

THE LONDON ADVOCATE

The newsletter of the London Criminal Courts Solicitors' Association

NUMBER 84

OCTOBER 2017

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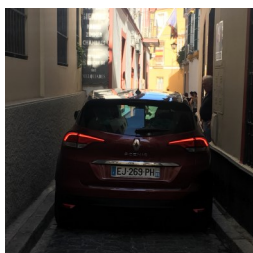
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LCCSA Notices and News



Committee Vacancies:

As the time for the LCCSA Annual General Meeting approaches, a number of committee members are also approaching the end of their three year terms. Pamela Reddy, Jenny Wiltshire, Samira Noor-Khan, Sandra Paul, Lucinda Nicholls and Greg Foxsmith will be stepping down and are thanked enormously for their invaluable contributions to committee business during their terms.

All members are welcome to be considered to fill the vacancies and any nominations for candidates can be made by any other member in writing to the secretary, MarkTroman@psplaw.co.uk

If the number of candidates nominated exceeds the number of vacancies a vote will be taken at the AGM on 13 November 2017. If you wish to be involved in the encouragement of high standards of advocacy and practice in Criminal Courts, participate in discussions on developments in the criminal process and to represent and further the interests of members on matters affecting us all, please do consider standing for election.

If you are nominating another member please note you must do so with their consent.

European Conference:

The 2017 conference was held in Seville from 6—8 October 2017, a full round up and a series of photographs can be found at pages 5—7.

AGM:

The Association's 2017 annual general meeting will be held on Monday, 13 November 2017 at The Crypt, Ely Place, EC1N 6RY at 6.30. All members are welcome to attend and do not need to book.

A ticketed dinner with drinks will follow. Details of how to book and ticket prices will follow by email.

Past Presidents' Dinner:

The Past Presidents' Dinner will take place on Monday 4 December 2017 at the Bleeding Heart restaurant in Farringdon. Ticket details to follow.

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Consultation Updates

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It has been a very busy time for consultations on various issues relevant to members. Thanks go to Sandra Paul and Matthew Hardcastle of Kingsley Napley for responding on the Association's Behalf to the CPS consultation on Secondary Liability following the Supreme Court Judgment in R v Jogee. A summary of the consultation responses will be published on the CPS website in due course.

Thank you also to Leigh Webber, and Mel Stooks of GT Stewart and Emma Lipscombe and Tony Meisels of Lewis Nedas who have responded to the recent Sentencing Council Consultations on Child Cruelty and Manslaughter.

The results of both are expected to be published by the Sentencing Council in the New Year.

Links to consultations and responses are here:

<https://www.lccsa.org.uk/lccsa-response-to-cps-consultation-on-legal-guidance-on-joint-enterprise/>

https://www.sentencingcouncil.org.uk/wp-content/uploads/Child-cruelty-consultation_FINAL_WEB.pdf

https://www.sentencingcouncil.org.uk/wp-content/uploads/Manslaughter_consultation_paper_Final-Web.pdf



Law
Commission
Reforming the law

Law Commission – Sentencing Code

The Law Commission is currently undertaking an exercise to

consolidate all existing law on sentencing procedure into one new Act of Parliament which will be the only reference point on sentencing in the future.

A consultation has been opened on the draft Bill and LCCSA Law Reform Officer Leigh Webber is looking for members to assist in the LCCSA response to this.

The deadline for our response is 26 January 2018 and he would like those willing to assist him to provide their input by 8 January 2018.

There is a consultation roadshow hosted by the Law Commission on 6 November 2017 which all are welcome to attend (<https://www.lawcom.gov.uk/events-have-your-say-on-our-sentencing-code-plans/>)

This is likely to involve about 4 hours work, provided that enough members volunteer. If you are interested in being involved in this project, please let Leigh know by email by Friday 13 October 2017 to l.webber@gtstewart.co.uk

He will then allocate interested members manageable chunks of the bill to scrutinise and comment on, taking account of any particular areas of expertise.

