No grounds for complacency and plenty for continued vigilance: miscarriages of justice as drivers for research on reforming the investigative interviewing process

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Introduction

"The Victor, who was Victor, before I was convicted, no longer exists."
(Victor Nealon cited in Topham, 2013: n.p).

This statement, made by the victim of one of the most recently over-turned high-profile wrongful convictions in England and Wales, highlights the irreversible impact of miscarriages of justice upon those who directly suffer them. It also adds weight to the claim that '*…miscarriages of justice simply ruin people's lives'* (Yant, 1991: 1), a claim which psychological research has endorsed (Grounds 2004). The wrongly convicted are, of course, not the only victims of miscarriages of justice. When such an injustice occurs, it undoubtedly brings about a number of social harms (Hillyard et al, 2004). These include, but are not limited to, damage to: i) the victim of the original crime and their family, ii) the Criminal Justice System (CJS), and public confidence in it, and iii) wider society (Naughton, 2007). The exposure of miscarriages of justice can however, also have positive impacts in that we can ultimately learn a number of lessons from them.

One of the lessons that miscarriages of justice arguably teach, is that, although their causes are complicated and multi-dimensional; the *root* of the problem of most miscarriages, is the police investigation into the case (Poyser & Grieve, forthcoming). Indeed, as Forst (2013: 24) suggests, *'…law enforcement is the engine of miscarriages of justice. [They] rarely occur without lapses in policing'*. At the core of the investigative process lies the police interview. This, and the investigative process as a whole, has in the UK, over the last 25 years or so, been improved and professionalised alongside changes to legislation which have occurred in this area (Milne et al, 2010). Such advances have been made as a result of a combination of factors. These include, media investigations into, and exposure of, individual miscarriages of justice (Poyser, 2012), leading to a perceived drop in public confidence in the CJS and the impact of the findings of psychological research conducted in this field (Baldwin, 1992; Clarke & Milne, in press). Nevertheless, as the wrongful convictions of Victor Nealon and many other individuals (see Innocent, n.d) demonstrate, there are no grounds for

complacency. The need for continued robust psychological research, aimed at further improving the police investigative process remains as strong as ever.

This review paper will begin by addressing various definitions and categorisations of miscarriages of justice. It will then consider the causes of miscarriages, and in doing so, will demonstrate why the police investigative process, particularly the interview or questioning process, might be viewed as the nucleus around which most of the causes of miscarriages of justice cluster. The findings of psychological research into the investigative and particularly the interviewing process, and the problems it reveals, will then be addressed alongside discussion of the UK's response to these findings[1]. The paper concludes by arguing for further research in this area so as to enable society to continue to learn *about*, and *from*, the circumstances that produce miscarriages of justice.

Defining and categorising miscarriages of justice

The problem of 'miscarriage of justice' has attracted an explosion of attention from scholars over the past two decades (Radelet, 2013: xv), particularly those working within the US and UK. However, despite such scholarly interest and indeed, despite the term 'miscarriage of justice' being used frequently within common parlance, there is much disagreement concerning what it actually means (Huff & Killias, 2013). Definitions vary widely, modified by differing circumstances, environments, perspectives and perceptions. The latter, may in turn, be altered by factors, such as shifts in social and political climates (see for example, Naughton, 2007). Importantly, those who argue that they have suffered a miscarriage of justice, have recently come into conflict with the UK government in relation to refusals to pay them compensation on the grounds that their innocence has not been proved beyond reasonable doubt (Campbell, 2015). This is interesting, as in reality, and in most cases, it is virtually impossible[2] to pinpoint the 'wrongly convicted innocent' (Poyser & Milne, 2011). Therefore, although in public, media and political spheres, the phrase 'miscarriage of justice' is often partnered with the notion of 'innocence', the term is much broader than this.

[1] Although this paper focusses on the UK, any country can, of course, learn lessons from their miscarriages of justice (see Williamson et al, 2009).

[2] Cases where DNA testing has proven innocence, are an exception here (see Scheck et al, 2000).

