

**IN THE MATTER OF CHRISTINE KEELER**

**ADVICE TO SUPPORT APPLICATION TO THE CCRC**

1. I jointly drafted the petition to the Lord Chancellor and Secretary of State for Justice (then the Rt. Hon Robert Buckland QC) to recommend to Her Majesty the Queen the exercise of the Royal Prerogative of Mercy to grant a posthumous Free Pardon for Christine Keeler, hereafter referred to as Christine. The petition is brought by her son Seymour Platt following Christine's final request in her will. It is a late but necessary step to recognise how badly she was treated at the time, how wrongly she has been shamed and how her treatment exposes the appalling discrimination against women in the context of gender-based violence and sexual advances by powerful men.
  
2. Christine pleaded guilty to offences for which, in my view, she had a defence, and those pleas were entered when she was under unconscionable pressure in the context of the lies to Parliament by John Profumo (former Secretary of State of Defence – also deceased), about his sexual relationship with Christine when he was when he was 46 and she was 19. It is my opinion that those convictions, by her plea, are unsafe and ought to be quashed or, at the very least, result in the merciful outcome of a pardon.
  
3. The petition was drafted against a background where she and her counsel at plea are both deceased. It is good news to hear that the Criminal Cases Review Commission (CCRC)

will receive an application and that the Ministry of Justice would be interested in their opinion on her lack of culpability.

4. I do not propose to repeat the content of the petition in this advice, but I emphasize that the petition and the evidence provided with it are highly pertinent to the CCRC approach, and I hope the following is a helpful addition. Taken at its highest Christine lied about the presence of two men who saw her being violently assaulted but put her under pressure not to mention them. The decisions to prosecute her and send her to prison were, in my view, appalling and ought to be repaired, even after this passage of time. I make four straightforward points:

- a. Christine should never have been prosecuted.
- b. Christine's statement was not necessarily wilful and certainly not material.
- c. Christine pleaded guilty under such inordinate pressure that her conviction is unsafe.
- d. The CCRC should refer Seymour Platt's application to the Court of Appeal with a recommendation to quash Christine's convictions.

5. **In my view, Christine should never have been prosecuted:** Christine was a young and vulnerable victim of violence who should have been supported, not charged with criminal offences. Had there been a proper strategy in place (akin to the current Crown Prosecution Service (CPS) approach to violence against women and girls), this would have occurred. Her case simply does not fulfil the criteria for prosecution for any alleged offence. Violence against women and girls (VAWG) is an appalling scourge in the UK and was not properly prosecuted in the 1960's. Indeed, many past legal frameworks have since been acknowledged to be inadequate and significant law and policy reform has flowed over the

decades since Christine was targeted and abused. Christine's case has had a lasting effect on the shaming of her and more broadly the shaming of women, who are often wrongly placed in the paradigm of dishonesty. In my opinion, it is a state obligation to take steps to mitigate such discrimination. Acknowledging that there was no public interest in prosecuting Christine, would be a sensible step.<sup>1</sup> It would be helpful for the CCRC to address this human rights / policy issue, not least because the UK has international obligations to protect the rights of women and girls and should take such obligations seriously.

6. **In my view, Christine should never have pleaded guilty:** That Christine lied or did not mention (or more likely was not given the full opportunity to explain) about who was present when she was attacked by Lucky Gordon was, in my view, *not* material to the proceedings against Gordon, nor those against Ward. There was no dispute about what she said. The only issue was whether the statements made were 'material'. This is a question of law that could have been determined at trial but instead she pleaded guilty. The decision to plead guilty remains subject to legal professional privilege and, in event, her counsel Jeremy Hutchinson QC is sadly deceased but it is worth noting that he could not change the decision to prosecute nor ask at trial for any directions on 'myths and stereotypes' about women, particularly where the rights of women and girls not to be discriminated against were not well protected at the time. Nor could he have hoped to remove the inordinate pressure she was under.
7. Obviously, Christine was charged with more than one offence having repeated the denial that there were two further witnesses to the attack on her but the commentary by

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<sup>1</sup> See the CPS documents referred to in the petition and, for example, the Istanbul Convention and the UNODC Handbook: [https://www.unodc.org/documents/justice-and-prison-reform/Handbook\\_on\\_effective\\_prosecution\\_responses\\_to\\_violence\\_against\\_women\\_and\\_girls.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_effective_prosecution_responses_to_violence_against_women_and_girls.pdf)

Blackstones editors is instructive on questions of wilfulness, materiality and obstruction: They suggest that “it might seem at first sight that the requirement of wilfulness is otiose” since the offence of Perjury can be committed only by someone who does not believe the testimony to be true; but conduct is wilful only if it is intentional<sup>2</sup>, or if it involves being reckless as to whether or not the statement was true.<sup>3</sup> Here, Christine does not appear to have had any intention to commit perjury or obstruct the course of any proceedings in relation to the allegations in which she was a witness. It is at least arguable that she was not acting to interfere in any way with the administration of justice which is the broad purpose of the offences with which she was charged. Further Blackstones editors make it plain that ‘*material*’ means important or significant: something which matters: That is ‘false in a material particular’.<sup>4</sup> The editors go on to state the following:<sup>5</sup>

