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# Miscarriages of Justice



20 years ago, on 3 December 1997, the conviction of Andrew Evans for murder was overturned by the Court of Appeal. He had been in custody for 25 years; at that time, this was the longest period of imprisonment served by an individual in the UK as a result of a miscarriage of justice.

### What is a miscarriage of justice?

“Miscarriage of justice” is usually used to refer to wrongful convictions following trial in the criminal courts, whether because the convicted party is factually innocent or because they were found guilty after an unfair trial (regardless of their actual guilt). A miscarriage of justice may be brought about in the following ways:

- Fabrication of evidence or manipulation of suspects by the police, sometimes leading to false confessions
- Police or prosecuting agencies not disclosing evidence helpful to the accused
- Faulty expert and scientific evidence which has proven to be unreliable
- Faulty eyewitness identifications
- Pre-trial/trial errors, such as biased summing up or misdirection on the law
- Appeal procedures making it difficult for appellants to overturn their convictions

Individuals convicted as a result of a miscarriage of justice whose convictions are then reversed (or who are pardoned) are entitled to compensation from the Secretary of State, as set out in s.133 of the Criminal Justice Act 1988 (amended by s.61 of the Criminal Justice and Immigration Act 2008). This provision is based on art.14(6) of the International Covenant on Civil and Political Rights.

Section 175 of the Anti-social Behaviour, Crime and Policing Act 2014 has clarified the threshold for compensation, stating that there will have been a miscarriage of justice "if and only if the new or newly discovered fact shows beyond reasonable doubt that the person did not commit the offence".

## Andrew Evans

On 7 June 1972, the body of 14-year-old Judith Roberts, partly covered by plastic fertiliser bags and hedge clippings, was found in a field beside Comberford Lane, Wiggington, where she had been out riding her bike. She had been battered to death. An investigation was launched, with more than 200 detectives involved; more than 15,000 sets of fingerprints were collected, and 11,000 statements taken. The police carried out door-to-door visits, and all soldiers who had been residing at Whittington Barracks, near Lichfield, on the date of the incident were required to complete a form giving their whereabouts for that day. One of these soldiers was Andrew Evans.

At the time of Judith Roberts' death Evans was a 17-year-old soldier who, having recently suffered an asthma attack, was awaiting discharge from the Army on medical grounds. He was socially awkward and semi-literate, and had joined the Army in the hope of making a successful career and proving himself; his discharge reinforced his sense of failure. He handed in his uniform and left the barracks on 8 June 1972. In September he visited his GP complaining of depression and was prescribed Valium. On 8 October the police visited Evans at his grandmother's house to ask him about the form he had filled in stating his whereabouts on 7 June. Evans had claimed he was in the barracks all day, and named three fellow-soldiers who could verify this. The police had found that two of the soldiers had left the barracks before 7 June, and could not trace the third. Evans became extremely agitated; after the police left he told his grandmother that he was afraid he had committed the murder. The following day he went to the police and asked to see a photograph of Judith Roberts, saying he was very nervous and kept dreaming about her. He was shaking and began crying. When asked if he thought he had committed the murder, he said, "I don't know whether I've done it or not", saying that he struggled to remember things. He went on to say repeatedly, "I must have killed her". When questioned on factual details, however, he gave some inaccurate information.

Over the next few days, Evans was repeatedly questioned, often without being cautioned beforehand. Again, many of the details he provided were not factually correct. However, he provided some details which a person who was not present would be unlikely to know and became more insistent that he was responsible. He was formally charged with murder on 12 October 1972. Before his trial, and once just after it had started, he underwent sessions of questioning under “truth drugs” (barbiturates) in an attempt to overcome his amnesia. During these sessions he began to say that he had not carried out the murder. By the time of his trial he had retracted his confession, but was unable to give sufficient evidence of his alibi. He was convicted on 13 April 1973 and sentenced to life imprisonment.

