

LETTERS TO THE EDITOR
December 16 2017, 12:01am, the times

<https://www.thetimes.co.uk/article/criminal-justice-and-the-collapse-of-rape-trial-f5rc6v0mq>

Criminal justice and the collapse of rape trial

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Sir, Further to your report “Judge slams police after man cleared in rape trial” (News and leader, Dec 15), the prosecution decision to offer no evidence in a rape case against Liam Allan was taken after new material emerged after an additional disclosure to the defence. It is regrettable that this disclosure happened at a late stage and I would like to apologise to all parties involved for this.

The Crown Prosecution Service and the Metropolitan Police will carry out a management review to examine the way in which this case was handled to see what lessons can be learnt. It is incorrect to suggest that the CPS would withhold such data in order to save costs. The CPS is clear about its obligations to disclose relevant material that could assist the defence case. Cost considerations play no part in decisions over disclosure.

We know how important it is to get disclosure right and in the light of the recent HM Crown Prosecution Service Inspectorate report we are reviewing our disclosure policies and practices with police colleagues as a matter of urgency. There are systemic disclosure issues across the entire criminal justice system, and it will take a collective effort from all participants in order for improvements to be made.

Alison Saunders
Director of Public Prosecutions

Sir, The case of Liam Allan shows the best and worst of the criminal justice system: but for an eleventh-hour intervention by the independent Bar he would have suffered an appalling miscarriage of justice, caused by the failure by the police and CPS to fulfil their legal duty of disclosing relevant background material to the defence.

This is not an isolated incident and probably not deliberate, but it happened because the police and CPS lack resources to check the “unused material” properly. Furthermore, the theory that everyone who reports a sex offence must be a “victim” may unconsciously bias the police and CPS against giving complaints the impartial in-depth scrutiny that is essential to avoid the injustice that so nearly befell Mr Allan. The case should never have been brought.

Angela Rafferty, QC, chairwoman, Criminal Bar Association; Francis Fitzgibbon, QC, and Mark Fenhalls, QC, former chairmen, CBA

Sir, I agree with Jerry Hayes’s concerns about the criminal justice system (“Treasury cuts have crippled justice system”, Dec 15). A few years ago, as part of pupillage, I was sent to Coventry to prosecute the list in the magistrates’ court. The papers arrived 15 minutes before the day’s hearing started, leaving little time to read them. First on was a case in which the accused was charged with assault, having hit the victim, knocking him to the floor. During the course of giving evidence, the police officer mentioned in passing that the incident had been recorded by CCTV, and revealed when questioned further that the video was back at the station. The trial was adjourned to enable the

video to be brought into court, and for TVs to be set up so the magistrates could watch it. Contrary to the prosecution's case, the video when played showed the victim hitting the accused, knocking him to the floor. I agreed with the accused's counsel that there was no case to answer.

After that I stuck to civil work.

Frances Pigott
Atkin Chambers, London WC1

Sir, At a time when the value of the independent criminal Bar is regularly under attack, the value of the role of independent counsel could not have been better demonstrated than in the case of Liam Allan. Although the ultimate result of this case gives me significant pride in the work of criminal barristers, it sickens me that they seem to be fighting a daily battle with politicians and regulators to be allowed to get on with their job, which the criminal justice system desperately needs them to do.

Professor John Cooper, QC
25 Bedford Row, London WC1

CHILD ABUSE REPORT

Sir, In your article on the treatment of Bishop George Bell ("Church castigated over dead bishop branded a paedophile", Dec 15) you report the claim that the investigation into the accusations against him amounted to a "kangaroo court". Consequently the impending review of the process by Lord Carlile of Berriew, QC, is to be welcomed. The trashing of the posthumous reputation of a man revered for integrity and courage produced by one ancient and unsubstantiated allegation has caused widespread alarm and concern.

The speed with which Bishops Warner and Butler sought to sacrifice Bishop Bell's reputation on the flimsiest of evidence has further damaged the Church's reputation for competence and probity. In this, as with other matters, the Church of England, to retain any respect, needs to be more committed to the value of truth than it is to seeking public approbation.

The Right Rev Dr Gavin Ashenden
Missionary Bishop for the Christian Episcopal Church and former chaplain to the Queen

BREXIT DEFEAT VOTE

Sir, After the government's defeat in the Commons ("Revenge of the Rebels", Dec 14) I was astonished to read Nadine Dorries's reaction. Her comment that the rebels "should be deselected and never be allowed to stand as a Tory MP ever again" seems a shocking blow to democracy.