“clear examples of immaterial statements are hard to find amongst the reported cases. It was held in *Tate (1871) 12 Cox CC 7* that it was not perjury for D to swear at X’s trial for assault that he had seen X’s wife commit adultery, because that would have been irrelevant to the question whether X had indeed committed the assault; but this decision has been doubted (*Hewitt (1913) 9 Cr App R 192*) and it has since been held that evidence is material if it may affect the likely penalty in criminal proceedings, even if it is immaterial to the question of liability (*Wheeler [1917] 1 KB 283*). A rare, reported example of lies that were held to be immaterial is *Sweet-Escott (1971) 55 Cr App R 316*, where in committal proceedings D had denied having any previous convictions. He did have some; but these dated from over 20 years before, and it was held that they could not have made any difference to the outcome of the proceedings.”

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<sup>2</sup> *Senior* [1899] 1 QB 283.

<sup>3</sup> *R (Purvis) v DPP* [2020] EWHC 3573 (Admin), [2021 4 WLR 41]; *Millward* [1985] QB 519.

<sup>4</sup> *Mallett* [1978] 3 All ER 10.

<sup>5</sup> See B14.9 and B14.10

8. It is my opinion that Christine's is a prime example of where the statements are *not* material. Had she stated two other people were present, it would have made no difference to the outcome whatsoever.<sup>6</sup> It would not have induced the court to believe the substantial part of her evidence because it was irrelevant. This issue was who hit her and, in the end, that was not in issue at all.<sup>7</sup> There was a clear admission by Lucky Gordon and she needed medical attention. Any denial of others present could not induce the court to admit other material evidence.<sup>8</sup> The practical reality is that a proper investigation would have revealed that those same witnesses would have supported Christine's account - that she was violently attacked by Lucky Gordon – which Gordon had admitted during the case against him.
9. **In my view, Christine's guilty pleas are unsafe:** I have seen the fresh expert opinion of Dr Rebecca Helm. It supports the petition in every material respect, allowing a conclusion that, at the very least, Christine's plea was equivocal.<sup>9</sup> Dr Helm's research is a sound basis for this application to the CCRC to be an opportunity to recognize that Christine had clear defences to the charges and pleaded guilty under inordinate pressure due to the Profumo Scandal, her vulnerability and all the surrounding circumstances, as set out in the petition.

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<sup>6</sup> *R v Lavey* (1850) 3 Car & Kir 26 at 30; *R v Millward* [1985] QB 519, 80 Cr App Rep 280, CA (disapproving *R v Sweet-Escott* (1971) 55 Cr App Rep 316 on this point). As to material statements see also *R v Courtney* (1856) 7 Cox CC 111 (evidence at coroner's inquest as to deceased's conduct not relevant to cause of death); *R v Mullany* (1865) Le & Ca 593, CCR (defendant's denial that his Christian names were those given in a summons for debt). As to immaterial statements see *R v Townsend* (1866) 4 F & F 1089 (evidence of truth of alleged criminal libel; truth irrelevant to charge at common law); *R v Tate* (1871) 12 Cox CC 7 (charge of assault; evidence of adultery by defendant's wife). Denial of an agreement void under the Statute of Frauds (1677) has been held immaterial: see *R v Benesech* (1796) Peake Add Cas 93; *R v Dunston* (1824) Ry & M 109. Evidence so collateral as to be almost irrelevant is insufficient to found a charge of perjury: see *R v Holden* (1872) 12 Cox CC 166; *R v Atlas* (1844) 1 Cox CC 17; *R v Southwood* (1858) 1 F & F 356.

<sup>7</sup> *R v Tyson* (1867) LR 1 CCR 107.

<sup>8</sup> *R v Phillpotts* (1851) 21 LJMC 18, CCR; *R v Yates* (1841) Car & M 132

<sup>9</sup> See, for example: *Allwork* [1981] 3 All E.R. 434; *Plymouth JJ, ex p. Hart* [1986] Q.B. 950; *Tottenham JJ, ex p. Rubens* [1970] 1 W.L.R. 800; *P. Foster (Haulage) Ltd v Roberts* [1978] 2 All E.R. 751; *Warwick Crown Court, ex p. White* [1997] C.O.D. 418; *Malak* [2018] EWCA Crim 1693; *DPP v Warren* [1993] A.C. 319, HL; *Durham Q.S., ex p. Virgo* [1952] 2 Q.B.; *Blandford JJ, ex p. G (an infant)* [1967] 1 Q.B. 82; *Marylebone JJ, ex p. Westminster City Council* [1971] 1 W.L.R. 567; *R v Davids* [2019] EWCA Crim 553; *South Sefton JJ, ex p. Rabaca*, *The Times*, 20 February 1986.

