexual abuse from his Enhanced CRB Certificate, where he had been questioned but never even charged. When the Police refused our request, we applied successfully for a Judicial Review, initially in the High Court, but when the Police appealed that decision, also in the Court of Appeal.

A few years later, the Government established the Office of the Independent Monitor to adjudicate appeals as an Ombudsman and, although there is no formal appeal against his decision other than an expensive and uncertain High Court Judicial Review, I have on occasion managed to persuade him that he had got something wrong and to change his mind.

Enhanced disclosure can be made where someone was questioned but never charged or charged but acquitted. It can cover an individual’s mental health problems – even where they never harmed anyone or even disclose the convictions of a third party, for instance, a partner or family member.

The guidelines for third-party disclosure are rather vague and I have complained about this to the monitor. He in turn commented upon this problem in his yearly report to the Home Office and he has just told me that they are considering bringing in new guidelines. If they do, I shall advise Fact of this.

In 2012, I established CRB Problems Ltd specifically to deal not only with clearing Enhanced Disclosure but also of Police Cautions Reprimands and Warnings. Neither matter requires a court to adjudicate on that person’s guilt, but each can ruin a client’s future unless successfully appealed.

We give free and confidential advice to all callers on the prospects of clearing their name and the way forward, so if you have any such problem please call me, David Wacks on (07505) 961762 or email David@CRBproblems.co.uk.

FACT Member
Behind the Blue Line
My fight against racism and discrimination in the police force
Author: Gurpal Virdi

Publisher: Biteback Publishing, 2018
ISBN: 9781-78590 3212
Price: £15:99 (Amazon)

Reviewed by Dr Dennis Eady,
Cardiff University Law School’s Innocence Project.

Technically if an innocent person is cleared of the allegations against them, then a miscarriage of justice has not occurred and the system has worked. Gurpal Virdi’s book shows vividly that experientially this is not the case. The damage of a false accusation does not dissolve with a not guilty verdict and being accused and investigated by a powerful force is in itself a traumatic and damaging experience. For Gurpal the added enigma and betrayal was that he had served for close to 30 years as an officer in that force – the Metropolitan Police.

Miscarriages of justice tend to leave unanswered questions and the personal reflections in the book reveal the frustration and exasperation of not knowing why. Why would his own colleagues accuse Gurpal, an officer from an ethnic minority of sending racist hate mail to other officers from minority groups? A few racist officers perhaps; but why did the hierarchy of the force follow suit? (Gurpal had been accused in 1998, suspended for nearly 2 years, dismissed from the force but reinstated after exoneration at an employment tribunal).

Why so long afterwards in 2014 (2 years after retiring from the police) would a petty criminal be supported to make accusations of violence and sexual assault against Gurpal, dating back 28 years and why again would the hierarchy of the force support such a tenuous and, in many respects demonstrably false, accusation.

There is evidence of a bizarre conspiracy and the surreal nature of criminal trials - some of the actual court transcripts of the abuse trial are used to take the reader through the events in a very real and effective way.

Gurpal had one great advantage as someone falsely accused, he was an investigator, able to examine and test the case against him, he knew people who might support him and he knew he needed a committed and experienced solicitor (Matt Foot of Birnberg Peirce solicitors) and barrister (Henry Blaxland QC). The book provides a template on the necessary actions needed to fight a wrongful allegation prior to the trial. Sadly such insight is beyond the scope and experience of most people in that situation.

There are many typical features of miscarriage of justice cases that are described in the book and some important reflections on how the police operate. On his first arrest in 1998 Gurpal describes a seven hour search of his home, the damage to his house and the removal of property. This he describes as an experience that “will haunt me for the rest of my life”. The over the top police approach which many innocence people experience is well described – “Are they really expecting to find racist hate mail in a bag of sealed lentils?” For me a discussion that is missing from the book is any in-depth analysis of Gurpal’s own experience as a police officer – did he see these things happening, was he inadvertently a part of it during his time in the force or did his own approach eliminate such practices? How, given his experiences, does he reflect on his long service in the police and would he approach things differently in hindsight? You cannot say everything in one book but that might be the basis of an enlightening sequel.