At its most basic level, a 'miscarriage' means a failure to reach an intended destination or goal (Walker, 1999: 31). Therefore, a miscarriage of justice might be considered to be a failure to reach the desired end goal of 'justice'. However, as Hall (1994: 25) contends, '*where the State seeks to sanction an individual, the process is, by its very nature, coercive and unbalanced*'. Consequently, 'justice' may arguably be seen as a situation wherein that coercion and imbalance are reduced to bearable levels. This highlights the importance of the integrity of the *process* of justice as much as the end result or *product* of that process. That process occurs not only in the courts, but for example, on the streets (Weber & Bowling, 2012), in police cars and in police stations, where according to Walker (1999: 31) 'justice' is achieved when individuals who come into contact with the State and its representatives, are accorded fair shares and treatment, '*thereby giving equal respect to their rights'*. Indeed, Walker (1999: 31) defines a miscarriage of justice as the violation of an individual's rights (whether suspect, defendant, convict, victim, or indeed, witness), by the State/State agencies. Walker (1999) particularly highlights that miscarriages of justice can also be institutionalised within laws *and* the result of the mis-interpretation and/or mis-application of laws. This issue was focussed upon in 2014, in a highly critical Justice Select Committee report (Justice Committee, 2014), which found misinterpretation and mis-application of Joint-Enterprise Law by the courts in hundreds of murder cases (MacFadyean, 2013). It argued that this had led to injustices, in the sense that the individuals involved, should have been convicted of lesser crimes (Ibid). Importantly, the Committee stressed that the low success rate of appeals against joint-enterprise convictions *'should not be taken as a comforting sign that there are few miscarriages of justice in this area, because of the particular difficulties in bringing successful appeals in joint-enterprise cases'* (Bowcott, 2014: n.p). Here then, we are again reminded that 'justice' is as much a 'process', as it is an 'outcome'.

Part of that process generally involves criminal justice practitioners dealing with victims (and witnesses) of crime. Here, miscarriages of justice can occur not only because such practitioners have *done the wrong thing*, but because they have *not done enough* or sometimes, have *not done anything* (Savage et al, 2007). This category of miscarriages of justice can include failure to: i) investigate crimes, ii) identify

offenders, and iii) press charges, resulting in failure to hold culpable offenders accountable for the crimes they commit (Savage et al, 2007). Such lapses not only affect the victim of crime, they may also compromise public safety. This class of miscarriages can also include poor treatment of victims and/or their relatives, leading them to feel ignored and let down by the CJS (Bowcott, 2015). Such miscarriages arguably threaten criminal justice legitimacy, just as much as wrongful convictions, in that they lead to a lack of public faith in the system to deliver justice and to individuals being less willing to engage with that system as victims, witnesses or suspects (Sanders et al, 2010).

Interestingly, Naughton (2014) has latterly used the concept of 'intent' to distinguish between '*miscarriages* of justice' which he argues, are not caused by deliberate acts by individuals to transgress due process, and what he terms '*abortions* of justice', which are caused by intentional breaches of safeguards against wrongful convictions by agents internal (police and prosecutors) and/or external (forensic experts and lay witnesses) to the CJS. These categories are similarly interpreted by Forst (2013) as 'benign' and 'malignant' miscarriages of justice respectively. However, Naughton (2014) adds that on a structural level, miscarriages can themselves be viewed as abortions of justice, in the sense that they are *intended* by a crime control-oriented justice system that sees inherently unreliable forms of evidence such as uncorroborated witness testimony as admissible in criminal trials, even though psychological research informs us that they render the innocent vulnerable to wrongful convictions. Whilst Naughton's arguments are interesting, in reality, just as it is almost impossible in most cases to say for certain that a victim of an exposed miscarriage is innocent; it is similarly difficult to ascertain whether mistake, accident, incompetence or indeed malicious intent is behind the construction of individual miscarriages of justice.

Whilst is it acknowledged that any comprehensive assessment of miscarriages of justice should include reference to as many definitions of miscarriages as possible, due to space constraints and its particular focus, the ensuing discussion will primarily use the term 'miscarriage of justice' to refer to wrongful conviction. This said, there are clearly numerous complexities involved in attempting to define and categorise

miscarriages of justice and arguably further debate upon this issue is urgently required.

