

Mary Druhan 'A Down-and-Out Injustice'

Mary Druhan arrived in a couple of large cardboard boxes. Most cases do. Habitually we refer to the casefiles simply by name - 'where's the rest of Druhan? I've lost half of her?' - which can be a little unsettling for those unfamiliar with the protocol. The state in which the boxes arrived - battered, crumpled, and held together with heavy-duty tape on its last adhesive gasp - was an apt reflection of the ragged life that Mary led, before British justice sent her to prison for two murders we believe she did not commit.

Justice - with a capital J - had sent us the case of Mary Druhan. The law reform group is the pre-eminent organization dealing with miscarriages of justice. Justice's reputation, its grandiloquent title - officially the British Section of the International Commission of Jurists - and its erstwhile Chancery Lane address belie the fact that the charity can barely keep its own head above water, let alone provide a lifeline to the hundreds of prisoners who write in every year pleading for help. Justice - in those days at least - was located up three flights of stairs in the Dickensian clutter of two-and-a-half rooms leased on a peppercorn rent from the National Westminster Bank. The photocopier was a museum piece, and when it seized up it had to be galvanized into action by a manoeuvre specifically warned against in the manufacturer's handbook. Shelves buckled and tottered under the weight of files. The small but dedicated staff, many of them volunteers or law students, picked their way through the formidable paperwork of a thousand manila-clad claims of injustice.

Trial and Error has a special arrangement with Justice, who send us cases which they think can benefit from the on-the-ground research and forensic investment in which we specialize. They are just one of the sources of our cases. Many, written on that familiar regulation-issue blue-ruled paper, come from prisoners, or from prisoners' families;

others from concerned probation officers, even from prison officers, as well as from solicitors and barristers. Nearly all of them start with the sentiment 'in all my professional career there's only been one case which really worries me ...'

As a Justice case, we knew that Druhan was bound to have some merit. Justice has a no-nonsense nose for plausible miscreants with too much time on their hands, and trying to trade on the woolly goodwill of penal liberals. They, like we, are sceptical about the professional criminal's frequent outrage at being rightly convicted, but for the wrong reasons. It was a case, from the outset, that we were bound to take seriously. There is always a thrill of anticipation as you open the first file of a new case. Could this be the one - the one in fifty - that will make it to the air and, more importantly, back to the Appeal Court? In fact, although it turned out to be a fascinating case that helped put us on the map after we'd left the BBC's *Rough Justice*, there were many times we would wish we'd never touched it.

It wasn't just that the case stank. So, regrettably, did most of those involved. And, by the end of each day, most of us couldn't wait for a hot bath with half a capful of Dettol in it. It was a case which took us to the desperate edge of the life of the dispossessed, and into the territory of the manic and deranged. Most people will have had the experience of seeing a ragged, lurching drunk heading their way on a pavement; usually, we try to give that sort of person as wide a berth as possible.

To crack the Druhan case, we lived with them for months.

For Nina Davies, the researcher who undertook most of the investigative work, a particularly low point was when she had to change the knickers of an incontinent, and totally incapable, female alcoholic, while her two drunken male colleagues screamed abuse. I will always associate the case with the scent of menace and strong cider, being

threatened with an imminent head-butt by people who were weaving on the borderline between aggression and maudlin acquiescence.

Mary Druhan herself lived on that borderline. She was fifty-three, a drifter staggering from council bed-and-breakfast accommodation, to hostels, to squats. Her unlikely territory was the prim purlieu of Surbiton - self-styled 'jewel of the suburbs' - and the Royal borough of Kingston on Thames. The area supports about thirty such vagrants. There is an ecology of deprivation, we were to discover, which sets fairly definite limits on the numbers who can survive in any particular location. Mary was a familiar face in this little clan of the dispossessed, who huddled together for companionship and a share of each other's weekly giro cheque. At least once a day a core of them would gather in Claremont Gardens, Surbiton: 'StarryEyes' Bob Smith, Joe 'Dancer' Neary (so called because of his lethal habit, when drunk, of waltzing with cars in the four-lane Kingston one-way system), 'Winkle' (who never told us his name in case his mother found out about him; he used to be a getaway driver for a criminal gang) and 'Rubberlegs' Kenny Roberts.

Rubberlegs Roberts was Mary's lover. They were a turbulent couple, bickering at each other with the desperate devotion of the mutually dependent. One June night in 1988 Mary Druhan burnt her lover to death, in a fire which consumed his squat and also took the life of another vagrant, Dick Duddy. There was no chance that it was an accident; the fire had been set in three places - and therefore deliberately, maliciously, murderously. That, at least, was what Reading Crown Court accepted as the truth, and was the basis on which the jury convicted her. There is only one sentence for murder, and that is life.

What life actually means is usually governed by a semi-secret little convention, by which the trial judge writes a recommendation which is later discussed between the Home Office and a senior judge. What also makes a difference - at least to any hopes of early release on licence - is whether or not prisoners admit the crime, and so display due penitence as well as satisfying dour prison therapists that they have confronted their own guilt. When you are not guilty, this poses something of a dilemma. Should you go through the motions of remorse, in order to shorten the injustice, or continue to protest your innocence - at the cost of prolonging a sentence which you should not be serving? Sir Ludovic Kennedy, my friend and mentor, always maintains that prisoners who persist in proclaiming their innocence should be taken seriously for that very reason. I always used to think

his view the one soft spot in his philosophy - after all, aren't prisons full of 'innocent' people? In fact, he's right: most people stop protesting their innocence after a couple of years or so. They have either realized their campaigns are getting them nowhere, and have decided to buckle down to their sentence, or they have calculated that protest is only going to induce the Home Office to prolong their imprisonment.

