

I am not not-innocent

James Kelman

A favourite request from students about my last novel is that I explain how I could write from the perspective of a man who was blind, if I had never been blind myself. I tell them the more difficult task, given I have never been imprisoned, is to convey the central character's past experience of 11 years' confinement. In the novel the prisoner committed the crimes of which he had been convicted and had no particular sense of injustice. If he had been wrongly convicted and imprisoned the novel would have altered significantly. Had the character been "set-up" for murder by the police and with the collusion of other authorities then the experience would have been overwhelming.

How do people cope with that? Not only the victims and their families but the families of the people murdered. This is the situation faced by who knows how many people. The notoriety of certain miscarriages of justice can lead to an association with the place the event occurred; the Birmingham Six and Guildford Four; the Tottenham Three, the Winchester Three, Cardiff Three, Gloucester Three. In any such miscarriage there is the crucial issue of the identity of the true killers. If wrongfully convicted and imprisoned men finally are cleared and released from prison what chance is there of the real murderers ever being found? Why in many cases are the police, prosecution service and Home Office authorities content to allow the real criminals to walk free? With adequate investigation many of these blatant miscarriages of justice cannot help but reveal additional truths.

The recent release of the M25 Three with the disclaimer by the judicial authority that this "was not a finding of innocence, far from it" is reminiscent of the acquittal of the Winchester Three back in 1990 when Lord Denning "stated publicly that [the three men] were released on a legal technicality and implied that they were in fact guilty." Later on Lord Denning withdrew the comment.¹ This has yet to occur in the case of the M25 Three. Until then, if the three men are not-innocent will any attempt be made to discover the actual killer; whoever is not not-innocent but not not-guilty? It so happens that the three men now released from prison are black and, according to one eye-witness, at least two of the three guilty parties were white.

In so many of these cases of racist violence there seems to be a need on the part of the authorities to deny the very possibility of racist motivation. Because of that crimes are said not to be crimes and criminals escape, murderers are free to seek out more victims. A murder itself becomes not a murder; perhaps it was manslaughter, drug and/or alcohol-fuelled, perhaps a robbery gone wrong. Perhaps no third party was involved at all, you never know, maybe it was an unusual form of suicide, or freak accident. One case from October 1997 was that of Lakhvinder Reel "who disappeared for almost a week before his drowned body was found in the River Thames." His death "was quickly described as accidental by local police." Later evidence reveals that the young man "and his friends had been attacked by racists shortly before his disappearance." The last time "he was seen alive" was when he "and his friends ran off in different directions."

In this context also² are the deaths of Harold McGowan and six months later his nephew Jason. Both were found hanged. Earlier Harold had been



"pursued around Telford, abused, taunted and threatened by members of a racist gang that has been linked to Combat 18." His family was not satisfied by the outcome of the police investigation and his nephew Jason began making his own investigations. Eventually he "began to receive death threats." Eventually he too was found hanged. Eventually the police also gave a verdict of suicide, given that "the railings were so low [Jason] would have had to kneel to kill himself."

It seems extraordinary that the police can try to get away with making a judgement so devoid of ordinary common sense. But what leads them to try such a thing in the first place? The McGowan family "lodged a complaint with the Police Complaints Authority...claiming that West Mercia police failed to investigate his death adequately because of racism and that they treated the family poorly." The family argued that the police "made an assumption of suicide and failed to investigate the possibility of murder, losing valuable forensic evidence [and] their doubts are supported by [the] independent pathologist" who conducted a post-mortem examination of Jason's body. Following a campaign by the McGowan family, supported by the National Civil Rights Movement, "the head of Scotland Yard's race and violent crimes task force [has] led a new investigation." He has stated publicly that "that the deaths made him 'uneasy, worried and frightened.'"³

In November 1999 the inquest was held into the death of Lakhvinder Reel and the jury returned "an open verdict based on a lack of evidence, [which] not only contradicted police claims of an accidental death but also upheld the claims of [his] family and friends on the 'seriously flawed' original police investigation." The London Metropolitan police refused "to allow a Police Complaints Authority report in evidence which also condemned the first police investigation."⁴ In view of their catalogue of shame in relation to racist violation it is surprising the police are allowed to get away with this sort of move. However, given that individual policemen occasionally get away with murder too much surprise only indicates naivety.

There is also the issue of cash compensation, damages and liability. So long as the judicial authorities deny their innocence the victims of injustice will have an uphill struggle to receive any financial compensation. What do people in the situation of the so-called M25 Three do to establish their right to adequate compensation? Do they have to deny their guilt?

If they are required to demonstrate their innocence must they conduct their own investigation

into the crime, establish their whereabouts at the time, and whatever else it takes to rule themselves out of the equation? Of course conducting their own criminal investigation would be consistent with what happens to many black people in crimes where they or their families are the victims of racist violence. This is what happens in campaigns such as that of the Stephen Lawrence family.