10. The background to Christine's pleas of guilty include her being labelled a 'prostitute' and that Ward lived on her 'immoral' earnings. It should be noted that the modern approach to young women being supplied to privileged men is to investigate whether there are indicators for human trafficking which is defined as widely as 'abuse of vulnerability'.<sup>10</sup> It is not enough to say 'times have changed'. She was a victim of violence who made a statement under a level of coercion or compulsion directly from men involved and indirectly from her circumstances. This application gives the CCRC the opportunity to engage its legal opinion on how such a case should have been approached. It enables the miscarriage of justice that Christine suffered to be properly acknowledged and Dr Helm's opinion is powerful support for a conclusion that Christine should be exonerated or pardoned.

11. **In my view, the Court of Appeal should quash Christine's convictions:** The current state of the law, which has not been revisited for some time, appears to be that the truth or falsity of a statement need not be crucial to the outcome of the case in which the statement was made. It would suffice, for example, if a statement prevented the other side from pursuing a certain line of questioning which might have been material to an issue of credibility.<sup>11</sup> Here, there is no line of enquiry Lucky Gordon could make that would not have revealed his guilt and, the issue in Ward's case was whether he was living on her income as a sex worker, not how she was attacked by Gordon. An attack on her by another man would not necessarily have been helpful to Ward in his trial. He appears to have been convicted largely on a discriminatory view of Christine, not on what she said. Accepting that in some cases a statement going solely to credit, as opposed to the issue to be

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<sup>10</sup> See, for example, section 2 Modern Slavery Act 2015.

<sup>11</sup> *Baker* [1895] 1 QB 797; *R v Millward* [1985] QB 519

determined, may be material,<sup>12</sup> in my view, we are a long way from that here. What Christine said about the attack upon her was true, was admitted by Gordon and supported by his long history of violence towards women. How many people saw that attack was totally irrelevant. Accordingly, it is my opinion that the charges could not be proved to the requisite standard, and, as set out above, it is my view that she should never have pleaded guilty. Had she maintained her not guilty plea, the trial judge could have acceded to a ‘no case to answer’ submission or a properly directed unbiased jury would have acquitted her. Had she been convicted after a trial she could have appealed the application of ‘wilful’, ‘obstruction’, ‘intention’ and ‘materiality’ in the context of this attack upon her and the terrible pressure she was under – which is what the CCRC can do by a referral now.

12. It is not possible to hear direct evidence from Christine’s plea but there is ample circumstantial evidence set out in the petition, and if understood in context, that allows for a very strong inferential conclusion that her guilty pleas were equivocal. As is well known, circumstantial evidence can be as powerful, if not more so as direct evidence and is sufficiently powerful here to reach the conclusion that Christine pleaded guilty because of the way she was treated by the men around her and by the state processes, such that her convictions, by her plea, are unsafe.

13. In *P. Foster*,<sup>13</sup> it was said that the Court should ask itself three questions.

- a) Was the plea itself equivocal? I hope the CCRC will conclude – yes.
- b) If not, did anything occur during the proceedings which could have led to the exercise of the discretion to invite or permit a change of plea had an application been made? I hope the CCRC will conclude – yes.

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<sup>12</sup> *R v Griepe* (1697) 1 Ld Raym 256; *R v Overton* (1843) 4 QB 83; *R v Baker* [1895] 1 QB 797, CCR (defendant’s statement as to plea on previous charge); *R v Lavey* above (claimant’s denial of ever having been convicted).

<sup>13</sup> *P. Foster (Haulage) Ltd v Roberts* [1978] 2 All E.R. 751, DC

- c) If so, should the Court of Appeal quash the convictions as unsafe - I hope the CCRC will conclude – yes.

14. When miscarriages do happen, the state must ensure there are quick and effective mechanisms in place to correct them. Currently those obligations are not being met.’<sup>14</sup> The CCRC has an opportunity to make a difference to Christine’s family and to women more generally through acknowledging the injustices meted out on Christine and I hope they take it. Christine was a survivor but is owed a debt for the mistreatment she suffered. The reputation of John Profumo was somewhat restored before his death, and this is an opportunity to right a grave injustice upon Christine, who did not have his privileged connections. Acknowledging this miscarriage of justice could also inspire behavioural change towards prevention orientated criminal justice that is gender-responsive, trauma-informed and perpetrator focused. To quash her convictions, or pardon her, would also communicate a message of ‘zero tolerance’ of VAWG and demonstrate commitment to taking action when it occurs, in support of women as part of a high-quality justice response, committed to the elimination of VAWG and restoring the trust and confidence of the community who have long been misled about the truth of Christine’s life and experiences.

A handwritten signature in black ink, appearing to read 'Felicity Gerry', with a long, sweeping underline that extends to the right.

Dr Felicity Gerry QC

Libertas Chambers, London

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<sup>14</sup> APPG 2017/18 Report available at < <https://appgmiscarriagesofjustice.files.wordpress.com/2018/12/Annual-Report-201819-APPG-on-Miscarriages-of-Justice-1.pdf>>

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