In late September 1992, in her first assignment as a researcher for *Trial and Error*, Nina Davies began the task of reconstructing the events of that fatal night from the Druhan paperwork. The best way to get an overall view of a case is to read the judge's summing-up; whatever their faults, the British judiciary are good at pulling together the strands of a story into a workmanlike précis of events, providing a reasonable narrative of how the case unfolded in court. It's as good a way as any of judging how strong the evidence was on either side, and how reliable the witnesses. The next step is to look at a much shorter document - the grounds for appeal which the prisoner's barrister has cobbled together, which could involve new evidence that has come to light since the original trial. More often, the grounds of appeal are tedious details of legal technicality. These are not so interesting to us; for better or for worse, we are not interested simply in people who have been wrongly convicted; they have to satisfy a stricter criterion - that they are innocent of the crimes for which they have been convicted. To lawyers, this is a less important distinction than it is to laymen - that's why we are not lawyers. It does help, when you are cold, wet, tired, hungry, and waiting for a contact who never turns up, to believe that you are doing this on behalf of an innocent person.

Within a few days, Nina had pieced together the bare bones of the Mary Druhan case, and it looked fairly unpromising. That is, of course, the usual state of affairs at this stage; what you have read is the official record of how a person was convicted by due process of law, and the account is the same as that which persuaded the jury that the accused - in this case Mary Druhan - was guilty beyond reasonable doubt of the charge of murder. Evidence of a startling miscarriage of justice is hardly likely to leap out from such a source.

The evidence was that Mary and her lover, 'Rubberlegs' Kenny Roberts, met up one evening with 'StarryEyes' Bob Smith. Bob, for once, was in the money, having recently come out of prison and collected the back benefit owed to him by the DHSS - some ninety-pounds-worth. (The judge remarked acidly to the jury: 'Ladies and

gentlemen, that, it seems, is what we pay our taxes for.') Well-stoked with cans of export-strength lager, the trio repaired to the Kingston Mill pub by the riverside. It is a pleasant enough place, particularly favoured, these days, by students from the nearby university. Before long, however, a drunken argument began. Mary Druhan accused her lover, Kenny, of carrying on with another woman, called Patsy. Voices were raised in a jealous fury fired by alcohol. According to another man in the pub, Keith Fludgate, Druhan threw beer, and slammed her can on the table, saying she would kill Kenny.

This was all too much for StarryEyes, who had hoped that the evening would turn out to be a celebration of his freedom and his financial windfall. He left the couple arguing. He has no idea about what he did for the next few hours, but later that evening he went round to Number 15 Canbury Park Road, a residential street close to Kingston station, where Joe 'Dancer' Neary and 'Rubberlegs' Roberts dossed, along with a shifting population of other down-and-outs. Mary stumped off to the station, in a huff; there, she was seen by the British Rail ticket collector, who knew her well - Mary would often spend the night in the waiting-room on the platform, until disturbed by the arrival of the dawn commuters.

According to the admittedly drunken Bob Smith, when he returned to Number 15 he found Mary had come back from the station and turned up at 15 Canbury Park Road to continue her furious row with Kenny. Kenny was rolling on the floor while Mary hailed a welter of kicks on him. StarryEyes separated the couple, trying to pacify Mary while Kenny went off to seek refuge with Joe Neary - 'Dancer' was trying to get some sleep throughout the racket. Mary then left, according to StarryEyes.

The next thing Joe Neary says he remembers is hearing the downstairs door open, and the clatter of a pile of paint cans in the hall as someone blundered into them in the dark. There was electricity at Number 15, but all the bulbs had burnt out and no one had bothered to replace them. A few minutes later, he was aware of thick, acrid smoke curling into the first-floor room where he was trying to sleep. The house was on fire.

Joe tried to wake up Kenny, but, true to his Rubberlegs nickname, Kenny was too far gone with drink. He rushed upstairs to the second floor, where another vagrant, Dick Duddy, was asleep, but Dick, too, was in a stupor from which he could not be shaken awake. Joe then

came down to the first floor landing, smashed his way out of the window, and went down a ladder conveniently parked against the back of the house. Rather strangely, he then went off to sleep in the municipal gardens, as if the conflagration and death of his friends were no more than an irritating and inconvenient interruption of his nocturnal routine.

Bob Smith, meanwhile, had left Number 15 to continue his night on the razzle, until he was alerted by the sound of the fire engines. Staggering back to the house, he seems to have made enough of a nuisance of himself to get arrested; certainly he was initially suspected of involvement in the fire. Having taken in the situation, he had gone to another pub, by no means the closest pub, supposedly to raise the alarm. He shouted, in slurred and ambiguous terms, that it was all his fault, he was responsible for the deaths of those inside the house. Perhaps he felt guilty for having funded the fatal pub crawl. He also blamed an unspecified group of glue-sniffers for having set the house ablaze.