Miscarriages of justice: the contribution of research

Eminent scholar, Michael Radelet (2013) notes that 30 years ago, most of the academic research on miscarriages of justice could be summarised and reviewed in one small article. Almost all of this work, consisted of case descriptions of the wrongly convicted, thereby following in the footsteps of the pioneering study of miscarriages of justice 'Convicting the Innocent', by American law professor, Edwin Borchard (1932). In collating and providing detailed descriptions of 65 miscarriages of justice, Borchard's research represented a shift in academic thought on the issue, from whether miscarriages of justice actually *do* occur; to why they occur and how we can minimise their occurrence. Most of the work that followed this study was conducted in the US (see for example, Frank & Frank 1957; Radin 1964; Huff et al 1986; Scheck et al 2000). From the mid-1980s onwards however, studies of miscarriages of justice have been conducted in many more countries (see Huff & Killias, 2013) and have grown in terms of their number and scope, leading Leo (2005: 210) to label them as the 'big-picture studies'.

In the US, from the mid-1990s, the 'big-picture studies' permanently altered in nature, after publication of research by Connors et al (1996). Their study was the earliest statement of the ability of DNA testing to conclusively establish the fact of wrongful conviction. They examined 28 wrongful convictions (nearly one-fifth of which, were attributable to false confessions) in which DNA testing subsequently established the prisoner's innocence. Following this seminal work, subsequent studies (see for example, Leo & Ofshe, 2001; Warden, 2003; Drizin & Leo, 2004); and an ongoing database of DNA exonerations catalogued by the Innocence Project), systematically documented and analysed numerous wrongful convictions. Such research has undoubtedly acted as a major catalyst for a shift in public opinion towards a decline in support of the death penalty in the US (Newport, 2012).

In the UK, DNA evidence has not featured highly in most miscarriages of justice cases and therefore studies such as those mentioned above, have not been possible.

The work of some UK researchers has nevertheless contributed greatly to the scholarly analysis of miscarriages (see for example, Walker and Starmer, 1999; Poyser et al, in prep.) and has indeed shown promise for the development of much needed theories of miscarriages of justice (Naughton, 2007). However, in order to find research studies that have arguably made the *biggest* impact in terms of reducing the occurrence of wrongful convictions, we need to look to the body of literature which Leo (2005: 210) terms 'specialised causes'. This literature presents the empirical research findings of psychiatrists and psychologists, working primarily in the US and UK, concerning factors that have been identified as causes of miscarriages, such as mistaken eyewitness identification and false confessions (see for example: Gudjonsson, 2003; Hasel & Kassin, 2009; Horry et al, 2014). Such research has established that the causes of miscarriages of justice are similar throughout the world and over time.

Other causes of miscarriages are numerous and include, poor defence, expert testimony, unreliable forensic science and increasingly, what might be termed 'systemic obstacles' (Sanders et al, 2010). For example, there are strong indications that the new, and rather ironically named, 'Stop Delaying Justice' policy designed to streamline trials in magistrates' courts is leading to miscarriages of justice. Certainly, in some cases, the Crown Prosecution Service does not have enough time to disclose evidence to defendants, meaning that some are asked to enter guilty pleas without knowing the full details of the prosecution case against them (Cave, 2012). However, research indicates that the causes of miscarriages of justice that occur most frequently, are very closely connected to the police investigative (and especially the interview) process (Cutler, 2011). The latter may in turn, be associated with the challenge of information gathering and building a case for conviction (Martin, 2002) due to a belief that, as Evans (2011: n.p) argues, '*Trials are…lost or won in the police station'.* Causes of miscarriages linked to investigative and interview processes include: i) non-disclosure of evidence; ii) reliance on circumstantial evidence; iii) fabrication of evidence; iv) unreliable cell confessions; v) unreliable victim and eyewitness identification and testimony, and vi) unreliable confessions due to external factors such as police pressure and/or internal factors, such as suspect vulnerabilities (Poyser & Milne, 2011). Nevertheless, chiefly in response to psychological research findings, changes in legislation and policy and practice have taken place over the last half a

century in the UK. The ensuing discussion outlines how such changes have addressed these causes and in some cases, reduced their occurrence in a way that, as Leo (2010) argues, has not occurred in other countries.