This is inspiring story of a man and his family standing up to betrayals and injustices. With great humility and clarity Gurpal describes a principled and determined struggle against distorted thinking and paranoia within a powerful organisation – disturbingly an organisation whose stated purpose is to protect the public.
There can be little doubt that there is a crisis in our justice system. The Law Society and Criminal Law Solicitors Association have both (separately) launched judicial review proceedings against the Ministry of Justice in the midst of funding cuts, and barristers have been refusing to accept new casework in protest at a new funding regime. This book tells a sobering story, or rather set of stories, that have contributed to the present crisis of legitimacy in the criminal justice process.

*Guilty Until Proven Innocent* offers, through an analysis of real criminal cases allied with an in-depth understanding of appeal procedures, a full and compelling narrative about how miscarriages of justice occur and what could be done to prevent and to rectify them. It is an important account of real problems in criminal procedure that have been swept aside for decades.

**Bringing history to the present**

Jon Robins has skilfully interwoven case histories into the modern narrative of problems that exist within the criminal justice system. He uses each chapter to describe the details of either an alleged or a proven miscarriage of justice and to then highlight common themes across these cases. By doing so, he is also able to provide an account which examines how the system developed in a haphazard style—usually in response to crisis—following the creation of the Court of Appeal in 1907.

Robins goes on to scrutinise how the system fell into its present state of crisis brought about by disclosure failings, problems with expert evidence, a chronic lack of funding and concerns about the robustness of the Court of Appeal. The book offers a concise understanding of the big issues and landscape that is all too familiar to lawyers who work within the criminal justice system. As an academic lawyer, it provides not only compelling reading but also important material for anyone teaching and conducting research in the field of criminal justice.

**Stylishly written…**

The strength of Robins’s feeling for the subject of miscarriages of justice is clear from the lively and engaging way that this book has been written. That is not to say that it has been written in a superficial way—quite the opposite. The book provides a comprehensive overview of the cases that are used to frame the discussion about how (alleged) miscarriages of justice have occurred. The compelling style in which this book has been written means that it is accessible for lawyers and non-lawyers alike. Both those with an interest in criminal justice and those without such an interest would learn a lot, and be engaged by the sequence of events that is offered. It is a book I would recommend to anyone who wants to know more about our criminal appeal system.

**…but with genuine compassion**

Notwithstanding the way that Robins has been able to use case histories to highlight issues in criminal justice, the reader will be able to detect a genuine sense of compassion in the case analysis. Robins has clearly spent many hours carefully engaged in extremely difficult conversations with those who have been the victims of (alleged) miscarriages of justice, and their friends and families. That is not to say that he examines the issues with an uncritical eye, but rather means that Robins is able to offer a holistic account and understanding of the impact of alleged wrongful convictions on those who have been so convicted, on their families and friends, and on the legitimacy of the criminal justice system.

This review first appeared in *New Law Journal, 8 June 2008* and reprinted here with permission.
To produce one academic book in a year might be considered a major achievement. But Terry Thomas, FACT Advisory Group member and Emeritus Professor of Criminal Justice Studies at Leeds Beckett University, impressively pulled off the enviable feat of publishing two excellent texts in 2016. These focus on his longstanding research interest in societal and governmental responses to sexual offending and the subsequent management of those convicted of sex crimes.

It is worth noting here that those who are falsely accused of sexual offending may, of course, find themselves subject to many of the restrictions and control measures which have arisen in recent decades. These two books may therefore be informative to FACTion readers who wish to further their understanding of the current frameworks through which those labelled as ‘sex offenders’ are currently governed.

In *Sex Crime: Sex Offending and Society*, now in its third edition, Thomas begins by describing the escalation of public anxieties about sex offending at the turn of the century and the role of media in both heightening these concerns and pressuring legislators into a range of responses to the ‘sex offender problem’. The book also considers the proliferation of various measures designed to curb or control sex offending – or to retrospectively ‘manage’ those designated as ‘sex offenders’. Also considered are the increasing pathologisation of sex crime within medical and criminal justice discourses and the apparent tensions between ‘treatment’ and ‘punishment’ which exist for various sentencing options (in chapter six).