Mary Druhan, too, was among the crowd which gathered to watch as the fire ripped through Number 15. At or around midnight, two bodies were brought out. The scene-of-crime photographs - always the part of our investigation which calls for a stiff drink - showed that Druhan's lover Kenny had been charred almost beyond recognition, while Dick Duddy, the man upstairs, had died of asphyxia, choking on the smoke.

Surrey Police immediately registered the tragedy at 15 Canbury Park Road as a probable crime. Their suspicions had been alerted when they detected the remaining taint of inflammable liquids - white spirit, most likely - in the hall, the presumed seat of the fire.

It was, for Mary Druhan, a fatal assumption.

It is a lot easier to be wise with hindsight, of course. But the police might not have been so convinced that the fire was deliberately started if they had known of two important facts. First, the house had belonged to a painter and decorator called Joe Grummit, who had used it to store, in fairly chaotic fashion, his stocks of paint, turps, wood dye ... and white spirit. When Grummit left the house, which was bought by the council and was due for demolition a matter of days after the fire, he abandoned his equipment. He was off to Ilfracombe for his retirement, and he never wanted to see another can of 'thinners' again in his life.

There was a second reason why the traces of inflammable liquids

may not have been quite as suspicious as the police originally assumed. Ignorant of the character of the lodgers at Number 15, they cannot have known that, for the likes of Rubberlegs, white spirit was just part of the normal recreational intake of alcohol. Joe Neary, we were to learn, had been known to turn in desperation to paint stripper - with terrible effects on the lining of his stomach. In equally dire, but more ladylike straits, Mary would choke down some shop-lifted eau-de-Cologne. Grummit's abandoned materials were, in part at least, the group's cocktail cabinet.

Once the police have formed a suspicion, they find it hard to let go of it - a healthy enough attitude, generally speaking, in the police, but also a path along which many dangers lie. Time after time, our experience tells us and bears us out, a miscarriage of justice has its roots in the tenacity with which the police seize upon an initial suspicion - and will not let it go. It happens, usually, when they have a suspect who they are certain, in their own minds, is guilty; from that point on, the investigation ceases to be a neutral enquiry, but is dedicated to collecting proof of the individual's guilt. Evidence which points to innocence is, often in all good faith, discarded as irrelevant. A tunnel vision, a blinkered focus on the fixed idea of a particular conviction, sets in.

I have known a case where the police, presumably anxious to shore up a suspicion, ordered the destruction of a bloodied palm-print found at the scene of a murder, because it didn't match the prints of the suspect. That palm-print could have exonerated the two men who served fourteen years between them for a murder some policemen at least must have suspected they did not commit. Evidence that doesn't 'help' the case is disregarded, and the police may compensate for the absence of more useful, corroborative evidence by planting or inventing it. A confession is blurted out in the back of a police car. An earring, supposedly belonging to the murder victim, inexplicably appears in circumstances linking it with the suspect. This is not simply wickedness by the police; it is a combination, in our experience, of an urgent pressure from public opinion to get results, a very human desire to get facts to fit a prejudice, and a decline in investigative skills - the use of informers and the extraction of confessions have tended to eclipse a tradition of patient and intelligent detection. Meanwhile, the real culprit goes free, because of the refusal of the police to countenance any alternative to the guilt of the men upon whom they had wrongly

fastened their unbudgeable suspicions. It's an argument for taking the investigation of crime away from the police, and putting it in the hands of a Scottish-type Procurator-fiscal or a continental magistrate, *a juge d'instruction* - though not an argument I totally subscribe to.

The assumption, then, was that the fire at Number 15 was suspicious. It didn't take the police long to hear - from Joe Neary and Bob Smith - of the previous night's furious row involving Mary Druhan. Druhan was taken in for questioning and accused of the murder. She constantly resisted pressure to admit to her guilt; the tapes of her interview contain the following exchange:

Police: Now Mary ... it's you who is lying, you who are deceiving yourself.

Druhan: Why should I be blamed in the wrong, I've been blamed in the wrong in the past and I'm not going to be blamed in the wrong this time ... I don't want to partake in this interview, I've explained what happened to the best of my ability and I'm making no lies up. I'm terribly distressed at what's happened - no, not distressed, I'm going round the twist in my head.

In spite of her passionate denials, Mary Druhan was charged with murder, tried, and convicted.

Mary and her companions led chaotic lives, and this made our re-investigation of the case one of the hardest we had ever undertaken. The commonest problem in journalism is that people - usually for entirely sensible reasons - do not want to speak to you, but at least you know when and where to get to see them. The vagrant community has plenty of excellent reasons for not getting involved with anything remotely involving authority, and firm ways of making this attitude clear; the team's favourite warning-off - preferred because of its vivid originality - came from the man who warned us that if we came a step closer, 'I'll pull your head off and shit down your neck.' Vagrants are also, by definition, mainly of no fixed abode. Most of the people we needed to speak with had no idea where they would be at any particular time; indeed, it would not be an exaggeration to say that, through the fumes of cider and meths, many of the people we met did not know where they were at the time we met them.