The Traveller Movement



Unfortunately the training event planned for 17 October 2017 on Gypsy, Traveller and Roma children in the Criminal Justice System has had to be cancelled due to staffing changes at the Traveller Movement. However we are pleased to bring you an interview with the CEO, Yvonne MacNamara (pictured here).

LCCSA: What is the Traveller Movement and when was it founded?

The Traveller Movement (TM) is a national community charity promoting inclusion and community engagement with Gypsy, Roma and Traveller (GRT) communities. First established in 1999 as the Irish Traveller Movement in Britain, our mission is to develop a platform and voice for GRT communities within the UK and across Europe.

LCCSA: Tell us about your involvement with the Traveller Movement

I have spent the best part of the last 25 years in the field of race equality and criminal justice, advocating for the rights of Black, Asian and minority ethnic groups. Through my work, particularly in my work in prisons, I saw the acute discrimination and inequalities faced by Gypsies and Travellers in Britain which is why I was one of the founding members of the Irish Traveller Movement in Britain, as it was then called. I became Chief Executive in 2008 and have led the organisation to a number of landmark successes including our discrimination case against JD Wetherspoon.

LCCSA: What are the main projects TM is working on at the moment?

Policing and criminal justice are key areas of focus for us because the evidence shows that Gypsy and Traveller individuals in particular experience worse treatment, both as service users (for example, when reporting a hate crime), and when in custody.

One recent success has been around ethnic monitoring within the police. The majority of forces still use the '16+1' ethnic monitoring system which does not include categories for Gypsies and Irish Travellers. As a result, their experiences of crime are not recorded and so cannot be tackled. This then fuels a perception that the criminal justice system works against them and not for them. TM has successfully campaigned for the inclusion of a 'Gypsy/Irish Traveller' category and this is expected to be rolled out across all forces by Autumn 2018.

LCCSA: As criminal defence practitioners we all encounter GTR clients but what is their actual representation in the Criminal Justice System compared to the general population?

Criminal defence practitioners may well be aware that, as much as Gypsies and Travellers are underrepresented as victims of crime, they are overrepresented in custody. Gypsies and Travellers comprise of 5% and 6% of the adult male and

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female prison estate respectively, while Gypsy and Traveller children comprise 12% of the population of Secure Training Centres and 7% in Young Offender Institutions. This is despite just 0.1% of the population of England and Wales identifying themselves as Gypsy or Irish Traveller in the 2011 Census. And don't forget that these figures will be a significant under-estimate, owing to inconsistent ethnic monitoring systems and reluctance of the communities to self-identify.

LCCSA: What are some of the reasons for this?

As would be expected for any ethnic group, the reasons for this are complex. From our experience, when Gypsies and Travellers are sentenced, they are more likely to receive a custodial sentence on the assumption that there are no suitable rehabilitation programmes for them (perhaps, for example, because they are assumed to be illiterate). But the evidence shows that these groups do not fare well in custody: they experience bullying and abuse, are less likely to participate in training and education, and are at greater risk of self-harm and suicide.

Furthermore our research into the youth justice estate reveals that Gypsy and Traveller children in custody have been consistently failed throughout their lives. For example, more than half of Gypsy and Traveller boys in Young Offenders' Institutions had left education before they turned 14, and just under half of those in Secure Training Centres had been in local authority care.

LCCSA: What can we do as criminal defence practitioners to address this and see that their particular welfare issues are addressed?

The new Youth Sentencing Guidelines which came into force on 1 June 2017, give lawyers for Gypsy and Traveller children the opportunity to highlight the disadvantages that they share with other BAME groups, and have them taken into account on sentencing. These include the fact that Gypsy and Traveller children are more likely to suffer mental and physical ill health and substance misuse issues. They are at greater risk of infant mortality, maternal mortality, and suicide. At school, they are more likely to face bullying or exclusion, and less likely to attain qualifications. They encounter discrimination throughout their lives and, more often than not, their experiences of authority are negative. We have produced a short briefing, which will assist practitioners to make the best possible case for their clients.