Miscarriages of justice and police investigative and interview processes in the UK

The potential for the police investigative process to contribute to causing miscarriages of justice has been present since the establishment of the 'new police' in 1829 and perhaps more clearly since the explicit formation of detective departments from the 1840s (Morris, 2007). Certainly, the cases of Timothy Evans and Derek Bentley, hanged in 1950 and 1953 respectively for crimes they did not commit, can be said to be 'miscarriage of justice milestones' indicating that police investigations were fallible, with the possibility of dire consequences (Innocent, n.d). Although therefore, the police investigation surrounding the murder of a young man named Maxwell Confait in 1972 was not the first to raise concerns regarding the link between the investigative process and miscarriages of justice in the UK, it was this case, which firmly underlined the contribution of the investigative, and specifically the interview process, to causing them (Price & Caplan, 1977). In the wake of the murder, three young men were arrested and admitted to killing Confait, their confessions made notwithstanding the fact that one of them was proven to be elsewhere at the time. At trial, the boys were found guilty, however, after a campaign by the father of one of the boys and the screening of a Thames Television documentary in 1974, the Home Secretary insisted that the case was sent back to the Court of Appeal. Here, the judges quashed the convictions, stating them to be 'unsafe' and 'unsatisfactory' and highlighting that the confessions upon which they were chiefly based, had been extracted under improper police pressure (Webster, 2002). In light of the successful appeal in the Confait case, the Home Office sought a public inquiry. This revealed that a combination of a flawed interview process and psychological vulnerabilities possessed by all three youths, resulted in them falsely confessing to the crime (Fisher, 1977). The subsequent report of the inquiry set the agenda for the Royal Commission on Criminal Procedure (RCCP) or Phillips Commission (1981). The revelation of this miscarriage and its primary cause, was the key driving force behind this inquiry.

Importantly, the Phillips Commission found the Judges Rules on police investigative practice to be inadequate, in terms of controlling the custodial questioning process. It highlighted that the circumstances of the police interview process are, by their very nature, psychologically coercive and argued for greater appreciation of the effects of custody on suspects (particularly those with vulnerabilities) (Philips, 1981). With these factors in mind, the Phillips Commission sought reliability in terms of the information provided by suspects during that process (Steer, 1981) and subsequently recommended a number of key changes to the criminal justice process, including alterations to police practices and procedures. Such recommendations were rooted in the findings of several research studies into police working practices, commissioned by the RCCP. This demonstrated that during the interrogative situation, the police prioritised gaining a confession over searching for the truth of what actually happened through a process of inquiry (Softley, 1981). Securing a confession then, was viewed as *the* key means of detecting offences and this was leading to overbearing questioning and/or exploiting suspects' vulnerabilities (Sanders et al, 2010).

Despite such revelations and subsequent recommendations, the pervasive use of pressure and intimidation by police investigators during custodial questioning together with ineptitude, and in some cases misconduct, continued unabated, as revealed by research two years later (Smith, 1983: 325), thereby raising wider concerns about the standards of police conduct more generally. This situation, in part, drove the enactment of the Police and Criminal Evidence Act (PACE) (1984) by the then government. PACE, together with its codes of practice, provided a comprehensive legislative platform for the operation of police powers, suspects' rights, and the regulation of custodial questioning aimed at guaranteeing *fairness* and *transparency* in the process (Sanders et al, 2010). Section 66, which covered detention, treatment and questioning of suspects in custody, aimed to ensure protection for individuals under interview. This required the tape-recording of suspect interviews and aimed to ensure that all suspects were offered the right to free legal advice. It also proposed to secure fair treatment of young and mentally disordered individuals, those at particular risk in this setting. PACE was followed by the enactment of another of Phillips' recommendations, namely the creation of the Crown Prosecution Service. This independent body, removed the function of prosecuting offenders from the police (Scott, 2010).