Presumably the constituents of Mid-Bedfordshire voted for her as their MP to represent their views in parliament. Merely giving blanket agreement to every government policy, without careful consideration as to its merit, is to do her constituents a gross disservice.

Jim Stather
Lowestoft, Suffolk

Sir, At last we have evidence that some of our MPs really do think and vote according to their own conclusions. Isn't that what the sovereignty of parliament means? It was cheering to see some MPs put their country before their party. We elect MPs to use their brains, not to be lobby fodder.

W K Brown
Bearsden, East Dunbartonshire

Sir, Our politics is demeaned not by MPs or citizens exercising their democratic rights in the national interest but by terms of abuse such as mutineers, traitors or enemies of the people. The words used in public debate create a climate in which people act. Hyperbolic words relating to legal concepts that in previous times could have led to capital punishment are extremely dangerous. We must disagree agreeably or it will become clear that we are not the democracy we tell the world we are.

John Slinger
Rugby

STARVATION IN YEMEN

Sir, Richard Spencer's excellent report on the latest offensive in Yemen ("Saudi forces begin port assault with new Yemeni allies", Dec 12) notes that the blockade of Hodeidah has led to mass starvation. He is right. We are seeing hundreds of new cases of severe acute malnutrition every day in children who will die in days or weeks without treatment. This is the result of man-made suffering inflicted on a civilian population by the warring parties, including the UK's allies in a Saudi-led coalition. We need an immediate ceasefire, an end to blocks on commercial and humanitarian supplies and more international effort to reach a peace deal. Anything less and Yemen will continue on the road to famine and the collapse of the state.

Kevin Watkins
CEO, Save the Children

PUBLIC INQUIRIES

Sir, I was one of the many counsel in the Crown Agents inquiry (letter, Dec 14), which lasted years. An earlier report by Edgar Fay, QC, came to similar conclusions and took a fraction of the time. It can be done.

His Honour Neil Butter, QC
London N5

Sir, Perhaps Jim Hacker, of *Yes, Prime Minister* fame, should have the last word: "I don't want a public inquiry, I want to know what happened."

Kevin Cooper
Wargrave, Berks

MORAL SUPERIORITY

Sir, As a former lecturer at a former polytechnic that became a successful university, I agree wholeheartedly with the comments of Professor Chris Barton (letters, Dec 14 & 15) about the Russell Group's misplaced air of elitism. However, he has gone a step too far in questioning the moral superiority of rugby over football. Everyone knows rugby is superior.

John Evans
Ashbourne, Derbyshire

ALIEN INTELLIGENCE

Sir, Arthur C Clarke, doyen of science fiction, was born 100 years ago today. In an article in *Wireless World* in 1945 he predicted communication satellites. Now you report (Dec 12) that a 200-metre-long cigar-shaped object named Oumuamua has arrived in our vicinity from deep space. This has prompted some scientists to wonder whether it is an alien spacecraft, similar to the “cigar shaped” spacecraft described in Clarke’s novel *Rendezvous with Rama*. Even if this similarity turns out to be fortuitous, the coincidence is an appropriate celebration of Clarke’s 100th birthday.

Professor Chandra Wickramasinghe
Buckingham Centre for Astrobiology

PRAYER WARDENS

Sir, If and when the guardians of the Pantheon in Rome impose an entrance charge (World, Dec 13) they will have to resolve the dilemma that faces many of our own cathedrals: that of balancing access for worshippers against revenue from tourists. One way to preserve the rights of the former would be to install prominent “Pray & Display” ticket machines that would dispense free, but time-limited, passes for those who wish to worship rather than just gawp.

Liz Simpson
Edinburgh

MOBILE RESEARCHERS

Sir, Further to the letters (Dec 13 & 14) on banning mobile phones in schools, the problem is not the phones per se but how they are used. This week in my physics lesson my students were solving a problem on radiocarbon dating the Turin Shroud. Several of them had not heard of the latter, so I told them to use their phones to find information. After doing so they put their phones away and we continued the lesson. We have also used phones as slow-motion cameras during practical work. The students all know that inappropriate phone use during lessons will result in confiscation. There is no need to ban them if the school has sensible policies in place.

Ruth Mead
Hawkhurst, Kent

LITERARY GIANT

Sir, To the list of overrated literary giants (letter, Dec 13) may I suggest one author who deserves to move the other way: George MacDonald Fraser, whose Flashman novels have enthralled countless readers and which contain historical notes of the Victorian era worthy of any textbook. My “book” to take with me on *Desert Island Discs* would be GMF’s complete works, assuming that that was allowed; if necessary, though, I would take it in place of Shakespeare’s.

