

## *Addendum*

In November 2005, 'When justice fails: A follow-up examination of serious criminal cases since 1985' was published in *Current Issues in Criminal Justice*. The article dealt with miscarriages of justice in Australia and New Zealand, and the authors would like to clarify one of the paragraphs contained therein.

The paragraph in question concerned a factor possibly leading to miscarriages of justice, namely 'Possible Erroneous Judge's Instructions', and the example provided to illustrate this was the Rory Christie case (p191).

The authors would like to make the following amendments regarding this paragraph.

The assertion that the Judge misinterpreted the evidence and that the Court of Criminal Appeal quashed the conviction on that basis is incorrect. There were 11 grounds for appeal. Ground 10 related to the judge misdirecting the jury 'concerning the extent to which evidence of luminol examinations on the tie could be used to determine the presence and amount of blood thereon, thereby giving rise to a substantial miscarriage of justice' (*Christie v The Queen* [2005] WASCA 55 at 64). The Court expressly found that ground had not been made good (at 198). Indeed, in the Court of Appeal judgment, McKechnie J noted at 181 that 'it was never in issue at the trial that the Zegna tie was marked with the deceased's blood. The extent of the marking and the manner in which the blood came to be deposited on the tie were'. McKechnie J (with whom Le Miere and Jenkins JJ agreed) held that the passage objected to from the Judge's directions was not inaccurate, and was a correct summary of the evidence (at 195).

The appeal was quashed and a retrial ordered as McKechnie J, with whom Le Miere and Jenkins JJ agreed, concluded that grounds 4 and 11, should succeed. Ground 4 related to another aspect of the Judge's directions to the jury, and the latter. Ground 11, concerned evidence not led before the jury.

The authors apologise for the way the passage relating to the Rory Christie case was originally worded and hope this addendum will clarify the matter.

Juliette Langdon and Paul Wilson

24 February 2007