Evans was told he had no grounds for appeal and did not initially attempt to prove his innocence. In 1994, however, while at the Verne Prison in Dorset, Evans met Steve Elsworth, a member of Greenpeace who had come to give a talk to the inmates, and told him his story. Elsworth passed it on to Carlton Television, who included it on the television programme *Crime Stalker* and then made a documentary about Evans, *The Nightmare*. Evans also contacted the human rights organisation Justice in 1994, and a campaign for his release was begun. Represented by Justice’s solicitor, Kate Akester, he won the right to appeal against his conviction.

Evans’s barrister, Patrick O’Connor QC, argued that the conviction was unsafe because the case against him rested on his uncorroborated confession, which ought to be regarded as wholly unreliable. Four expert witnesses gave evidence in support of this fact. The conviction could only be supported if it were possible for the court to conclude that there were facts known to Evans which only the murderer could have known, and O’Connor argued that it would be impossible to do so: the original trial did not explore those issues in detail, so how Evans might have learned the information (e.g. via television coverage or conversations with police officers) was not a matter that had been closely examined.

Lord Chief Justice Lord Bingham, Mr Justice Jowitt and Mr Justice Douglas Brown found Evans's conviction unsafe and accordingly allowed the appeal and quashed the conviction. They noted the following points in their judgment: Evans was not cautioned as and when he should have been, he was not seen by a doctor when he first appeared at the police station ("even though it is clear that by current standards medical attention was urgently required") and he was not offered the assistance of a solicitor. They agreed that his confession was unreliable and that there was very little in the way of evidence beyond it; the prosecution had no scientific or identification evidence to link Evans to the crime.



**Andrew Evans leaving court in December 1997**

## Criminal Cases Review Commission

The Criminal Cases Review Commission is the statutory body responsible for investigating alleged miscarriages of justice in England, Wales and Northern Ireland (the Scottish Criminal Cases Review Commission carries out the same work in Scotland). It was established by the Criminal Appeal Act 1995 following a recommendation of the Royal Commission on Criminal Justice and officially took over responsibility from the Home Office's C3 unit on 31 March 1997. It has the power to refer cases to the Crown Court and the Court of Appeal on conviction or sentence arising from a magistrate's court, Crown Court, Court Martial or Service Civilian Court decision. Cases can only be referred if the Commission finds that there is a "real possibility" that the conviction would be quashed or the sentence would be changed.

### **Key details:**

- The Commission is an independent non-departmental public body, which is not to be "regarded as the servant or agent of the Crown".
- There should be no fewer than eleven Commissioners, of which one third should be legally qualified and two thirds should have knowledge or experience of any aspect of the criminal justice system. There are currently twelve, including two barristers (Rachel Ellis and Robert Ward).
- Receives approximately 900 applications a year, of which under 5% are usually referred.

The CCRC represented a significant attempt to increase public confidence in the criminal justice system following acknowledged high-profile miscarriages of justice in the late 1980s and early 1990s. Its underlying premise is as follows: by identifying and admitting to mistakes, confidence in the criminal justice system is better maintained and restored than by pretending they have not happened.

## Material in the Library about miscarriages of justice

Annual Reports - Criminal Cases Review Commission (Collection: Miscellaneous Legislation)

Bloody Valentine: A Killing in Cardiff - John Williams (Collection: Criminology)

The Criminal Justice System: Current Problems and Solutions - Nicholas Lyell (Collection: Pamphlets)

The Innocent and the Criminal Justice System - Michael Naughton (Collection: Criminology)

Memory and Miscarriages of Justice - Mark Howe, Lauren Knott and Martin Conway (Collection: Criminology)

Miscarriages of Justice - C. G. L. Du Cann (Collection: Criminology)

Miscarriages of Justice - Our Lamentable Failure? - Michael Kirby (Collection: Pamphlets)

Preventing Miscarriages of Justice - Legal Action Group (Collection: Pamphlets)

Righting Miscarriages of Justice? Ten Years of the Criminal Cases Review Commission - Laurie Elks (Collection: Legal Miscellany)

Rough Justice - Martin Young and Peter Hill (Collection: Criminology)

Thirty-Six Murders and Two Immoral Earnings - Ludovic Kennedy (Collection: Criminology)

Town Without Pity - Don Hale (Collection: Criminology)

Understanding Miscarriages of Justice - Richard Nobles and David Schiff (Collection: Criminology)

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