One of particular strengths of the book is the longer historical perspective provided on ‘Social responses to the sex offender’ (in chapter three) which examines how, since pre-industrial times, sexual offending has been defined within statute and how ‘sex offenders’ have been constructed as knowable subjects and as bearers of particular risks to the communities in which they exist. Thomas comments at the outset of the chapter that ‘[t]he definitive history of sexual offending has yet to be written’ (p.36) and it is clear from the excellent work here that such a further, detailed study could add immeasurably to our understanding of this topic in the present.

Elsewhere, the book examines in some detail the historical expansion of measures aimed at achieving ‘public protection’ and provides an up-to-date overview of the various mechanisms through which those convicted of sex offences are monitored and controlled, or have information disclosed about them – for instance through the Disclosure and Barring System. It is here that the book intersects with Thomas’ other recent work, *Policing Sexual Offences and Sex Offenders* – a publication in the Palgrave Studies in Risk, Crime and Society series.

This more concise book provides a critical examination of the role of the police in investigating and recording reports of sexual offending, both domestically and across international borders. It also considers the relatively new responsibility (by historical standards) held by the police - to manage, post-sentence, those who have been convicted of sex crimes. Thomas provides a detailed discussion of how this is achieved through notification requirements (the ‘sex offender register’), multi-agency working and an array of restrictive civil orders such as the ‘Sexual Harm Prevention Order’. Furthermore, the book describes the various ways in which information held by the police on ‘known sex offenders’ can be disclosed to members of the public.
Let’s just look at two of these myths that are explored and dismissed by this book.

**The myth that the police will protect the innocent and have high moral standards.**

Many of us were brought up in an environment which instilled in us an enormous respect for the police. Also, those who have worked with children may have worked closely with the police. It comes as a shock that when one is the focus of police investigation that not all officers come up to our expectations. Even more so when their focus is only on looking for proof that you are guilty.

As the Secret Barrister states: ‘[the police] are not all perfect. … Some lie, cheat, dissemble and break the rules’. (p. 262)

The subject of presumption of innocence, within our justice system is explored, and in particular the impartiality of the police, using the well known case of accusations of ‘Nick’ against known well political people. The Secret Barrister points out that when in 2014 Detective Sergeant Kenny McDonald told the press conference that “[My colleagues] and I believe what Nick is saying is credible and true” he was following what he was taught. As the Secret Barrister wrote:

‘Since 2002, the College of Policing’s strategy had been expressed thus: ‘It is the policy of the [police] to accept allegations made by the victim in the first instance as being truthful. An allegation will only be considered as falling short of a substantial allegation after a full and thorough investigation’. (p.267)

The Secret Barrister uses the example of Victor Nealon freed by the Court of Appeal after 17 years in jail. “He was taken from HMP Wakefield and dumped at a railway station with £46 in his pocket.” Since then he has received no compensation to rebuild his life; ‘the deliberate ruination of entire lives’ (page 318). At present, this is ‘the price’ innocent people have ‘to pay for membership of our enlightened democratic society’. (page 318)

Ultimately the Secret Barrister asks us what sort of society do we wish to live in and quotes both John Adams (1770) ‘It is of more importance… that innocence should be protected, than it is, the guilty should be punished…’ (page 248) and William Blackstone (1765) ‘It is better that ten guilty persons escape than one innocent suffer’ (page 275)
Over the last 30 years, support groups for those accused of false accusations have worked tirelessly to provide advice and a shoulder for victims of unfounded allegations. The support groups include FASO, FACT, Accused.me and Safari. Whilst each group supports a wide range of different people and accusation, all the groups have a similar will to witness change to the British Legal System to better protect victims of false allegations and wrongful convictions.

Unfounded brings together the wide range of Groups that support victims of false allegations, to speak as one voice in the fight for justice. The Alliance is committed to working together to raise awareness and influence policy to improve services to victims of unfounded allegations and miscarriages of justice.