Miscarriages of justice, and official recognition of their causes, had played a key role in driving these reforms, however, in the aftermath of PACE, these changes did not purge the CJS of miscarriages of justice; nor, in the short-term at least, did they improve the quality of police interviews. Instead, research indicated that interview quality remained poor and continued to be focussed upon securing a confession, rather than seeking an accurate, reliable account of 'what happened' (Baldwin, 1992). Unsurprisingly, wrongful convictions with causes similar to those revealed in the Confait case, continued to occur, including that of the Darvell brothers on the basis of false, forced confessions to murder (Gudjonnson, 2003) and the Cardiff Newsagent Three, wherein a young man with a personality disorder, confessed to a murder without correctly identifying the murder weapon (O'Brien, 2009). This, and other cases such as that of the Cardiff Three, the repercussions of which are still being felt by the CJS today (Shipton, 2015), indicated that poor police questioning remained a major problem.

The revelation of poor police investigative and interviewing practices, often by the media in the course of themselves investigating and exposing numerous miscarriages of justice in the early 1990s (including that of the Birmingham Six), ultimately resulted in a steep decline in public confidence in the CJS and many influential voices calling for reform (Poyser, 2012). Once again, the exposure of miscarriages of justice and their causes, became a key driver for the establishment of a Royal Commission. Although subsequently criticised for side-stepping the 'real issues' of miscarriages of justice (Walker, 1999), the Royal Commission on Criminal Justice (RCCJ) (Runciman, 1993) *did* respond to concern over wrongful convictions by commissioning 22 research studies examining the conduct, role, and practices of those working within the CJS. Crucially, its subsequent report highlighted that the police investigative process continued to rely on the role of the confession. Clearly, despite the success of PACE in making this process more transparent and increasing suspects' rights, fundamental changes in police investigative practice were still required.

Positive advances in this area ultimately came about with the development of the PEACE interviewing model (Milne & Bull, 1999). This model recognised that information gathering should not be confined to the interview, but should play a

central role in the planning and preparation for the interview. PEACE, (a mnemonic for the Planning and Preparation, Engage and Explain, Account, Closure, and Evaluation stages of an investigative interview) consisted of two interview types: i) 'conversation management' - for interviewees who are more resistant (Shepherd, 1993; Shepherd & Griffiths, 2013) and ii) the 'cognitive interview' - for interviewees who are more co-operative (Fisher & Geiselman, 1992; Milne & Bull, 1999).

Determined to improve the quality of interviews with suspects, over the next decade the UK Police trained over 120,000 officers in the PEACE interviewing model (Milne et al, 2007). In 2001, a national evaluation of PEACE found that this training, had, in conjunction with the recording of interviews, substantially improved the quality of interviews with suspects in the UK (Clarke & Milne, 2001; Clarke et al, 2011; Clarke & Milne, in press). Officers had made improvements in terms of interviewing style (for example, the researchers found a reduction in the use of leading questions) and in legal compliance (there was more frequent provision of information as required by law, such as notifying the suspect of their right to legal advice). However, the research also found that the listening skills of interviewing officers remained poor and perhaps more worryingly, that 10% of the interviews studied involved possible breaches of PACE (Sanders et al, 2010). Some evidence also indicated that despite training, over time, some police officers reverted back to their prior interview techniques and styles (Wright & Powell, 2006), highlighting the need for refresher training (Griffiths & Milne, 2006). Nevertheless, subsequent research, such as that of Soukara et al (2009), concluded that ethical interviewing techniques emphasised by the PEACE model, were commonly found in the police interviews under scrutiny. Additionally, Walsh and Bull's (2010) research concluded that the PEACE model *works*, leading to a better interview outcome in terms of providing a full account. However, developments in this area as a result of the findings of psychological research, did not end here.

Following Clarke and Milne's (2001) national evaluation of police interviewing, a 5-tiered structure of interviewing skills was developed. In 2007, this was enhanced and incorporated into the Professionalising Investigation Programme (PIP) intended to increase the professionalization of all investigators. The 5-tier interview training strategy was designed to provide police officers with theory-driven interview training

specific to their requirements across their career span, thereby adopting a developmental approach (Griffiths & Milne, 2008). It also aimed to further develop previously neglected aspects of investigative interviewing (including the interviewing of vulnerable victims and witnesses and the supervision and monitoring of interviews) (Griffiths & Milne 2006).

