Misscarriages of justice appear to have fallen out of fashion. While the early 1990s saw a series of cases that shook the criminal justice system to its core, today overturned convictions still make occasional headlines but rarely linger in the media for long. The general assumption appears to be that things just are not like they were in the bad days of the 1970s and 1980s, when ‘fit ups’ and forced confessions were a common problem. There are undoubtedly been substantial improvements since cases such as the Guildford Four and Birmingham Six came to the public’s attention; however, miscarriages of justice take many forms, and the recent case of Sam Hallam shows that the potential for them to happen in the present remains very real.

While reforms have helped to reduce – but by no means eliminate – the number of wrongful convictions since their enactment, older potential miscarriages of justice remain. Those unfortunate enough to have spent years or sometimes decades behind bars for crimes they did not commit are still waiting for justice.

The case of Eddie Gilfoyle is one that again raises the prospect of a serious miscarriage of justice. The circumstances of the case are extremely tragic and made even more so by the fact that an innocent man appears to have spent 17 years in prison for a murder he did not commit. In 1992 Eddie Gilfoyle, a Falklands War veteran, was working as a nurse in his local hospital. On 4th June 1992, Eddie’s wife Paula Gilfoyle was found hanged in the garage of their home in Upton, Wirral. She was eight and a half months pregnant. The cause of death was asphyxiation caused by hanging. A suicide note was found at the house written by Paula, and the death bore the hallmarks of a tragic suicide. Yet four days later Eddie was arrested and in the summer of 1993, he was convicted of the murder of his wife by a jury at Liverpool Crown Court. Eddie was subsequently spent 17 years in prison before being released on parole in 2010, under strict licence conditions that have been ordered to remain in place for the rest of his life.

How the case went from a tragic suicide to Eddie’s conviction for murder is a story so fraught with problems that his supporters have battled tirelessly for 19 years to expose it as untenable. Since his conviction, a steady stream of further material and revised analysis of the evidence has thrown much doubt over the conviction, and, as recently as 2010, important new evidence has been disclosed to Eddie’s lawyers for the first time.

To return to the immediate aftermath of Paula’s death, the Coroner’s Officer, PC Jones, told the Senior Scenes of Crimes Officer when he arrived at the scene, that ‘there’s nothing for you here’. PC Jones told the Senior Scenes of Crimes Officer that upon arrival at the house he had observed the body in the garage and concluded it was a straightforward case of suicide, there being nothing to suggest any suspicious circumstances. By the time the Senior Scenes of Crimes Officer had arrived the Coroner’s Officer had already cut down the body. Astonishingly, however, he had not taken any photos of the body in situ before doing so. This was to be the first of a substantial number of errors committed at the scene of Paula’s death. The fact that the Coroner’s Officer was first on the scene, and was allowed such unfettered access, may appear surprising even to those with little knowledge of how deaths are investigated by the authorities. The effective preservation and analysis of a crime scene is largely dependant on properly trained officers getting to it first, and ensuring that vital evidence is not destroyed. Naturally this task has traditionally been entrusted to trained detectives, experienced in such matters. The role of the Coroner’s Officer is a far more functional one, essentially acting on behalf of the Coroner to officiously confirm a death and record the circumstances. Therefore, where a death is reported, whether suspicious or not, the police are required to attend the scene and obtain primary access to the body in order to, if necessary, rule out suspicious circumstances. Yet in the Wirral, at the time of Paula’s death, the police had in place a policy unique to that division of the Merseyside Police Force: allowing the Coroner’s Officer to inspect the scene first. Eddie’s solicitor only learned of the existence of this policy in 2012. The policy was subsequently changed, but embarrassment at its prior existence perhaps partly explains the caginess by the Merseyside Police Force in the years since Eddie’s conviction.

The mishandling of the scene is a crucial element of the problems with Eddie’s case. What was left in the aftermath of such a poorly handled initial investigation was a lack of vital evidence and a space in which extreme hypotheses were allowed to develop into a full blown prosecution for murder against Eddie. Two separate internal investigations into the handling of the initial investigation resulted in strong criticism of the way the case was dealt with and disciplinary action against a number of officers – although it must be noted that the complaints against the officers were not proved at disciplinary proceedings.

Frustratingly for those representing Eddie, details of these internal investigations were only provided to them in piecemeal fashion over the course of the trial and two subsequent appeals. Indeed, the full accompanying notes to the Humphreys Review, which was the first internal investigation, were not disclosed until June 2012, while parts of the second internal inquiry, the Gossch Review, remain redacted to this day. This drip of disclosure has significantly hampered Eddie’s attempts to clear his name; and, as a result, the Court of Appeal has never properly considered the effect of the failures at the scene.