Malcolm Watson
Welford, Berks

JANGLING SIESTA

Sir, Apropos the letter “First snooze button” (Dec 14), a Spanish theatre director we knew in the 1960s used to practise what he called a “key siesta”. He would lie on a sofa with a large bunch of

keys held loosely in the hand nearest to the edge. At the moment he went to sleep the keys would fall and awaken him. He swore that the split second of unconsciousness was enough to restore his vigour.

Dowager Countess of Harewood
Harewood House, Leeds

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Lady Loughton Dec 28, 2017

Please Please stop calling, or allowing to be called, John Cooper as "Professor". He is not a professor, he is honorary only. Thus, the title, as he well knows should (if used at all [and it should not be on correspondence] be after his name and in parentheses. I am, as you can see, up on me titles.

Flag

RecommendReply

Ross Dec 17, 2017

With all due respect to Bishop George Bell and his defenders, in the event that *thereputation of a man revered for integrity and courage* is found to be only one side of a coin, it is all the more important that that reputation be investigated and, if appropriate, redrawn. It appears that in this case there is very little evidence to indicate anything untoward, but it should be noted that a person's reputation, however good, is almost invariably anecdote, not evidence.

Flag

RecommendReply

Thomas Mallin Dec 17, 2017

In every case, all those whose allegations prove groundless - long odds against, in this climate -must, unfailingly, be charged with perverting the cause of justice and be prosecuted.

Flag

1RecommendReply

Thomas Mallin Dec 17, 2017

In terms of numbers, this modern witch-hunting, and inquisitions or trials (with the police replacing the Church) based on presumed guilt, is far worse than that of historical times.

Flag

1RecommendReply

Arturo Costantino Dec 16, 2017

Let's be honest this all due to Ms Saunder's belief that that men are guilty until they prove their innocence.

Flag

5RecommendReply

Findlay Niederle Dec 16, 2017

Regarding the CPA and police, one question that has not, so far as I know, been asked, is, did the prosecution have the exculpatory evidence? Another is, having knowledge of this, did the CPA, police and prosecutors attempt to pervert the course of justice?

Regarding Yemen, if they stop attacking shipping and firing missiles into KSA I am sure people would see there way to feeding them. To expect them to feed the enemy is rather too much, although our military might be asked to do so by our craven politicians.

Regarding terms of abuse, it is the reluctance of politicians and media to use such terms that have left the public with no recourse but to describe the actions of certain individuals which they know full well fit because they understand their nation. Things have gone far beyond a situation in which mealy mouthed platitudes are a substitute. The public know this.

Flag

2RecommendReply

Tom Bloomfield Dec 16, 2017

In fairness to Alison Saunders she wrote a grown-up letter to The Times rather than a juvenile posting on twitter. Nevertheless the fell phrase "lessons can be learnt" when it is all bleedin' obvious suggests the need for resignation or sacking.

Flag

5RecommendReply

Saint John Dec 16, 2017

So the CPS statement that it was due to shortage of resources was a lie then DPP ? That only leaves deliberate policy . Because the defence asked for the records and were refused .

And the statement that the trial stopped by the CPS because there wasn't "a realistic chance of conviction " (implying unproven guilt) - another CPS statement -is that a lie too DPP ?

What were the names and positions of the CPS staff handling this matter ? The Times should publish them.

Flag

9RecommendReply

Edith MacNamara Dec 16, 2017

Re Rape trial

Absolutly disgracefull

Lets have all those culprits names printed and in Court

As much as you had this Innocent Man !!!! Not fair

Flag

5RecommendReply

b JONES Dec 16, 2017

Allison Saunders,

Action speaks louder than words.

Cut spouting the platitudes and clean up your act.

Flag

8RecommendReply

Henry Scrope Dec 16, 2017

Hooray for the independent Bar and for the prosecution barrister who demanded disclosure of evidence that might (and did) help the defendant. But why did this happen only when a new prosecutor was appointed at the 11th hour? What was the previous prosecuting barrister thinking (or maybe not thinking)?

Hopefully Angela Rafferty and the other eminent barristers who signed the letter above will not just sit back and congratulate themselves and their colleagues at the Criminal Bar on this demonstration of the importance of barristers acting correctly. Hopefully they will note this case also shows there may now be a need to remind members of the Criminal Bar of how vitally important it is that they don't slip from the high standards expected of them.

Flag

6RecommendReply

Mr Anthony Roberts Dec 16, 2017

There is clearly a place in the classroom for mobiles- and after school as well. But each classroom should also have a big bucket of water and if any phone rings without permission

Flag

3RecommendReply

Ben Dec 16, 2017

Saunders: "to see what lessons can be learnt"

The stock phrase that is the last bastion of the lazy, incompetent public servant.

