

The systemic flaws, exposed in the recent documentary series ‘Making a Murderer’, which gave rise to the controversial convictions of Steven Avery and Brendan Dassey in the United States have many similarities with the cases of Brendan McConville and John Paul Wootton. They – the ‘Craigavon Two’ – were convicted of the murder of Police Service of Northern Ireland (PSNI) Constable Steven Carroll in 2009.

Netflix’s programme had a profound effect on the public. People globally debated and campaigned against the abuses of the Manitowoc County Sherriff’s Department, their prosecutorial system and the state of Wisconsin in general. There has even been a petition to President Obama for a pardon.

Meanwhile there continues to be appeasement of a dreadful miscarriage of justice closer to home. The Craigavon case also featured fundamental abuses of police powers, the destruction of evidence, the use of an infamous ‘Walter Mitty’ witness, dubious informants, evidence tampering, the exploitation of public interest immunity orders, selective disclosure, the denial of a jury and the sabotage of an appeal.

Background: Gerry Conlon

It is hard to believe that it is nearly two years since the passing of my fellow Belfast man, Gerry Conlon – one of the Guildford Four. Gerry, together with Paul Hill, Paddy Armstrong and Carole Richardson, was wrongfully arrested, assaulted, tortured and maliciously convicted for an IRA bomb attack in 1975. Injustices and police misconduct continued with the arrests and false convictions of Gerry’s relatives, including his father Giuseppe, on the basis of fabricated evidence. They later came to be known as the Maguire Seven.

The Conlon family’s story was portrayed in the film ‘In the Name of the Father’: another miscarriage of justice that served the film industry well.

Ten years after the film’s release I met Gerry in Belfast, and we began to work together on the Justice for the Craigavon Two Campaign. I was intrigued by his experiences and encouraged by the strength and hope that Gerry shared with me. He was a very humble and modest man and often referred to himself as ‘just a fella from the Falls [Road]’.

While that was certainly true in one sense it wasn’t a true reflection of Gerry. He became an ambassador against injustices globally, and had the courage to stand up for what was right irrespective of the establishment’s stance, and despite frequent retributions from tabloid newspapers. This was exemplified in his letters and pleas to the White House on their policy of torturing and interning of prisoners at Guantanamo Bay. He also campaigned passionately for the release of Moazzam Begg and other victims of the ‘War on Terror’.

When I asked Gerry why he continued to dedicate his life to campaigns he told me that it was because lessons had not been learnt after his cases, and he found it hard to stand by while he knew innocent people were still being wrongfully convicted and imprisoned.

At 20 Gerry was incarcerated in an English prison miles away from his family, merely because he was an Irish man in London at a time in which racism towards the Irish was rife. The government wanted speedy convictions



Wrongfully serving life sentences

Ciarán Mulholland argues that two northern Irish men are victims of miscarriage of justice

after the attacks and Gerry was a scapegoat.

While in prison he witnessed the same injustices forced upon his father. His father’s health deteriorated and eventually he died in HMP Wormwood Scrubs. One can only imagine the helplessness and heartache that he must have felt. For 15 years he was deprived of his freedom, and was told by the trial judge ‘if hanging were still an option you would have been executed’.

The Craigavon Two

There are significant parallels between Gerry Conlon’s miscarriage of justice and the case of Brendan McConville and John-Paul Wootton. The media had played a willing part in dehumanising them and refused to report on any alternative but their guilt. The political elite had created a culture in which raising concerns about controversial convictions was deemed an act of sympathy, and ultimately an attack on the victims.

Thankfully, many people in Ireland, the UK and further afield accepted that ignoring injustice is complicity in injustice itself. Communities began to mobilise and – in Gerry’s case – a change in legal representation for Gerry catalysed his journey towards justice and liberty.

The momentum of Brendan and John-Paul’s campaigns has increased in recent years. Many human rights activists and politicians, including Monsignor Raymond Murray, Michael Mansfield QC, Clare Daly TD and Mick Wallace TD, have supported them. There is still much more to be done.

In April 2016 Jerry Buting, one of the defence attorneys in ‘Making a Murderer’, was in Belfast to deliver a talk to the local Young Solicitors Association. This was a black-tie event attended by members of the legal profession and judiciary, who were keen to hear about the Avery case. It is disheartening that these same lawyers and civic leaders do not show the same enthusiasm or determination to

hear about miscarriages of justice in their own jurisdiction.

On the evening of 9th March 2009 PSNI Constable Stephen Carroll was killed. He was attending a property in Lurgan, Co. Antrim, investigating a 999 call about a smashed window. The Continuity IRA later claimed responsibility for the killing.

An extensive PSNI Special Branch and MI5 investigation immediately followed. Within days an AK47 rifle was found and Brendan McConville and John-Paul Wootton (then a youth) were arrested. The events that secured convictions were inconceivable.

The prosecution’s key witness, ‘M’ did not come forward until a year after the shooting, by which time both names had been widely broadcast in the media. ‘M’ contacted the police on a number of occasions while drunk or drinking, including on the first occasion he had contacted them in the middle of the night. He suffered from

astigmatism and short-sightedness, and would have had difficulty identifying facial features at more than eight yards, but claimed to have seen McConville over sixteen yards away on a dark night. His partner, who was with him on the night, was unable to confirm his account. And when ‘M’ came forward, the police failed to carry out the mandatory identification Code D PACE protocols, thus denying McConville the protection of the code

The prosecution expert conceded that, along with the DNA of McConville, there were mixed profiles of at least three other people on one piece of evidence (a coat), and possibly as many as eight. The prosecution expert also accepted that DNA could have been distributed on the coat as a result of McConville speaking over it or sneezing over it while in the car on another occasion, and that a residue discovered on the coat may be from a non-firearm source.

