

Gareth Peirce is one of Great Britain's most prominent lawyers, and she definitely fits being described as 'one of a kind'.

Prior to entering into the legal profession, Peirce was in her mid-20s when she moved to the U.S. in the 1960s to work as a journalist. Among her assignments was following the civil rights campaign of Martin Luther King. After returning to Great Britain in the early 1970s, Peirce earned her law degree and began working at Benedict Birnberg's law firm, which was known for representing people in unpopular and controversial causes. Peirce was 38 when admitted as a solicitor in December 1978. ¹ Eschewing a career as a highly paid corporate lawyer, she continued working with Birnberg, and became one of her era's most effective human rights lawyers.

Among Peirce's many accomplishments during her career, is she was the key person responsible for the exoneration of the Birmingham Six. Those six men, all alleged by the prosecution to be Irish Republican Army (IRA) members, were sentenced to life in prison in August 1975 after being convicted of 21 counts of murder related to two Bir-

Gareth Peirce – A One Of A Kind Lawyer

By Serena Nicholls



mingham, England pub bombings. After Paddy Hill, one of the Birmingham defendants, wrote Peirce, she became convinced of the men's innocence and began representing five of them. Over a period of years she discovered the police fabricated false confessions, and suppressed forensic evidence favoring the innocence of the six men, who contrary to the government's claim were not IRA members.

The new evidence resulted in the Court of Appeal's grant of a new hearing in March 1991. During that hearing Lord Justice Lloyd stopped the prosecutor mid-sentence and announced, "we have heard enough." He then told the defendants, "In light of fresh evidence which has become available since the last hearing in this court, your appeal will be allowed and you will be free to go as soon as the usual formalities have been discharged." ² The men were released after 16 years of wrongful imprisonment.

Their innocence was acknowledged by the government when they were awarded compensation ranging from \$1.7 to \$2.4 million (£840,000 to £1.2 million). ³ Paddy Hill acknowledges that he and his co-defendants owe their freedom to Peirce's nine years of *pro bono* work. He said after his release, "I wish you could either clone her or that there were 1,000 more solicitors like her. She's a cross between my mentor and a big sister." ⁴

At the same time she was aiding the Birmingham Six, Peirce was engaged in a years long campaign for exoneration of the Guildford Four. Those three men and one woman were sentenced to life in prison after being convicted in 1975 for the IRA bombing of a Guildford, England pub in 1974 that killed five people and injured sixty-five. ⁵ The Guildford Four lost their appeals and languished in prison for years, even though during their 1977 trial the IRA's Balcombe Street gang instructed their lawyers to 'draw attention to the fact that four totally innocent people were serving massive sentences for the Guildford bombing.' ⁶

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the home of an elderly woman in exchange for help running errands.

After reading a *New York Times* article about McCloskey and Centurion Ministries in 1986, Germond felt compelled to join his crusade.



Kate Germond

"I thought he needed my help to organize the work and generally be a partner," says Germond.

"She's amazing and I'm lucky to have her. So are a lot of other people," said McCloskey.

Germond feels the same about McCloskey. "Usually in life, familiarity breeds contempt, but there's not a day that goes by I don't stand back and marvel at what he's done. I've found what I want to do and it's because of Jim." says Germond.

Pulitzer Prize winning journalist turned private investigator Paul Henderson began working with the organization in 1988 and in 1996 he became a full time investigator.

Centurion Ministries has four full-time employees and about two dozen volunteers.

When Centurion Ministries investigates a case, McCloskey is known for getting information from suspects others can't. He ascribes his success to respect. McCloskey develops a rapport and checks any judgements at the door before he enters the individual's home.

"Most people have a heart. If you can reach the heart you get that person to talk." said McCloskey. More than anything, he simply listens.

Of the 80 wrongful conviction investigations Centurion Ministries has conducted, five individuals who made it past the initial screening process were found through their research to be guilty.

Each one hurt McCloskey's spirit, but none more than Roger Keith Coleman, a Virginia man convicted of raping and murdering his sister-in-law.

A massive effort was made to prevent Coleman's execution. McCloskey even shared Coleman's last meal — a cold Domino's pizza they ate through the bars of his cell. It took McCloskey six years to emotionally recover enough to lobby for DNA testing after Coleman was executed.

The evidence proved Coleman's guilt. Rather than running from the truth, McCloskey approached the press, pushing to reveal his mistakes as intently as he'd pushed to review Coleman's case. Despite personal humiliation and critics who tried to use this instance to undercut his life's work, he doesn't regret the effort.

Since 1980 Centurion Ministries has aided the release of 40 wrongly convicted men and women.

"It was the first time we convinced a sitting governor to test DNA on an already executed prisoner." said McCloskey, feeling it would

open the door to future cooperation between activists and government.