One member of the M25 three, Raphael Rowe already has been awarded compensation but for another claim. It was settled a month before the ruling by the European Court of Human Rights that he "and Michael Davis had been denied a fair trial because the prosecution had withheld important evidence under public interest immunity (pii) rules."⁵ The "undisclosed damages" were against the Prison Service "in compensation for a brutal assault by prison officers in 1993...after being repeatedly kicked and punched...and called a 'murdering black bastard.'" The violence took place in Wormwood Scrubs, now notorious for its "systematic abuse, frequent racial abuse and intimidation of inmates." "The Inspector of Prisons published a report which condemned the... 'evil' and 'rotten' prison" and prison officers have now been charged with "racist abuse and assaulting inmates." Even the female lawyer acting on behalf of some of the prisoners has been harassed by prison officers while engaged in her work inside the prison.

Almost without exception in cases where compensation is paid to victims of police violence liability is never admitted. Between 1986 and 1997 £20 million was paid out by the public on behalf of the Metropolitan Police "in compensation and costs." But the overall 'cost of injustice' to the taxpayer is really colossal. When Winston Silcott, one of the original Tottenham Three, was awarded £50,000 in an "out of court settlement...for his wrongful conviction for the murder of PC Keith Blakelock" another £500,000 went towards legal costs. In addition to that policemen involved in wrongdoing and unlawful activities may "retire on medical grounds to avoid allegations of corruption and malpractice: between 1995-96 more than 70% of Metropolitan police officers under investigation, or facing disciplinary charges, retired on medical grounds...[costing] some £330 million a year."

Winston Silcott's "conviction was quashed" when electrostatic document analysis "tests on his 'admissions' interview had established that pages had been rewritten and that officers, notably Detective Chief Superintendent Melvin, had lied when describing the notes of the interview as 'contemporaneous.'"⁶ DCS Melvin was "one of the most senior operational police officers in Britain's largest force during the biggest investigation it has ever carried out..."⁷ Later on he and colleague "Detective Inspector Maxwell Dingle were found not guilty...of charges involving conspiracy to pervert the course of justice and perjury."⁸

What must it be like for the families of the dead who have to come to terms with the fact that the real killers are walking free and nobody is doing anything about it? This horrible sense of wrong and injustice came to the fore in a quite sad manner when the family of Keith Blakelock sued Winston Silcott. But after the shocking campaign of vilification and its ill-concealed racism, conducted against Mr Silcott by sections of the



Previous page: The M25 Two

Above Left: The Birmingham Six shortly after their arrest

Below Left: The Birmingham Six just after their release

Bottom: Leaflet for The Tony Poole & Gary Mills Campaign



media it was hardly surprising that people would refuse to accept the possibility that he could be other than not-innocent.

It is sometimes forgotten that the tragic events at Broadwater Farm derived from the death of a black woman, Cynthia Jarret, and the treatment meted out to her family. It began because her son had the cheek to drive a flash car. The police stopped the young man in his BMW. Although they soon discovered that "car and occupant were in order" they managed to find a minor discrepancy that allowed them to arrest him, and they did so, "for theft of a motor vehicle." And while he was locked up they took his keys and used them to enter the family home in search of any kind of evidence that they might use against him, and in the process were responsible for the death of his mother. According to her daughter Patricia, one of the policemen knocked against Cynthia Jarret, causing her to fall, and from that she suffered a fatal heart attack.

Nobody knows how many miscarriages of justice continue to blight the judicial systems of the United Kingdom. Racism is so often at the root but elitism and class prejudice are the primary factors. The three can come together blatantly, as in the attacks on Irish people in such infamous miscarriages as the Guildford Four, the Birmingham Six and the Maguire Family. We know that "the number of life prisoners in England and Wales exceeded 4000...at the end of 1998" which is more than "the combined total for the remainder of western Europe."⁹ But how many of these people are serving life sentences for crimes they did not commit?

Three of the four men who "served more than eighteen years in prison on the basis of a confession forged by the police" for the murder of Carl Bridgewater, a 13 year old schoolboy, were released finally in February 1997. The fourth man died in prison back in 1981. "DC John Perkins who...helped fabricate the evidence...was allegedly involved in at least twenty other cases in which he fabricated evidence," including that of George Lewis who eventually "was awarded £200,000 damages after serving five years in prison as a result of being racially abused, threatened with a syringe and beaten by police who eventually fabricated a confession."¹⁰

Is anyone campaigning on behalf of these other cases? How many cover-ups continue in operation? How do the victims, their families and friends sustain these long campaigns for justice? How about the families of the dead? Who campaigns on their behalf? How do they all cope? Are there any legal remedies at all? This is good old Britain. What about trying for an Appeal. One campaign did succeed in taking such a miscarriage to a Court of Appeal. That was in 1996 when it was accepted that Police had threatened witnesses, tampered with and fabricated statements, encouraged witnesses to perjure themselves and that officers had lied at the trial [and] at least two officers... had lied at the Court of Appeal. The court also said

that... one of only two prosecution eyewitnesses, could not be believed or relied upon. They said that vital statements... were not disclosed to the defence. They said the Police behaviour in this case was reprehensible... and so on. But at the end of "eight weeks deliberation of all the above new evidence and much more for the defence, the Court of Appeal decided that the convictions were safe."¹¹ This example belongs to the case of Gary Mills and Tony Poole, two young Gloucester men. Or at least they were young when they were first imprisoned.