Importantly, research has suggested that 5-tier interview training results in not only improvements in interviewing skills, but also transference of some of the best practice learnt to the workplace more generally (Scott, 2010), impacting to some extent upon police culture, whereby emphasis is placed on an open-minded search for the truth and the collection of accurate information in investigative work more generally. In addition, there is evidence that the principles of investigative interviewing may form some kind of 'soft law' which possibly have some regulatory impact in that solicitors attending interviews may remind officers of these principles in appropriate cases (Sanders et al, 2010). This said, there is, as Sanders et al (2010: 308) suggest, '*…little doubt that poor interviewing practices still persist'* in some quarters, and as Bearchell's (2010: 71) research found, whilst the introduction of PACE, PEACE and the five-tier training system has facilitated a change in the ethical conduct of interviews, a large number of officers continue to maintain the view that the facts of an incident are best secured in the form of a confession. There is also evidence that some experienced officers remain committed to, and adept at, avoiding exculpatory lines of enquiry (Taylor, 2005). Indeed, as Gudjonsson (2003: 55) observes, although PEACE training has brought about change, when the police are under pressure to get a result in a high-profile murder case, they will typically '*deploy their full arsenal of tactics, notwithstanding any training in investigative interviewing'.* Under such conditions, undoubtedly, some innocent individuals will continue to confess their guilt (Sanders et al, 2010). Such problems might be ameliorated to some extent, through the supervision of investigative interviewing, as evidence suggests that this may improve interview quality (Clarke & Milne, 2001). However, as Clarke and Milne (in press) note, whilst their recommendations for the supervision of investigative interviewing were integrated into the PIP programme; training for this is still not widely offered to police supervisors in Britain, partly due to the time and costs involved, (the latter being particularly affected by a reduction in the training budgets of most UK police organisations). Therefore, whilst there have been improvements in

the practice of police interviewing of suspects chiefly as a result of the findings of psychological research; there is still some way to go before a confession focus, and the consequent risk of miscarriages of justice occurring, can be considered to be a concern of the past.

Miscarriages of justice and interview processes with adult victims and witnesses

A recent independent review, revealed that many victims of crime, regarded their experience of engaging with the CJS as being *"almost worst that the actual journey of being a victim"* (Newlove, 2015: n.p). This is of concern for many reasons, not least because the CJS would collapse without the input of victims and witnesses. Crucial to any criminal investigation is the information they provide (Milne & Bull, 2006). Without it, there would be a failure to convict culpable individuals, leading to a perception of 'justice in crisis' (Tyrer et al, 2010). In order to avoid this, it is imperative that criminal justice practitioners, particularly the police, who occupy a front-line role in the CJS, not only treat victims and witnesses with respect, throughout the criminal justice process, but that they conduct successful interviews with these individuals so as to gain information fundamental to achieving justice in criminal cases. Conversely, poor interviews may lead to miscarriages of justice which, as previously mentioned, harm not only the victim of the wrongful conviction, but also the victim (and witnesses) of the original crime.

As mentioned above, Clarke and Milne's (2001) national evaluation of PEACE, found that the quality of police interviews with suspects had significantly improved in many ways. However, this research also revealed that interviews with adult victims and witnesses of crime remained poor in terms of questioning techniques used. The latter, the research found, were police-led, included leading questions, (which, according to the findings of psychological research, may alter human memory) (Milne & Bull, 1999), and concentrated upon statement-taking, rather than attempting to gain the maximum amount of information possible about an event's occurrence (Shepherd & Milne, 2006).

Since the introduction of PEACE in the UK, psychological research examining police officers' interviewing techniques has primarily focussed upon the interviewing of

suspects and there has been a dearth of research investigating adult victim and witness interviewing. However, since the 5-tier model of interviewing was introduced, some psychological studies have critically evaluated police interviewing skills with victims and witnesses (Clark & Milne, in press; Clarke et al, in prep; Griffiths et al, in prep). Research by Dando et al (2008) for example, found that inexperienced frontline police officers, who conduct the majority of witness interviews, felt under-trained, under pressure, and ill-equipped to conduct a PEACE cognitive interview (despite receiving training). This, combined with the fact that witness interviews are not routinely recorded in England and Wales (unless they involve vulnerable, intimidated and/or significant witnesses) is arguably hugely problematic (Westera et al, 2011).