McCloskey speaks in parables and colloquialisms, often using bible quotes to illustrate his point. When asked if he does God's work, McCloskey says he's never certain, using the New Testament story of a man whose son had died to explain.

The father asks Christ if he can raise his son from the dead, to which the Lord replies "O ye of little faith."

The desperate man then prays for the faith that would allow him to believe. McCloskey says he is like this father — negotiating through his doubt in the face of staggering injustice with hope.

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After working *pro bono* for years on the case of the four Guildford defendants, Peirce came into possession of proof that the police had doctored notes of interviews with the defendants to fit the prosecution's case and concealed exculpatory evidence. An appeal was filed based on the new evidence. The exoneration of the Guildford Four in 1989 after more than 15 years of wrongful imprisonment was a defining moment in British legal history. The enduring effect of the case is such that sixteen years later, for the first time in British history, a Prime Minister, Tony Blair, acknowledged the innocence of the people involved in two miscarriages of justice, the Guildford Four and the McGuire Seven, and apologized for the ordeal they and their families experienced: "I am very sorry that they were subject to such an ordeal and injustice...they deserve to be completely and publicly exonerated."⁷

Gerry Conlon was one of the Guildford defendants. In his 1990 autobiography he compared Peirce's Herculean effort in his case to what Joan of Arc would have done. Peirce's involvement in the Guildford Four case was given the Hollywood treatment in the film version of Conlon's autobiography. *In the Name of the Father* was a successful 1993 film nominated for seven Academy Awards, including Daniel Day Lewis' portrayal of Conlon for Best Actor, the movie for Best Picture, and Emma Thompson's portrayal of Peirce for Best Actress.

During her career that has spanned four decades, Peirce has been involved in many other high-profile cases including, former MI5 operative David Shayler, Abu Qatada (aka 'Europe's Al-Qaeda Ambassador'), Judith Ward, the family of Jean Charles de Menezes, and Guantanamo Bay detainees Bisher Amin Khalil al-Rawi and Moazzam Begg.⁸

In Begg's harrowing account of his arrest in Afghanistan and his years of imprisonment by the U.S. military without charges, *Enemy Combatant: My Imprisonment at Guantanamo, Bagram and Kandahar* (New Press 2006),



The Birmingham Six outside the courthouse – released after 16 years wrongful imprisonment. (*Forever Lost, Forever Gone* (1995))

he writes that when he learned Peirce had become involved in his case he had his first real hope that he would eventually be released.

Peirce is highly respected within the legal community, especially for her patience and tenacity in her long campaigns for justice. Journalist and author Sir Ludovic Kennedy described Peirce in the following way: "Gareth just refuses to be defeated in any case no matter how unfavourable it looks. She has an incredible patience as she beavers away, usually on her own, until she proves that a client has been the victim of injustice."⁹ As a result of Peirce's uncompromising diligence she is viewed by her colleagues as a formidable opponent.

The importance of Peirce's efforts go far beyond the numerous people she has personally helped. The Birmingham Six case, following on the heels of the Guildford Four, publicly exposed the deep flaws of the normal criminal appeal process – that relies on analyzing a case for legal errors – to correct a wrongful conviction based on factual errors or extraordinary circumstances.

Widespread knowledge within the legal community and amongst the general public that the government was able to seamlessly convict large numbers of innocent persons and successfully oppose their appeals for many years, was the impetus behind England's 1995 legislation establishing the Criminal Cases Review Commission (CCRC). The CCRC is a body that operates independent of the normal court, prosecution and public defender system. It investigates the conviction and/or sentence in a case for a possible miscarriage of justice, and refers the cases that pass its review process to the Court of Appeal (COA) for consideration on the grounds set forth by the CCRC. The CCRC began operating in 1997, and in its first ten years the conviction was quashed in 218 cases it referred to the COA.¹⁰ None of those exonerations was based on DNA evidence.

Birnberg summed up Peirce's impact on the legal profession, that includes establishment of the CCRC, by saying she had "transformed the criminal justice scene in this country almost single-handedly."¹¹

Peirce's world-wide notoriety for her legal exploits on behalf of victims of injustice is not due to personal grandstanding. She shuns the spotlight and rarely gives interviews. Her typical response to an interview request is that given to *The Sunday Telegraph* (London)

when she politely declined, "I ask you to consider that lawyers are, and deserve to be, the focus of little attention. If I could persuade you to write about some of the urgent issues, I would be pleased to do so."¹²

Peirce has never sought any personal glory or public recognition for the time and energy she has spent aiding innocent men and women. When she was awarded the distinguished honor in 1999 of Commander in the British Empire (CBE) for "services to justice," she declined it, stating that she would be unable to accept such an award.