An investigation proceeds on two levels, and in two stages. First, there is the reading of all the case papers - everything from the statements of witnesses collected by the police to the judge's final summing up. A preliminary glance at the statements showed us the sort

of territory we were about to explore:

Statement of Ronald Besant, unemployed

... Me, Jim the Pole and another Irish chap, I don't know his name ... Mary was attacking Ken with a bottle over a girl. I got hold of Ken and told Mary to fuck off. Mary then left. Mary did not hit Ken with the bottle. I gave Mary a pound to fuck off.

And this - incoherent and self-contradictory within four lines - is a statement *after* it has been tidied up and processed through the police typewriters. It was to prove an accurate forecast of the chaotic social territory we were to explore, once we entered the second phase, and hit the streets.

One of Nina's early field notes (we keep daily records as scrupulously as we can, often recording them on tape as we go) gives a flavour of the problems:

ND Kingston; 23 October; 11.15

At last (fifth visit) I've found Bob Smith - survivor of fire and principal prosec. witness. Passing All Saints when I saw the police bundling a drunk into a van. A skinny man with a Rasta hat was remonstrating and I asked him if he was Smith. Loud and very incoherent conversation, as he refused to remove his Walkman. Two of us screaming at each other in middle of street. Says he can tell me 'the whole story.' Very pissedly maudlin about Mary - 'like a mother to me ... we used to go heisting [shoplifting] together.' Says 'the Irish boys' want Mary kept in for life, as revenge for death of Dick and Kenny, but he thinks she's innocent (odd, coming from principal prosec. witness!) Engaging bullshitter. Slightly worrying that when he returned after buying a packet of fags he had completely forgotten we'd met, and repeated conversation more or less verbatim. Arrange to meet at his place - make contact with landlord, Revd. Ted Belcher. (??)

I won't forget the Reverend Ted Belcher in a hurry, either. Ted has no formal theological background - the title is self-awarded. He is a former children's entertainer and Punch and Judy man, but it must be years since any parent knowingly invited him to their offspring's birthday party. Not that the Revd Ted is anything but a perfect gentleman - it's just that he doesn't seem to have changed his clothes for about ten years. He gave me the impression that as his clothes grew ragged and wore out, he would simply put on another layer. At skin level,

presumably, there was merely a residual pattern of threads, which, in turn, would turn to dust and yield to the layer above it. There is some evidence for this surmise, because the Revd Ted is not scrupulous about securing his trouser buttons. His underpants (or at least that layer of his undergarments closest to the surface) resemble an antique, yellowing parchment map, the continents defined in heavier stains. But he is, in other respects, a kindly soul, a father to Bob Smith who he tries, in vain, to turn away from the satanic temptations of the bottle.

No nightmare could do justice to the state of his dwelling. From floor to ceiling, the place is stacked with - well, with everything. The contents of a thousand skips, the unsold remnants of a million jumble sales, are crammed into the two-up, two-down. You fight your way past rusty bicycles, an infinite number of empty egg-boxes, and, eerily, a mountain of dolls and soiled soft toys, confounded with the disembodied pink plastic limbs of shop-window mannequins, like a Grand Guignol charnel house. The Reverend hacks his way, as if tackling the jungle with a machete, to the stove, where solidified fat stands encrusted an inch thick. He invites me to share a fry-up. For a fleeting moment, I share the sensation of those members of the royal family who, in the attempt to maintain the bonds of the commonwealth, have to drink a brew of herbs masticated and regurgitated by hospitable and respectful tribes. The Revd Ted's poodle methodically and fixedly sought sexual relief on Nina's leg.

Joe Neary, like StarryEyes Bob, the other survivor of the fire and witness against Mary Druhan, lived by himself in a council flat - though he was in permanent danger of eviction for failing to pay his rent. He lived in just one of the three rooms, spending his days sitting on his bed, glazedly watching his black-and-white television with the sound off. The manic smiles of daytime television hosts, the demented scamper of cartoon animals, provided Joe's mute stimulation in the days until the giro came round when the money for drink had run out.

On my first meeting, there was another person in the room; Helen, the ruin of a gentlewoman from Tunbridge Wells - things had gone wrong after her husband walked out on her - lay recovering from a black eye, deep in the anaesthetic balm of drink.

I don't think I ever met Bob Smith sober - and I met him at least ten times - and a conversation with Joe Neary was like a dialogue conducted through double-glazing. What was already becoming clear was the utter unreliability of the two of them, the principal witnesses

against Mary Druhan. They would have sounded plausible enough at Mary's trial, of course - the police took the commendable precaution of keeping them as sober as possible, to the extent, we found, of locking Bob Smith up over the luncheon adjournment at Reading Crown Court. That's another, familiar exasperation in the work - the clinical tidiness of evidence as it is produced in court, wearing its Sunday best, when the truth is so much more ragged and bedraggled.

But merely exploring the credibility of the witnesses was not going to be enough. It might help to convince our audience - what we refer to, in shorthand, as the People's Court. But we have, if we are lucky, a second, and more highly critical audience to satisfy - the Court of Appeal. We decided to concentrate on two further aspects of the case - the nature of the fire, and the evidence of motive - that furious, and fatal row in the Kingston Mill pub.