Poor police questioning of victims and witnesses which passes unnoticed by the CJS, may result in unreliable witness testimony, and ultimately lead to miscarriages of justice. One of the most recent victims of wrongful conviction in the UK, Sam Hallam, was convicted of murder primarily upon what has subsequently been revealed to be unreliable witness testimony. This case also highlighted problems surrounding repeat interviews with witnesses concerning the same event, witness collaboration and memory contamination (see Oxburgh & Dando 2011; Evans, 2012), which at trial resulted in the two witnesses in the case admitting that they were unsure of their evidence, with one stating *'I was just looking for someone to blame'* and the other commenting *'...I'm not sure it was him anyway'* (Evans 2012: n.p). Clearly lessons must be learnt from this case and it is hoped that those lessons may act as key drivers for continued psychological research based on reforming the interview process with adult victims and witnesses of crime.

Certainly, there have been demands for transparency in this crucial aspect of the investigation process to try to gain processes similar to those accomplished for suspects (Griffiths & Milne, 2008). Although psychological research has influenced changes in policy and practice relating to the interviewing of victims and witnesses in the UK, in terms of proposing improvements to interviewing standards in this area which have then been integrated into a national investigative interviewing strategy (ACPO, 2003; Milne et al, 2010), clearly more work is required. Arguably, a related area where research is urgently needed, concerns the efficacy of police officers' contemporaneous handwritten statements (Westera et al, 2011). These have been

shown to lack detail (Rock, 2001) and contain many inaccuracies (McLean, 1995) due to reliance on the interviewer's fallible memory of what was said (Conway, 2008). This is problematic, because such statements are eventually submitted as evidence in court (Poyser & Milne, 2011).

With the increased political focus on the place of victims, and indeed witnesses, within the CJS mentioned earlier in this discussion, the interviewing of these *key players* within that system, is likely to be afforded even greater attention in the future, particularly in relation to their providing complete and reliable accounts of events that have occurred in criminal cases (Gabbert et al, in press). Further research focussing upon ways of improving the accuracy of information elicited from victims and witnesses is therefore very much required. Certainly, there is an ongoing opportunity for psychologists and the CJS to collaborate in this way, in order to help victims and witnesses provide accurate evidence and ultimately to achieve justice for all.

Conclusion

No criminal justice system is infallible (Sanders et al, 2010). The possibility of a miscarriage of justice occurring in the UK is, (as is the case worldwide), ever present. Nevertheless, our justice system should arguably be judged by the energy and determination it invests in attempting to minimise such occurrences. This paper has argued that much of this effort should be focussed upon the police investigative, and particularly the interview, process, as this shoulders much of the responsibility for causing miscarriages (Martin, 2002). Indeed, communication has been found to be key to successful investigation in the first place (O'Neil & Milne, 2014). Thanks to media exposure of miscarriages of justice, legislative change, and the self-criticism of the UK system, that has driven independent psychological research, there is greater cognizance of factors that increase the likelihood of a miscarriage occurring (Milne et al, 2010).

Certainly, the contribution of psychological theory and empirical research to advancing and professionalising investigative and interviewing processes in the UK in terms of facilitating the 'search for the truth approach', is indisputable. Crucially, it has demonstrated that the risk of miscarriages can be minimised through: i) the

development of high calibre investigation and interview processes, which will lessen dependence upon confession evidence, ii) good quality, thorough and careful questioning of victims and witnesses, thereby permitting them to be heard and to impart their best evidence, and, iii) greater awareness and understanding in relation to interviewing vulnerable individuals. As previously mentioned, this research agenda has been driven by the exposure of miscarriages of justice and research into their causes and by a desire within the police service to ensure that their interactions with suspects, victims and witnesses of crime, are viewed as opportunities to gather reliable information as part of an investigation. However, as recently revealed miscarriages of justice demonstrate, there is certainly no room for complacency – *'acknowledging past achievements is not sufficient'* (Oxburgh & Dando, 2011: 3). This should spur psychologists worldwide, to persist with their rigorous scientific inquiries into this area, so as to continue to identify weaknesses in the police investigative and interviewing processes and to provide evidence to ensure that appropriate measures that work to reduce these weaknesses are implemented.

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