Those representing adult Gypsies and Travellers would also benefit from a better understanding of the inequalities they face, and may wish to refer to key facts in our briefing in mitigation.

LCCSA: What can we do if we want to learn more?

Criminal law practitioners will get the best outcomes for their clients by having a full understanding of issues their communities face; issues which are often overlooked and misunderstood. Our briefings provide a useful overview, but can only scratch the surface.

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What we learned in Seville...

A fantastic European Conference took place in the wonderful city of Seville between 6—8 October 2017. Massive thanks go to our sponsors Forensic Equity and Garden Court Chambers.

The Friday evening kicked off with dinner and drinks held at the beautiful old market place of Seville, La Lonja del Barranco, kindly sponsored by Forensic Equity and well-attended by members. The building was designed by Gustave Eiffel, of the Parisian Tower fame, and with it's glass walls and high ceilings was a wonderful setting for a very enjoyable dinner.

We enjoyed a number of local tapas including grilled squid, prawns from Huelva, local cheeses and vegetable tortilla. The highlight of the mains was the grilled Iberian pork and the most surprising course appeared to be egg and chips but we were assured was a Sevillian classic, Huevos Rotos. Cheesecake and coffee finished off the meal and we all rolled home ready for lectures to begin in the morning.



JOHN MCNAMARA FROM 5 ST ANDREW'S HILL WITH PETER CSEMICKZY & JENNY WILTSHIRE, HICKMAN ROSE



TERRY MUNYARD, BERNARD TETLOW QC, RAJIV MENON QC & JO CECIL, GARDEN COURT CHAMBERS



DINNER AT EL LONJA DEL BARRANCO

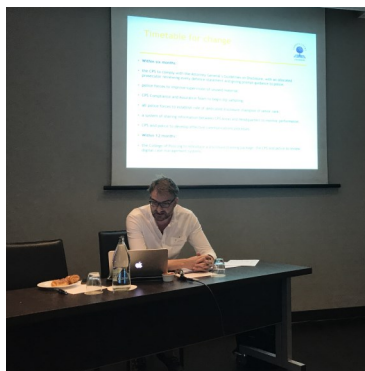
Saturday morning's lecture programme was hosted by Garden Court Chambers

Alex Rose began with a talk on disclosure, reminding us to place more reliance on CPR 8.4 and paragraph 146 of the Magistrates' Court Disclosure Review. CPR 8.4 bites when the Crown provides evidence on the morning of trial which they seek to rely on and states that Court must not allow the CPS to do so unless the defence is given sufficient time to consider it even if that requires the Crown to apply for an adjournment. Paragraph 146 is concerned when, on the day of trial, the Crown has failed to comply with its disclosure obligations. If an adjournment is required, it must be the Crown's application as non-compliance is a breach of their code of conduct. If we apply this, the hope is that adjournments may be refused with the Crown forced to Offer No Evidence.

LCCSA PRESIDENT GREG POWELL WITH THE GARDEN COURT LECTURE TEAM



TRAINING OFFICER, DIANA PAYNE



ALEX ROSE TALKING ON DISCLOSURE



SAM PARHAM TALKING ON MODERN SLAVERY



JO CECIL TALKING ON APPEALS

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Next, we heard from Di Middleton QC who presented a most helpful talk on billing Crown Court work, giving advice on how to make sure you actually get paid for most if not all of the work you have done and tips on how to tackle cases where the page count exceeds 10,000 pages and you have a fight on your hands that resembles more the 1247 Siege of Seville (thank you Alcazar guidebook) than an effort to get properly remunerated for your time and efforts on a case.