It had always puzzled us, this notion of Mary, drunk, purblind and arthritic, skittling round the house in the dark and stoking up three separate fires. The scenario suited the prosecution of course, in our adversarial system, for it showed that Mary was a calculating, deliberate arsonist; the more seats of fire, the greater the demonstrable malice. Yet our instinctive feeling was that no one, in the chaotic world of these derelict people, could ever manage anything quite so *organized*. Again, it came back to that gap of perception between the courtroom, with its striving for order, simplicity, tidiness, and the random world of the vagrants. Chronic alcoholics can burn down a house in a fit of fury; what they can't do is plan to burn down a house in a set of deliberate actions. The problem is that while most barristers or judges have been a bit tiddly after a Bar dinner, few live their lives in the turbulent and frenzied world of people like StarryEyes, Dancer, or Mary Druhan. Their discipline is to bring order out of chaos; they cannot comprehend that some chaos is ungovernable, unmarshallable, undistillable. For some, chaos is the natural state of living.

Steve Haywood, the producer of the Druhan programme, concentrated on the forensic evidence while Nina spent time on the ground. He consulted experts on the flow of fires, which was an education in itself. Most - ourselves included - have a hazy view that fire spreads rather like an encroaching stain. We were soon to discover the phenomenon of the flashover, where the ambient gases of the atmosphere heat up to the point where a spontaneous explosion of fire occurs. We also discovered the importance of venting - how a fire

seeks out a flue, rushing towards it as a stream desperately seeks its own level, how a stairwell can become a blowtorch - the King's Cross Underground fire being the terrible, classic example. Our learning, and, it has to be said, the barbecued images of the scene of crime photographs, led to more than one of us belatedly installing domestic smoke detectors.

We had two good breaks on the fire evidence. One was the result of picking through the statements. Joe Neary, we discovered, admitted to lighting a fire in the first floor kitchen, to make a cup of tea. This was significant for two reasons. First, the place was strewn with litter and rubbish, and any stray spark could have accounted for at least one of the three seats of fire which Mary Druhan supposedly set. Second, the presence of a fire in the kitchen showed that there must have been a chimney, a flue - which would have sucked the fire up the stairs - again, an assault on the theory that Druhan lit three deliberate, malicious, murderous fires.

The second break came from a conversation Nina and I had with StarryEyes Bob Smith - the third of eight separate interviews spread over three months. We had tracked Smith down to Joe's flat (he was always nervous about our seeing Joe alone, for some reason). Joe was in a desperate state, his face one huge scab, having slipped on some ice while drunk and fallen head first onto the concrete outside his flat. It was, by chance, one of Bob's sober days, since he was between giros. We had begun talking about how Bob separated the drunken Druhan from her lover, during the supposed brawl back at Number 15. The field notes of 30 November take up the story:

DJ and ND; p.m. visit to Joe Neary

Bob told us that Mary had lost her bag, had left it downstairs in the hall. Bob went down to look for it. David said: 'but it was quite dark, how did you find your way?' Bob took out a lighter and flicked it. Then he said he hadn't used a lighter - *he'd lit matches to look for the bag.*

As we sat in the car, writing up our notes, the staggering import of that statement hit us; for the first time, the principal prosecution witness, himself an initial suspect, and someone who blamed himself for the fire, was describing how the drunken duo, staggering through a house strewn with litter and combustible materials, picked their way through the darkness by lighting - and presumably discarding - lighted matches.

Had that been heard at the trial, the case against Mary Druhan might very probably have collapsed there and then.

Our euphoria was short-lived; what, after all, had we heard but another of Bob Smith's versions of the truth. Bob isn't a liar; we believe that the eight separate versions he gave us of what happened that night were the truth as he saw it at the time. The fact is that Bob was always an unreliable witness; but the jury heard him, and presumably believed the version which he, that day, produced. There was a disarming, and revealing moment, in our last filmed interview with him, when I asked him about these different versions, 'Look, David,' he said, with the exaggerated emphasis of the drunk, 'I'm alcoholic. I can't remember that night, so I don't know, do I? In other words, I can't tell you the actual truth. OK? Because I can't remember. Got me?'

And yet on Bob Smith's evidence Mary Druhan was convicted of murder.

We discovered that the defence had commissioned a report from Burgoynes, the leading fire investigation specialists. They confirmed our hunch; that the fire could have started innocently, from a discarded cigarette. This rang true; I remember one encounter with Bob Smith when a whole ashtray full of cigarette ends clattered to the carpeted floor. No one took the slightest notice. Any glowing tip could have caught on the detritus in the squat, and then roared upstairs, fuelled by the cans of paint and bottles of white spirit stored by the feckless Mr Grummit, the squat's former landlord.

But if the defence already had this report, why didn't they bring it out at the trial? The answer lies in the very nature of our legal system, which is not so much a search for the truth as a competition between two opposing sides. Although their own report suggested a more innocent cause of the fire, it suited them to adopt the prosecution's story of a demonic Druhan leaping all over the house, starting a succession of fires - *because they didn't think the jury would believe it*. The more ambitious the feats ascribed to Mary Druhan, the defence calculated, the greater the chance that the crippled, half-blind Druhan would be acquitted. As it turned out, that strategy failed.