How long do people have to be incarcerated before the State authorities will confess to their innocence? Gary Mills and Tony Poole are white working class men who have been locked up since 1989 for the murder of Hensley Wiltshire and have no release date. As is the case for people serving life sentences in British Prisons, if they were guilty they would by now have been released on parole. They continue in prison only because they refuse to give in to the authorities, they refuse to deny their innocence. They cannot and will not apply for parole, how can they, not for a crime they did not commit.

Unfortunately for Gary Mills, Tony Poole and their families, their innocence is another's guilt. Evidence here suggests that to find the identity of the killers any investigating officers need not look beyond the ranks of their own colleagues. It appears Hensley Wiltshire died in a police cell, following a brutal and cowardly attack by Gloucester police officers. The unpalatable truth here is simply one more indictment of the criminal justice system, yet another 'black death in custody,' one more 'unlawful killing', abetted by the shocking neglectful behaviour of staff at the Casualty department of a Birmingham hospital.

Some elements of authority are attempting to move on from the bad old days of the criminalisation of black people. Some elements are not moving on at all, some fight a rearguard action, other authorities are simply marking time. As recently as 1995 Paul Condon saw it appropriate to claim, using applied statistics, that "80% of all street robberies in London are carried out by black men."¹² This was at the height of the Lawrence Family Campaign, and Paul Condon was the head of the investigation into Stephen's murder.

It is surely only a matter of time until Gary Mills and Tony Poole are released from prison. Will a proper investigation then be launched into the last hours of the man they were convicted of murdering? What sort of justice could be offered the family of Hensley Wiltshire? If the police are guilty of the murder of this young black man will they be prosecuted? Or will the judge deny their non-guilt, charging them with not-innocence in the act of releasing them from prison, another shabby attempt to keep the lid on a can of worms.

notes

1. Quote taken from *Statewatch* Number 4 1991.
2. *Statewatch* Vol. 10 no 1, 2000.
3. *Statewatch* Vol. 10 nos 1 and 2, 2000. See *CARF, Race and Class* and other publications where strange suicides or accidental deaths of black people are discussed.
4. See *Statewatch* Vol. 8 no 1, 1998, and Vol. 9 no 6, 1999.
5. *Statewatch* Vol. 10 no 1 Jan-Feb 2000.

6. *Statewatch* Vol. 2 no 1 Jan-Feb 1992.
7. *The Independent on Sunday* 13.5.1990.
8. *Statewatch* Vol. 4 no 5 Sept - Oct 1994.
9. *Statewatch* Vol. 9 nos 3, 4 May-August 1999, quoting from the report entitled "Prisoners' views of the lifer system" by the Prison Reform Trust.
10. The *Guardian* 21, 24 Feb. 1997, quoted in *Statewatch* vol. 7 no 1 1997, Vol. 8 no 2 1998.
11. See "Regina v Mills & Poole", for further information; this is an examination of the case produced by the families and friends of Gary Mills and Tony Poole who formed the Set Up For Life campaign following the jailing of the two men; all these years later the campaign for continues, and can be contacted c/o PO BOX 4739, Birmingham B11 1LG.
12. See *Statewatch* Vol. 5 no. 4 1995.



IT'S BLACK AND WHITE. GARY MILLS AND TONY POOLE ARE INNOCENT



"In spite of all the trials justice still remains to be done."
David Jessel, Trial and Error.

"The defendants (Trial and Error)... have, in effect, accused D.I. Gladding of committing criminal offences; very serious offences in the case of a police officer: perverting the court of justice and perjury."

"Because of the seriousness of the allegations the law requires proof of the allegations to be clear and highly convincing."
Justice Morland High Court libel hearing 1998 The jury found unanimously for Trial and Error.

"There is no doubt that if I had had that information that Juke had been warned off for whatever reason I would have stopped and said 'we cannot go further.'
Mr. Jenkins, the prosecuting barrister at original trial, High Court 1988.

"It's a cover up and a white wash. There's no argument about it and the medical evidence proves it. These guys are innocent. There's no doubt in my mind they have been fitted up."
Paddy Hill, Birmingham 6.

Supported by MPs Tessa Kingham, Dr. Kim Howells, Tony Bass, Chris Skelton, Ted Meath, Douglas French (Ex MP), Lee Jasper (Black Caucus), Paddy Hill (Bham 6), Bridgewater 4, Michael O'Brien (Cardiff Newswest), Glasgow 2, Sara Thornton, John McGrath, M29 - 3, Trial & Error, Winston Silcott, Liberty, Justice, Conviction, FRP, Inquest, Churches Commission For Racial Justice, ABC Network, Action Against Injustice.