Flag

24RecommendReply

John Austin Dec 16, 2017

More lessons to be learned, eh, Alison?

Do you public sector drones have to use the same phrase book or what?

Talk about a tin-eared response.

If you bother reading the comments under the main story, you will see that very many people have considerable disquiet over the way your service - funded by the taxpayer - has behaved.

You should consider your position.

Flag

21RecommendReply

Keith Proctor Dec 16, 2017

The DPP and the Police Commissioner for the Metropolis, on behalf of her

predecessor, should apologise clearly, unequivocally and directly to Liam Allan.

The DPP's current "apology" is insensitively inadequate.

The Heads of these organisations do not like apologising when they get things wrong as a result of the failed "believe the victim and survivor " policy.

Sir Bernard Hogan-Howe did not "want" to apologise to me over the debacle that was

Operation Midland. He did so as a PR act to attempt to diminish the adverse impact on the

MPS of Sir Richard Henriques' Report.

Nor would an apology suffice. Mr Allan should be assisted to take legal advice on his options.

With senior police officers appearing to be unaccountable and completely out

of control, it is time to establish a Royal Commission on policing in the U K. Sadly an

opportunity that Mrs May spurned during her inept tenure at The Home Office.

Keith Harvey Proctor

16RecommendReply
Yorkshire Lass Dec 16, 2017
Well said, Gavin Ashenden.

Flag

1RecommendReply
TT 20 Dec 16, 2017
Is it really beyond the wit of the authorities to grant anonymity to both parties until a case is resolved?

Flag

9RecommendReply
MJR Dec 16, 2017
Allison Saunders letter misses the main point. If the CPS were aware of the phone evidence why on earth did this case go to trial?

Flag

The rest is just whitewashing nonsense.

As long as she continues to target improved conviction rates for rape and states that alleged victims should be believed the distortions to our innocent until proven guilty legal system will persist.

How about targeting thorough and unbiased process by the police and CPS to underpin the rule of law?

Flag

24RecommendReply
Stanley Cohen Dec 16, 2017
BREXIT DEFEAT VOTE

Consequent to the government's defeat in the Commons and the recommendation of Nadine Dorries that those rebels be deselected and never again be permitted to stand for Parliament, it is of note that the same Ms Dorries has rebelled herself on no less than 26 separate occasions in the past.

Flag

10RecommendReply
NWG Dec 16, 2017
Merry Christmas, Liam.

Flag

6RecommendReply
This comment has been deleted
NWG Dec 16, 2017
Pretty obvious, wouldn't you say? After 2 years, case dismissed. What better present?

Flag

3RecommendReply
Stanley Cohen Dec 16, 2017
@NWG

There's a tale of a man whose previously good son goes off the straight and narrow and every time the son commits a felony the father hammers a 6" nail into the wall of his living room. After some years the son relents and commences to do good things - at each instance of which the father removes one of the nails. When all the nails have gone the son asks the father if they can have a party to celebrate and the father replies that the holes that remain have now to be filled.

Flag

8RecommendReply
TT 20 Dec 16, 2017

@Stanley Cohen @NWG Great story, Stanley. Just shared it with my slightly wayward grandson..

Flag

1RecommendReply

NWG Dec 16, 2017

Blimey, Stanley! Was only thinking what an enormous relief the outcome has been for Liam Allan.

Flag

2RecommendReply

Stanley Cohen Dec 16, 2017

Criminal justice and the collapse of rape trial

Alison Saunders, the Director of Public Prosecutions' apology is very similar to the laughter of the brainless bimbo at a party after hearing a witticism she clearly failed to understand -- *'too little, too loud and far too late.'*

Flag

12RecommendReply

Stanley Cohen Dec 16, 2017

PS The case shlepped on for two years causing the defendant untold horrors. At some stage people in the police and the CPS must be forced to account for their sins of omission -- possibly with custodial sentences.

Flag

7RecommendReply

john barker Dec 16, 2017

Careful, Stanley, or you'll get a visit from the Stasi over your blatant hate crime - your outrageous disrespect of a female whom you describe as a "brainless bimbo".

Flag

4RecommendReply

Ian Bignell Dec 16, 2017

Surely everyone knows that rugby is a thugs game played by gentlemen, and football a gentlemen's game played by thugs,. Football is the superior game in both skill and tactics, but like tennis, rugby is preferred by the middle classes.

Flag

1RecommendReply

Arthur Rolfe Dec 21, 2017

So, you clearly do not understand the culture of rugby with its respect for the officials that makes soccer, with disgraceful behaviour to the officials, such an ugly spectacle for those of us who still enjoy sport as sport.