The British judicial system is not only a competition, but a game played under strict, starched rules; and one of those rules is that if your strategy fails - in this case the suppression of the likely cause of the fire - then you are not allowed a second chance. This meant that, in Druhan's case, the opportunity to suggest the innocent origin of the fire

that the defence itself had procured from Burgoynes was lost. We as journalists are not part of the legal process; all we do is try to resuscitate cases when every avenue has been exhausted, by bringing time, money, and a fresh eye to bear; but we know that if we are to get a conviction quashed, we have to operate within the legal mechanisms, and that means playing by the institutional rules. We weren't going to get Mary Druhan free by revealing the truth about the fire. That opportunity had been lost at the original trial.

Where next, then? We went back to the supposed origin of the night's wretched events, the quarrel in the Kingston Mill pub. There is little doubt that Mary, her lover Kenny, and StarryEyes were feeling no pain by the time they turned up at the pub. StarryEyes' own admission to me (made, I remember, as he swung from a lamppost) was that he'd already put away ten pints. Indeed, research revealed that they had been refused admission by the nearby Ram public house before being accommodated by the more hospitable and tolerant Kingston Mill.

It always struck as odd that StarryEyes had never mentioned this supposedly furious row. Where, indeed, had the evidence for it come from? It was, after all, a crucial part of the prosecution's case, establishing a motive for the murder.

The origin of the story lay, as usual, in the mounds of paperwork. A man called Keith Fludgate said he had witnessed the row. He was in the pub at the time. He'd gone there in the company of a man called Mark Haggas, whom he went out of his way to describe as 'sober and respectable'. This was odd, because when we looked up Mark Haggas' statement to the police, to see if it matched his companion's, Haggas said that he had not been in a state to remember a thing about the night in question, but was almost certainly somewhere else, baby-sitting with Patsy Roberts - the supposed 'other woman' in Kenny Roberts' life. We were obviously keen to find Mr Haggas - a word from any sober and respectable witness would be welcome in this nightmare of a case. He proved elusive, but for a perfectly acceptable reason; he was dead. The only clue he could leave us was written on the death certificate we obtained from St Catherine's House; Haggas had died of a drug overdose. Which left us with Fludgate - the man who witnessed Druhan haranguing the wretched Roberts, throwing beer around, slamming her can of drink in his face, and shouting 'I'll kill you, I'll kill you.'

It took us an age to find Mr Fludgate, not least because we spent a

lot of time slogging up to the fifth floor of a dingy block of flats to knock, vainly, on the door of a flat which he had vacated some months earlier. When we traced him - he was living with his mother - he admitted that he had been going through a very hard time, weaning himself off the tranquilliser Ativan. He had been depressed and confused, he told us. He'd also spent some time in jail, possibly, we gathered, as an indirect result of his Ativan dependency. In the frustrating months spent looking for him, we had built up a mental picture of Mr Fludgate, and it was not a flattering one. We were mistaken. He turned out to be a charming and open man, who provided the whole troupe of us, including a four-man camera team, with an overwhelming array of sandwiches and cakes. He spoke openly, awkwardly, candidly. He was quite certain he had been in the pub.

And we, in spite of Mr Fludgate's openness and hospitality, were sure that he had not.

There is no doubt that Keith Fludgate painted a bolder picture of the row than he intended. He admitted that he couldn't really be sure about what had been said, or done. Perhaps he hadn't actually witnessed Mary hitting her lover in the eye. Some of the words in the statement the police had taken were not his, or had gone rather further than he had intended. On camera, he became confused and occasionally incoherent. Anyone can. A television interview - although rarely adversarial - can be a stressful experience, and failure to survive it doesn't make a witness more fallible. But Fludgate's ambivalence was in striking contrast to the apparent assurance with which he had delivered his evidence to the police and the court. Mr Fludgate may be right, wrong, or honestly mistaken - but the fact is that his evidence, the damning evidence that provided the police and the jury with a motive, fell to pieces at the lightest puff of a breath of doubt.

The investigation so far had been a hard slog; an insanitary slog at that, and a frustrating one. It always seemed to be raining on the Monday mornings when I would drive into the slip road next to Kingston station and pick up Nina for another foray into the unpredictable world of the alcoholic vagrant. We had amassed an enormous amount of information pointing to the unreliability of the conviction; but it was unrealistic to expect that we could convey a fraction of our experience within a short television programme. And how could we convey to the neat desks of those at C3, the civil service department charged with assessing miscarriages of justice at the Home Office, the frailty of the

evidence which convicted Mary Druhan. The system - understandably - wants facts. All we had was evidence of a miasma. Depression began to edge in upon the team. We could do with a break.

It came, with a routine trip Nina Davies and producer Steve Haywood took to Worthing, to interview the man who had been landlord of the Kingston Mill pub at the time of the fatal row. The two of them returned to the office in a ferment of excitement. The ex-landlord, Paul Welch, had been able to recall that evening well. Indeed, he had kept a special eye on the turbulent threesome, a task made easier by the fact that they were the only customers. A pub landlord is trained to deal with situations such as this. And Paul Welch was ready to swear that there was no shouting, no death threat, none of the 'pandemonium' described by Keith Fludgate, no striking of Kenny Roberts by Mary Druhan. No can of beer had been slammed on the table for the simple reason that Mr Welch would not have allowed customers to bring in their own beer - a fatuously obvious consideration, in hindsight, which had totally passed us by and had also been overlooked by the police, the jury, the judge, and the Court of Appeal, equally unversed in the etiquette of the licensed trade.