Shortly after the shooting police discovered a fire in the Drumbeg estate, next to the housing development where Carroll was shot. They found that items of clothing had been burned.

John-Paul Wootton’s vehicle, which the prosecution said was used in some way in the shooting, was not parked close to the scene of the attack, but was in fact parked almost 250 metres away. A tracking device fitted to the vehicle by British Army intelligence showed that the vehicle went nowhere near the housing estate where the gun used in the shooting was later discovered. Data from the tracking device was mysteriously wiped while the device was in the hands of the army. No plausible explanation was ever given as to why this happened. When the vehicle was taken for forensic examination, army technical officers weren’t asked to examine it for suspect devices (as is the normal protocol). Instead it was removed by a civilian pick-up company, raising suggestions that the army had already accessed the vehicle earlier that night, which could account for the need to wipe the data and possibly account for the residue on the coat.

It was claimed by the prosecution that Wootton might have dropped McConville off close to his home after the shooting as the vehicle passed close to McConville’s home after it left the housing estate where it had been parked until ten minutes after the shooting. In reality there were only two directions available to Wootton for his journey to his own home, and both routes passed close to the home of McConville.

The prosecution sought, and were awarded, public interest immunity orders to prevent the disclosure or mention any evidence that could have assisted the defence.

The gun had a partial fingerprint on the internal spring mechanism of the magazine, which was checked against the fingerprints of McConville and Wootton. No matches were found.

There was no evidence that McConville or Wootton had participated in any events that to Carroll’s death.

The presumption of innocence should apply to all, irrespective of the allegation, the aspirations and opinions of the defendant, or the political landscape. That is a cornerstone of justice. The prosecution must also present a case fairly and with integrity, regardless of the agendas of the police or security services. This does not appear to be the case in the trial and appeals of the Craigavon Two.

The roots of injustice

Today in the north of Ireland there is a dysfunctional peace; one that has witnessed increasing poverty and deprivation. Tory austerity has been fully implemented by the inefficient Stormont executive led by Sinn Féin and the Democratic Unionist Party. It is telling that more people have died by suicide since the signing of the Good Friday Agreement than were killed during 30 years of conflict in Ireland.

The primacy of the ‘peace process’ is seen as paramount. So much so that any voices of opposition are tarnished as ‘dissidents’ or slandered as being ‘anti-peace process’. I believe this is why so many are afraid to raise concerns regarding the convictions of the Craigavon Two.

In any democracy, irrespective of whether there has been recent conflict, there needs to be a platform for dialogue and debate. A place where alternative opinions can be aired, heard, and respected without fear of being pigeonholed. A culture that frowns upon real transparency is nothing more than a Stasi-like state, and is surely one of the reasons behind these injustices: those who do not know history’s mistakes are doomed to repeat them.

There are similarities across the UK. Civil liberties and defence lawyers are branded as ‘ambulance chasers’ and ‘terrorist sympathisers’. All lawyers and human rights activists must rise above the parapet and make stands against injustices in all their forms: from the destruction of legal aid and the obliteration of the National Health Service to serious miscarriages of justice. A socialist lawyer must be the activist that their community needs to ensure legacies like Gerry Conlon’s are not in vain.

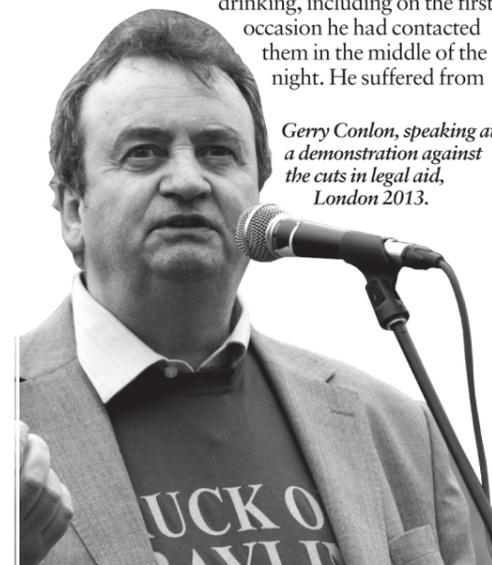
The case of the Craigavon Two sets a very dangerous precedent. Weak circumstantial evidence, in combination with the misapplication of the doctrine of joint enterprise, led to a conviction. Is it not time to abolish the Diplock courts (juryless trials for certain offences in Northern Ireland) if we are to respect and uphold the rule of law?

Thankfully, after 30 years of people being convicted for others’ crimes, there have been developments in the area of joint enterprise following the landmark decision in *R v Jogee* [2016] UKSC 8. In Brendan and John-Paul’s case the Crown never attributed a role to either of them, and even accepted during the course of the appeal that their prosecution was flawed. It was never proven beyond a reasonable doubt that they had in fact murdered the PSNI officer, yet they were convicted and handed life sentences.

Like the Guildford Four, the Maguire Seven and the Birmingham Six, I strongly believe that the Craigavon Two are wrongfully serving life sentences and I encourage all those who have an interest in justice to study the facts of this case. It certainly has the elements for a great documentary or film – but at an incredible human cost.

It is appropriate to finish with the words of Martin Luther King: ‘It is not possible to be in favour of justice for some people and not be in favour of justice for all people.’

Ciarán Mulholland is civil liberties lawyer working between Dublin and Belfast. This article is dedicated to the memory of Gerry Conlon.



Gerry Conlon, speaking at a demonstration against the cuts in legal aid, London 2013.

Picture: Jess Hurd / reportdigital.co.uk