Flag

RecommendReply

BB Dec 16, 2017

If there are systemic disclosure issues across the entire criminal justice system then there are system-wide miscarriages of justice being admitted to by AS?

Flag

5RecommendReply

Mark Eltringham Dec 16, 2017

It is beyond time that the UK's elected representatives took an interest in Alison Saunders' Kafkaesque approach to these cases. She has inverted the presumption of innocence then set targets for convictions. This combination of factors is the reason we are at this point, and you have to wonder how many innocent people are in prison as a result. She should be sacked.

Flag

33RecommendReply

Cyril the Swan Dec 16, 2017

Saunders wanted more rape convictions, whether the accused was guilty or not. She is a politically correct muppet.

She should be sacked.
Immediately.

Flag

44RecommendReply

Stephen Follows Dec 20, 2017

@Cyril the Swan Time for one of those public petitions?

Flag

RecommendReply

Mair Lewis Dec 16, 2017

Alison Saunders, the CPS has totally failed, you need to accept that this has happened under your management and you need to take responsibility and resign.

Flag

47RecommendReply

NR Dec 16, 2017

The first thing Alison Saunders needs to understand is that lessons learnt are utterly useless until they are applied. The lesson learnt is that CPS lawyers should ensure that all relevant evidence is disclosed. When they are sacked for not doing so then that becomes a lesson applied.

Flag

37RecommendReply

D Grant Dec 16, 2017

@NR The CPS seems to be a powerful organisation, but alarmingly incompetent. A dangerous mixture. Has anyone any details of its composition, its personnel, educational requirements and its salary-levels?

Flag

6RecommendReply

Ann Lyon Dec 16, 2017

Malcolm Watson is absolutely right about the Flashman books. George MacDonald Fraser combines highly accurate history with a superb sense of the ridiculous.

Flag

10RecommendReply

NR Dec 16, 2017

@Ann Lyon. I concur. My favourite of his short stories is The Sheikh and the Dustbin.

Flag

2RecommendReply

Mercutio Dec 16, 2017

@Ann Lyon His memoir, The Light's on at Signpost is a little gem of a book.

Flag

1RecommendReply

Ed R Dec 16, 2017

Alison Saunders' pathetic attempt at epistolary face-saving is beneath contempt.

Flag

51RecommendReply

Robert Hughes Dec 16, 2017

Some things cannot be disclosed - details of informants, matters of security and so on, but the lessons of the Liam Allan case demonstrate that the police cannot any longer be the arbiters in matters of deciding what might "assist the defence".

-

The default position must now be that all material should be disclosed and a case made for an exception to an independent adjudicator.

-

Nothing must be withheld unless approval is given to withhold it.

-

Furthermore, strict penalties should be applied where material is not disclosed or not disclosed promptly.

Flag

35RecommendReply

Prabhat Dec 16, 2017

"There are systemic disclosure issues across the entire criminal justice system, and it will take a collective effort from all participants in order for improvements to be made."

Please don't patronise us, the readers, Ms Saunders. You may well know that there is a good chance that the readers might be aware of the professional issues applicable here.

It remains plausible that, following your interview with Hartley Brewer in 2015, which was later published in the Independent, there may be an concerted effort at the CPS and/or police unfortunately in rape cases to play fast and lose with evidence. This is evident by the number of collapsed rape trials, as covered by the Times main news today. The tragedy of all this is that whilst we should make all the effort to ensure that rape perpetrator should be prosecuted and jailed with proper evidence, it is not acceptable to play fast and lose with evidence to seek to meet conviction targets, whilst manipulating the evidence. That undermines the confidence of ordinary people in the CPS and our police.

As for your statement quoted above - the "systemic disclosure issues" that you highlight are par for course in the legal world and every solicitor is aware of its importance and what happens if they omit doing proper disclosure. If that is going to now take some extra effort, you appear to be sacrificing the competency of your team to save your skin. Poor show, either way, unfortunately.

Flag

50RecommendReply

Jay Patel Dec 16, 2017

If the letter above by Alison Saunders was meant in any way to be an apology then it was a disgrace. In a case which clearly shows the inadequacies of the police and CPS it is utterly disingenuous and brazen to say that it will "take a collective effort from all participants in order for improvements to be made."

These things are happening on her watch and there is a perception, with good reason, that Alison Saunders has actively encouraged the climate of bias that is increasingly pervading the criminal justice system and creating the conditions ripe for such injustices.

*Ref.: Criminal justice and the collapse of rape trial LETTERS TO THE EDITOR.docx
26/04/2018 09:14*