Mr Welch was a dream witness, with 'his calm understatement, careful reminiscence, sensible cardigan and haircut. Yet he had never had the opportunity to tell the court what he told us - all he was asked at the trial was what time the party had arrived. Had he been heard, it is very probable that the case against Mary Druhan, which had always been circumstantial, would have collapsed.

It was becoming clearer every week that this was, indeed, a fragile case which had been 'improved' beyond what it was capable of sustaining. It was not, in this instance, a case of the police lying or falsifying evidence; but once they had lighted upon Mary, they blinkered themselves to evidence that tended to exonerate her, and overemphasized evidence that seemed to point to her guilt. Once again, the usual reason why police inquiries go askew - less a matter of malice than of narrow-sightedness.

There was another crucial aspect, we discovered, the police had overlooked. On the fatal night, a man called Mark Talbot had parked his car in Canbury Park Road, to have a drink at the Artful Dodger pub on the corner. As he reached the pub, he noticed a puff of smoke issuing from the doorway of Number 15 where, seconds earlier, he had passed a group of vagrants arguing.

'They were pretty well drunk, you know, they were slurring their words and shouting and screaming and swearing. One of them was a man with a bobble hat, another was a woman, white, fortyish, fairly plumpish - the thing I did notice was she had bright red lipstick,' Mr Talbot told us when we met him.

This was important information; we had always suspected that the population of Number 15 was a floating, transient one. There were hints of other people who used the place as their 'drum'. When seriously in drink, Bob Smith would hint darkly that 'the man with bullets' might have something to tell us; we did establish the existence of a man with a leather jacket studded with a bandolier of mock, brass bullets, but we could never trace him. Did this sighting of a woman by Mark Talbot suggest the presence of another, unknown person at the very instant that the fire broke out?

The woman Mark Talbot saw arguing outside the house was not Mary Druhan. We know this because Talbot was present later, as the fire brigade tried to douse the flames, and he saw Mary Druhan who, as we know, did turn up to watch the scene. And he is certain that Mary Druhan, and the woman he saw arguing just before he saw the puff of smoke, were different. At Reading Crown Court, he saw Mary Druhan in the dock. He recognized her as the woman who turned up to watch the blaze. He was also certain that she was not the woman wearing the lipstick and shouting and swearing outside Number 15.

Sadly, in court he was not asked any question which would have exposed that piece of evidence.

There were also some other oddities in the police record of Mark Talbot's account. In the first statement he made, he spoke of a woman 'running' from the scene of the fire. In the second, the word 'hobbling' appears. 'Hobbling' clearly fits the arthritic Mary Druhan better - she was incapable of running. The problem is that Mark Talbot swears he never mentioned the word 'hobbling' to the police. So where did the word come from?

Talbot was also concerned about something which didn't appear in his statement; he reported that one of the male vagrants - Bobble Hat - had shouted at the lipsticked woman who was not Mary Druhan, 'you killed my mates.'

The court never heard that, either.

What, then, remained of a case which left Mary Druhan with a life sentence? Motive and means had evaporated, with the new evidence

of the row that never took place, and the discovery that the fire was not started in three places, but spread from a single, possibly innocent source. Everything rested on the flawed and drunken recollection of the survivors, Smith and Neary, one of whom had been the police's original prime suspect, while the other had put as much distance between himself and the blazing house as possible, because, as he told me, 'I didn't want to be accused of anything.' No one seemed to have noticed that the evidence of these two men was mutually contradictory, for instance, Smith said he saw Neary when he was in the house trying to restrain the furious Mary Druhan, but Neary said he'd never set eyes on Smith that night.

We may never get to the truth of what happened that night, and we certainly won't get to it through the pickled reminiscences of Bob, the amiable StarryEyes, and Joe, the taciturn Dancer. What *Trial and Error* had managed to unpick was a shabby piece of second-rate justice, flawed at every turn - from initial police diagnosis of deliberate arson, to the reliance on utterly unreliable witnesses.

Making the programme presented us with an entirely new set of problems. We felt it was vital to Mary's case to show the unreal world she and her accusers inhabited; but the arrival of a camera team among a group of vagrants has the same effect as a thunderclap on a flock of starlings. Our first attempt was to film in Claremont Gardens, at the disused bandstand, rank with urine, where the down-and-outs gather to drink.

People have a right to privacy, and down-and-outs are people, so we didn't want to film them secretly. When I went ahead to ask their permission, half of them made themselves scarce; there were presumably good reasons: policemen they wanted to avoid, families they had abandoned, people they owed money to, lives they wanted to put behind them. Those who remained became a ranting parliament of drunks, debating Mary's innocence or guilt. This, of course, was exactly what we wanted to film, but the moment any of the team came into view with a piece of equipment, we were told that filming was not - yet - on the agenda.