After the release of *In the Name of the Father*, which Peirce has never seen, she self-effacingly stated, "My own personal regret is that an extremely unimportant participant in the story has been portrayed and given a seemingly important status, albeit in what I acknowledge is a drama not a documentary."¹³ Her lack of pretentiousness is remarkable considering that there is every reason to believe that without her dogged efforts the Guildford Four defendants never would have been cleared and they would have died in prison.

Although now in her mid-60s, Peirce has not cut back her workload, nor has her intolerance for injustice waned. Since September 11, 2001, she has been a vocal critic of the relaxing of legal protections around the world for people suspected of terrorism. She told the BBC in March 2004, "Say terrorism and it excuses everything."¹⁴ She is currently representing several former Guantanamo Bay detainees in civil suits, including Moazzam Begg. Peirce has spent her entire career associated with Birnberg, and she is currently a senior partner at Birnberg Peirce and Partners, London, England.

Peirce's passion and concern for humanity and the ephemeral concept of justice sets a high bar for others to strive to achieve. Both the magnitude of her professional accomplishments and her personal modesty underscores how unique of a person she is.

About the author: Serena Nicholls lives in Queensland, Australia. She has completed a Bachelor of Laws, a Bachelor of Arts in Psychology, a Graduate Diploma in Legal Practice and a Masters of Laws. She is completing her Doctor of Philosophy in the field of wrongful conviction.

Endnotes:

- 1 England has a dual system of categorizing lawyers. In very general terms, a solicitor handles and prepares legal matters outside the courtroom, while a barrister advocates legal matters in court.
- 2 *Forever Lost, Forever Gone*, By Hans Sherrer, *Forejustice.org*, http://forejustice.org/wc/bh6/forever_lost.htm
- 3 Birmingham Six, Wikipedia.com, http://en.wikipedia.org/wiki/Birmingham_Six

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system punishes the honest and innocent and rewards those who are guilty and manipulate the process!

Excuse me? The State's Attorney said ... our prosecutors went to prison to get him out." As Herb observed, "I couldn't believe that! The prosecutor said they came looking to find Hank and release him only to learn he had passed away! I'm sure they came to find and release Hank the same way they came to find and release Michael Austin when they suddenly discovered he was innocent!"

Excuse me? Hank died in prison, but the State doesn't even know what year it was, much less how he passed? Baltimore *Sun* stories echoed that fuzziness on when Hank died. On April 9, 2002, the *Sun* headlined their article, "Inmate who died in 1995 was innocent." On April 10 the *Sun* reported, "... in May 1997, Roberts died at age 68 ..." And on April 11 the *Sun* reported Hank "... collapsed outside his cell ... and died a day later, on December 22, 1996"! Thus on three consecutive days the *Sun* reported that Hank died in 1995, then 1997, and finally got it right that he died in 1996.

The most unsettling aspect of Hank's case is that if he had been a little less ornery he may have lived to see his vindication.

"You know Hank believed everything people told him," said Herb. "They told him Jessup had a better program for seniors, that they weren't locked up all the time. When he first got into processing at Jessup he was locked down almost all day. They went in one morning to check on him and found him deceased. And it happened only about two weeks after he left here, and then he laid in the morgue longer than he was in Jessup, because they had a hard time locating his sister."

Hank had heart problems after Tomczewski shot him in the chest, but Hank was in an annex with just a score of prisoners. We looked out for him, and Sergeant Verdier and Officer Decker also looked out for him. There was something special about Hank; his guardian angels seemed to tell us we'd better keep helping him, and Hank knew it.

And while Hank listened to others, once he had made up his mind about something he was more stubborn than an old mule. He knew about the POPS program – Project for Older Prisoners – from *Washington Post* and *Wall Street Journal* articles outlining Professor Turley's program at George Washington University School of Law. POPS enabled

students to conduct exhaustive and detailed investigations into an older prisoner's background, criminal history and parole plans to evaluate whether they warranted consideration as a low risk for violence or recidivism, and thus might merit release. Ever hopeful, Hank thought the POPS program just might be able to do something for him.

Hank heard POPS was operating from the "Old Man's Dorm" at the House of Correction in Jessup, where about 100 prisoners 60 years of age or older have their own space. He wanted some freedom. We fussed with Hank and pointed out that as the only old-timer in the annex we could get him prompt medical attention every time he was feeling ill. Also, several times Warden Waters had gone out of his way to see to it that Hank got his prescriptions renewed when the medical contractors tried to skimp on costs.

We begged Hank not to transfer, pointing out that as just one of a hundred old-timers in Jessup's "Old Man's Dorm" his voice for care and attention would be overwhelmed by others, and the officers would probably be too burdened to look out for him. They'd have their own concerns and ignore Hank.

But Hank had faith, said it was what he needed to do, and impatiently waited for months until classification got him transferred to Jessup. At Jessup he would also be closer to Gary Garland, so Gary wouldn't have to travel so far to see him.