The question still needs to be asked: why did Paula’s apparent suicide become a murder investigation? There is no definitive answer, but a number of factors drove a feeling of disbelief to suspicion on the part of the authorities. The fact that Paula was eight and a half months pregnant proved to be the catalyst for a change of thinking in those investigating. At the time of her death research was limited, but there was a common assumption that women close to giving birth simply would not want to commit suicide. Pre-natal suicide is relatively rare, but subsequent research has shown that it is by no means as rare as it appears to have been thought at the time. Paula’s death was investigated. Since Eddie’s conviction a study in 2003 by The British Journal of Psychiatry has suggested that suicide is a leading cause of maternal death. This applies primarily to the period after giving birth but the increased risk of pre-natal suicide where underlying mental health issues may be present was highlighted. Additionally, during
Eddie's second appeal, which took place in 2000, a psychiatrist with experience of suicides in pregnancy (an expertise that was not available during his first trial) gave evidence that Paula was in his view 'phobic of labour'. Unfortunately for Eddie the Court of Appeal refused to receive this evidence.

In addition to any subjective incredulity that the police may have felt, as officers spoke to family and friends in the days that followed Paula's death, an anecdotal picture began to emerge of a woman with a 'bubbly' personality who was very much looking forward to becoming a mother. It was these testimonies that began to change the attitude of those investigating towards Eddie. The focus changed, Eddie was arrested and interviewed at length on three occasions before being released without charge. At the time of his first arrest on 8th June 1992, the police carried out an extensive search of the house including the garage and found another, partially completed note from Paula. Using Electro Static Document Analysis a further partially drafted suicide note was found in a notebook. These finds would fuel the officers' new hypothesis that Paula herself had dictated suicide notes to Eddie, as she used to be a typist.

By the time of the second appeal, the Crown had accepted many of the flaws in the forensic evidence but instead relied on an alternative explanation: that Paula was sitting on top of the step-ladder and was pushed off by Eddie. Again, this was strongly refuted by Professor Knight, but by this stage it appeared that the Court of Appeal had shifted the focus of the case to other parts of the evidence against Eddie, finding that the non pathological evidence of Paula's death was the key to the conviction; and, somewhat surprisingly, that it always had been.

The 'non pathological evidence' in the case relates largely to Paula's alleged state of mind prior to her death. Professor David Canter, an eminent psychologist, had provided an expert report to police prior to the trial, in which he concluded that Paula had not killed herself. Although this evidence was deemed inadmissible at the trial, it clearly influenced the police and prosecutors' thinking. Yet following further disclosure of material by the Criminal Cases Review Commission that he had not been shown by the police before writing his report, Professor Canter reversed his view and concluded that all the evidence suggested that Paula had killed herself.

Unfortunately for Eddie, Professor Canter was not allowed to give evidence at the second appeal in 2000. This comes on top of the increased understanding of suicide in pregnancy that has become apparent in the years since Paula’s death. Despite the question marks that had emerged over the prosecution case, the Court of Appeal in 2000 placed great significance on the fact that Paula appeared to be in a happy state of mind, and that consequently suicide would have been greatly out of character. However, in 2010, Eddie’s solicitor was allowed access to the unused material in the case, which revealed a metal box containing a copy of Paula’s diary never before seen by the defence. The diary revealed that Paula had attempted suicide as a teenager after a row with her then boyfriend. That same boyfriend had subsequently gone on to murder a young woman, and his relationship with Paula had continued for a substantial period while he was serving a life sentence. Along with the diary, Paula had kept a suicide note from a former fiancé whom she had been with when she was 15. Eddie, who had containing phrasing which was similar to her own suicide note. Clearly this is important evidence that would, at the very least, have tested the unerring belief of all concerned that Paula showed no glimpse of depression or unhappiness. Such evidence forms a part of Eddie’s latest attempt to have the CCRC refer the case back to the Court of Appeal for a third time. These are just some of the problems with Eddie’s conviction that have led to the third attempt to have it quashed. Allied to these concerns are a plethora of significant problems with the case, such as the fact that Eddie did not give evidence at trial due to his mental state following the death of his wife, and concerns about his ability to engage with the trial after it emerged he had not been given the correct medication during proceedings. This article is an attempt to give some background to the case, and to highlight some of the problems that have led many to believe that Eddie should not have spent 17 years in prison. A campaign for the quashing of his conviction is building up steam once again. The Eddie Gilfoyle Campaign recently released a 50 page booklet which provides details of the history of the case, and the evidence involved, in an accessible format. Meanwhile Eddie’s solicitor, Matt Foot, has submitted substantial representations and evidence to the Criminal Cases Review Commission to ask that they consider referring his case back to the Court of Appeal once again, in light of the fresh evidence and new analysis of old evidence that has emerged.

The campaign has drawn a wide spectrum of support from many, including Lord Hunt of the Wirral, former chair of the Bar Council, Desmond Browne QC, and numerous lawyers, campaigners and members of the public. The Times has also reported extensively on the doubts that surround the case and expressed grave concern about the safety of the conviction.

For more information visit www.eddiegilfoyle.co.uk.

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