The initial aims of UNFOUNDED are:

- **Campaign** to get the recommendations of the Henriques Report implemented.
- **Raise the profile** of unfounded accusations to wider parties.
- **Strengthen** the position of victims of wrongful allegations in the criminal justice system.
- **Unified voice** to influence and engage with government and wider stakeholders.
- **Work together** in a positive and respectful way to improve outcomes for victims’ families.
- **Networking** across member organisations with swift communication of key information.

Website: [http://www.unfounded.org.uk/](http://www.unfounded.org.uk/)  
NEWS: Update No.1

If you have any specific experience in political campaigning and would like to volunteer to help please contact Unfounded, [http://www.unfounded.org.uk/contact](http://www.unfounded.org.uk/contact) .
Also Supporting Victims of False Allegations

We are happy to introduce other organisations, where you may find additional information / support:

**accused.me.uk - www.accused.me.uk**

The Accused Me organisation help link you with others and provide advice if you are going through rape allegations. They also campaign to improve the investigation and detection of sexual crimes in the UK.

**B.F.M.S. - British False Memory Association - www.bfms.org.uk**

False memory: when a person is convinced a memory is true when it is not. Clinical evidence suggests it is more widespread than had previously been appreciated. Contact: Kevin Felsted - 0161 285 2583


SAFARI provide powerful and positive information to those who are in a position to make necessary changes in the UK's investigative and judicial systems, those who have been affected by false accusations and those who have suffered from being pressurised into making false accusations.


A voluntary organisation that offers clear information, practical advice, and emotional support to anyone affected by false allegation of abuse. Contact - Margaret - 0844 335 1992


The PAFAA and SOFAP website was set up in an effort to offer help and support to anyone who has been falsely accused of abuse of a sexual nature.

**F.A.H.S.A - Falsely Accused of Historic Sex Abuse - http://www.falselyaccusedhsa.co.uk**

My husband and I assumed that the fundamental principle of justice - innocent until proven guilty - was enshrined in British Law, our experience taught us otherwise.
**FACT** is a not-for-profit organisation founded more than 16 years ago and is 100% run by volunteers.

Due to attitudes and changes in the law we are moving further away from the precept of innocent until proven guilty. Add to this a zero risk tolerance in employment and we find ourselves being called upon more and more to support those who have been falsely accused of abuse when working in positions of trust (including volunteers) who are maintaining their innocence or have been cleared. As an organisations we need more volunteers to help us respond to these calls for help and to enable us to provide first class support to the victims of false allegations and their families, as well as to seek changes to reverse that increase. We need skills and experience across a broad range of areas. Many of our volunteers bring with them skills and training they have gained through their careers and previous volunteering, or from their own personal experience of the devastating effects of false allegation and who want to use this to help others.

We do not provide legal assistance or attempt to influence the outcome of a case, instead we provide information, practical support and comfort during a very difficult time when the victim can feel very much on their own, vulnerable and shunned by society. Many of the effects of false allegations last for life.

Whilst FACT is a UK based organisation we recognise a spread of the problem worldwide and are often contacted from abroad.

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**How You Can Help?**

**MEMBERSHIP:** If you aren’t already, become a member.

**WEBSITE:** Website design. Sourcing and adding news and information

**TWITTER:** Managing and writing

**MARKETING/COMMUNICATIONS:** Producing leaflets, Producing PowerPoint presentations, Producing Pod Casts and audio recordings at conferences

**WRITING:** For website, For FACTion Preparing responses to government consultations Open letters & press releases representing FACT's opinion to governments and media

**EMAIL SUPPORT:** Supporting individuals by email

**RESEARCH:** Find out about a topic and keep our knowledge up to date i.e. DBS, employment law, parliament, Issues in other counties

**FUNDRAISING:** Writing grant applications. Finding funding sources

**VOLUNTEER COORDINATOR:** Supporting volunteers. Training and recruitment

**MANAGEMENT/COMMITTEE:**

These are not the only ways of helping. If you would like further information please see inside front page for contact details.