Hank never even made it into the vaunted "Old Man's Dorm" much less into the POPS program. It didn't seem like ten days after his transfer when we got word by telephone, letters and messages from friends and family members, as well as prisoners at Jessup, that Hank had trouble getting his medication renewed, and he had died.

Adding insult to injury, Maryland's criminal justice system has never acknowledged its last "oversight" in the case of Henry Myron Roberts. I looked in every paper for his obituary, but never saw it. I guess run-of-the-mill criminals who die in prison don't deserve one.

But now we know the Hankster wasn't run-of-the-mill, now we know he was innocent. Perhaps by printing this eulogy and tribute to his spirit, and an anatomy of the body of his case, we can finally say, "Rest in Peace, Hank."

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Fugitive Endnotes cont. from p. 26

though the government of Afghanistan did not commit any act of war against the United States.

6 See e.g., *The New Individualists: The Generation After the Organization Man*, Paul Leinberger and Bruce Tucker (HarperCollins 1991), at pp. 16-18. Also see, *Managing Globalization in the Age of Interdependence*, George C. Lodge (Jossey-Bass 1995). See also Mr. Lodge's previous book, *The New American Ideology*, George C. Lodge (Alfred A. Knopf 1975). Written less than a decade after *The Fugitive's* last episode, it was apparent to Lodge that the men, women and children who accept the sovereign authority of an organization – such as the government – are considered to be one of its appendages.

7 Yale psychology professor Stanley Milgram's obedience experiments first conducted in 1961 demonstrated that a significant segment of society at that time in the United States was unduly obedient to authority. However, his experiment also revealed a solid one-third of the participants drew a clear line in the sand and refused to obey an instruction when they thought their action would cause harm to an innocent person. See, *Obedience To Authority*, Stanley Milgram, 1975, New York, Harper & Row. It is people of the ilk of those conscientious people that either overtly would have helped, or at the very least would have done nothing to harm Kimble.

Peirce Endnotes cont. from p. 22

4 "When Sir Ian heard who the lawyer was, it is likely he let out a long, hard sigh," By Andrew Alderson and Nina Goswami Nina, *Telegraph* (UK), August 21, 2005.

5 In the Name of the Father, By Hans Sherrer, 2 *Justice:Denied* 4, http://forejustice.org/wc/in_the_name_of_the_father_JD_v2_n4.htm.

6 Guildford Four, *Wikipedia*, http://en.wikipedia.org/wiki/Guildford_Four
7 British P. M. Tony Blair Apologizes To Guildford Four and Maguire Seven, *Justice:Denied*, Issue 31, Winter 2006, p. 45.

8 Gareth Peirce, *Wikipedia*, http://en.wikipedia.org/wiki/Gareth_Peirce

9 "When Sir Ian heard who the lawyer was," *supra*.

10 The CCRC can refer a case to the Court of Appeal when it finds there is a possibility to overturn a conviction based on:

- An argument not raised in the court proceedings.

- Evidence was not presented to the court; or,

- Other exceptional circumstances were present.

As of February 28, 2007, the conviction was quashed in 218 of 310 cases referred by the CCRC to the CoFA. (70%). *CCRC website*, http://www.ccr.gov.uk/cases/case_44.htm. The U.K. has about 20% of the U.S.' population, so the 218 exonerations due to the CCRC would be the equivalent of about 1,100 in the U.S.

11 Profile: Gareth Peirce, By Andrew Walker, *BBC News*, March 10, 2004.

12 "When Sir Ian heard who the lawyer was," *supra*.

13 *Id.*

14 Profile: Gareth Peirce, *Supra*.

Hirschberg Endnotes cont. from p. 28

5 *Id.*, at 195-99. (See also, "Pathology of Criminal Justice," *supra* at 546-8.)

6 *Id.*, at 199.

7 *Id.*, at 203.

8 *Id.*, at 200. The articles were written from 1927 to 1935.

9 *Id.* at 262. Hans Frank was one of the Nazi Party's earliest members, having joined in 1919, and he knew Hitler intimately. He was captured after WW II ended, and he was one of the defendants in the Trial of the Major War Criminals Before the International Military Tribunal in Nuremberg. During his defense he testified, "A thousand years will pass and the guilt of Germany will still not have been erased." Frank was found guilty of war crimes and crimes against humanity, and sentenced to death. He was executed by hanging on October 16, 1946.

10 *Id.* at 256-263 (Events related to the trial); Hitler's quote at 262.

11 *Id.* at 264.

12 The Justice Institute is attempting to have Hirschberg's book translated into English.

13 Lawyer's courtroom battles with Nazi party, *Greenwich Time* (Greenwich, CT), June 18, 2006.

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