Jo Cecil then addressed us on all the recent updates on Appeals. It seems that it is getting harder and harder to get leave to appeal and that the message coming out loud and clear from the Court of Appeal is that 'the bar needs to learn' [not to pursue appeals]. Very little, if anything, it would seem has changed post Jogee

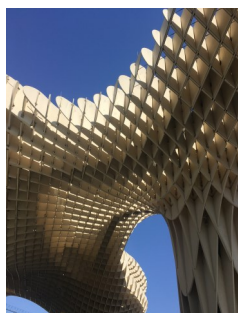
Finally we heard from Sam Parham on Modern Slavery. He gave us the shocking statistic that forced labour is the second largest industry in the world today. Taking us through the provisions of s45 of the Modern Slavery Act, an interesting point was mooted about the applicability to situations where our youth clients may be forced to act as runners for those above them in the gang.



SEVILLE CATHEDRAL AND BELL TOWER



CHRISTOPHER COLUMBUS' TOMB

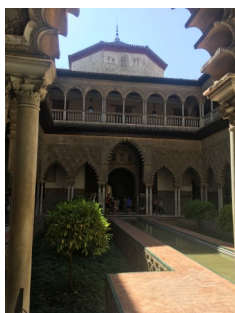


METROPOL PARASOL

Saturday afternoon was free time to explore the Alcazar, the Cathedral, Christopher Columbus' tomb, Plaza de Espana, the Metropol Parasol and the numerous cava & tapas bars which line the streets of Seville. Everyone did their own thing before reconvening for a poolside drinks party sponsored by Garden Court Chambers. After a late dinner we then happened upon the spectacle which was the Feria de la Virgen del Rosario. It was a late night for most as the lure of the balmy night-time temperatures was too much to resist.



EL RINCONILLO TAPAS BAR



THE BEAUTIFUL WATER GARDENS OF THE ALCAZAR

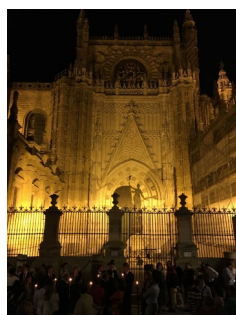


FERIA PROCESSION

BELL TOWER BY NIGHT

SAM PARHAM, JUDY KHAN QC, GARDEN COURT ENJOYING A DRINK
WITH PETER CZEMISZKY, HICKMAN ROSE & DAVID HARDCASTLE, BCL BURTON COPELAND

CATHEDRAL BY NIGHT



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Sunday saw the return of Professor David Ormerod who delivered a highly interesting morning of updates on Criminal Law and recent developments in Hearsay and Bad Character. It was a whirlwind tour, touching on R v Jogee and R v Ruddock, the removal of the separate category of joint enterprise liability and what happens when an overwhelming, supervening event takes place that nobody foresaw. An update on DNA informed us that R v Tsekiri has made it clear that DNA on a moveable object will be sufficient to provide a case to answer, overruling R v Byron. Professor Ormerod also discussed the exclusion of defence hearsay; the admissibility of expert evidence in criminal trials; the new, little known, Northern Irish Supreme Court case of Mitchell pertaining to Bad Character and historic sex cases and finally informed us about his ongoing project as Law Commissioner on the proposed new Sentencing Code.



PROF. DAVID ORMEROD ON CRIMINAL LAW UPDATES



GREG POWELL & DAVID ORMEROD



COOLING OFF!



HOPE HE GOT THE EXCESS INSURANCE!



GREG & SONIA FOXSMITH

The learning did not stop there however as on an afternoon stroll around the narrow cobbled streets of the Jewish quarter I encountered an unsuspecting tourist learning the true importance of knowing the width of your hire car.

Finally we enjoyed some well deserved time by the swimming pool in the 34c sunshine before making our way to the airport for a final glass of cava and the flight home.

Thank you once again to our kind sponsors, Forensic Equity and Garden Court Chambers. It was a truly superb weekend enjoyed by all who made the trip over to sunny, sunny Seville and I'd encourage all members who didn't make it this year to consider it for 2018!



SIMON FRANC OF FORENSIC EQUITY
WITH GREG POWELL



GARDEN COURT'S DI MIDDLETON QC,
JO CECIL, SAM PARHAM & ALEX ROSE

Forensic Equity
Safe in the knowledge