It was, in the end, rather as I imagine David Attenborough and his team set about filming timid or dangerous wild life; time had to be spent getting them used to our presence. Gradually the camera would be introduced, but never switched on. The introduction of sound equipment was, oddly enough, more threatening. People know what a

camera is meant to look like, but the big woolly sausage on a pole that is a microphone with a windgag is always disconcerting.

And there'd always be someone, at the last moment, just as you'd won their confidence, who would wreck it. Usually, it was Ron. Ron was the only genuinely unlikeable character among the clan of the dispossessed. Even the rest of them, a forgiving and generous group, didn't like Ron. They'd always share their drink and cigarettes, but Ron was simply a sponger. He'd lurch up to me and pull me to one side, pushing his big, bleary face against mine, telling me that he had 'information' if we'd give him the money for it. The rest of the down-and-outs would immediately become suspicious. I'd try to tear myself away from Ron, but he was a powerful man; he'd hold you close, under constant threat of a crisp, sharp head-butt, his alcoholic breath making your eyes water. Once it sank in that we were not an easy touch, Ron made it his business to disrupt any relationship we tried to build with the rest.

Our camera crew were wonderfully tolerant and good-natured, because even dealing with cooperative witnesses could be a trial. Bob Smith would embark on an interview and then break off 'to go round the corner for a widdle' and not surface again for days. Filming in the cramped and unhygienic conditions at the Revd Belcher's they took in good part; I can think of other crews who would have turned the assignment down on health grounds. In a programme like this, the crew serve more than a technical and creative function; they represent a touchstone of common sense to temper our editorial enthusiasm. They'll obviously start off with a considerable scepticism about a case; but gradually they'll form their own opinion on the basis of the evidence put before them. Many times, at the end of an interview, a good soundman has told me he didn't follow the logic of such-and-such a question-and-answer, or has asked how this evidence squares with other witnesses' recollections, pointing out apparent contradictions. He's usually right.

Our responsibilities do not end with transmission of the programme. We have to collate a great dossier of all the evidence we have gathered - far more than we are able, by reason of time or the libel laws - to include in the programme itself or, indeed, this chapter. This bundle then goes to Justice, and is submitted to the Home Office in the hope that its C3 department will judge it worthy of referral back to the Court of Appeal. The Home Office doesn't like doing this, since their

Lordships are understandably not best pleased when asked to rejudge their own judgments, but the cases we have dealt with over the years have had a good record of success. We keep our fingers crossed for Mary. It's time she had a bit of luck.

She'd been born in Ireland, but the family had disintegrated under the impact of a ferociously drunkard father. At the first opportunity she'd left and, like so many Irish girls, sought work as an ancillary in the hospital service. In England, she'd met up with another Limerick man, and they'd built a life together. But her husband, too, was a reckless drinker. One night, Mary Druhan woke up to find him dead in the bed beside her. She never recovered. For months, she would lay an extra place for him at supper. Then she began the decline into drink. She lost her council flat, and took to the life of squats.

These people are not aliens; they once had lives, homes, dreams. Pathetic Helen - the woman with the black eye, whom Nina had to tidy up - would tell us of her nice home in Tunbridge Wells, and the husband who beat her up. I'll always remember Gloria, all tousled defiance, waving a cider bottle and saying, 'I wasn't always like this, you know. I used to be in advertising.' And Tiny. 'Where do you sleep?' I asked Tiny. 'In the launderette,' he said. In the tumble drier. And I thought of all the detergent-fresh, damp laundry I had entrusted to Tiny's stained dormitory ...

Six months after the programme, there were two interesting developments. The Taylor sisters, Michelle and Lisa, had their convictions for murder quashed. While in prison, they had come to know Mary Druhan, and had independently become convinced of her innocence. The sisters dedicated their post-release publicity and interviews to a campaign on behalf of Mary Druhan. Mary, it seemed, had been grateful for the programme, but had been offended by our description of her as 'homeless'. She wanted it known that she did have a place at a bed-and-breakfast hostel. It was her last vestige of pride and we, unwittingly, had trampled on it.

The second development was quite unexpected. We received a telephone call at the Just Television offices. It was from a man who said he knew who had started the Canbury Park Road fire. We went down to meet him. There was a young lad, he told us, who made a habit of laying fires in properties occupied by squatters. He had been responsible for three such conflagrations. In the fourth, said our informant, the lad, who was a glue-sniffer, had died.

Mary Druhan's original solicitors did not cooperate with us. It is the only time I can remember where help was withheld. It is, of course, always awkward for the professionals when we re-investigate a case; implicit in what we do is the assumption that we can find something the defence missed. That assumption is usually right; it would be strange if, with the time and money and people we can invest in a case, and with the basic groundwork already prepared in the course of the trial, we didn't come across new evidence. Most solicitors, once they've overcome their initial suspicions, welcome our interest, even though the

case is over and lost, the client off their books.

We've no way of knowing how well Mary was represented, and so her case doesn't help us discover to what extent miscarriages of justice can be the result of shoddy or half-hearted work by the defence. But if Mary wasn't Mary, a drifter, an inebriate Irish woman, would she have stood a better chance of justice? Would a middle-class woman have been convicted on the self-contradictory say-so of two drunks? Did the system fail to go that extra mile in search of the truth because, in the end, no one really cares about people like Mary Druhan?