



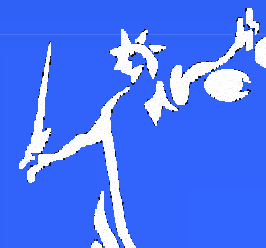
JUSTICE

Anonymous witnesses

Sally Ireland, Senior Legal Officer
(Criminal Justice)

Witness anonymity

- Is it necessary?
- When might it be necessary?
- What sort of criminal cases?
- What sort of witnesses?
- Who should decide?
- On what criteria?



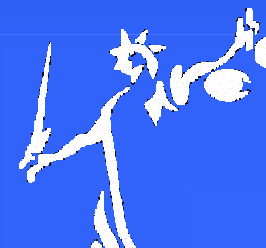
Case study

Eric is charged with murder following the drive-by shooting of Sally outside a pub in central London. He faces trial in the Carter Lane Crown Court. The prosecution want three witnesses to give evidence anonymously:

“Jodie” - an elderly woman who was passing by and saw the shooting from across the road

“Roger” – an undercover police officer whose statement says he bought a used pistol from Eric a few days later

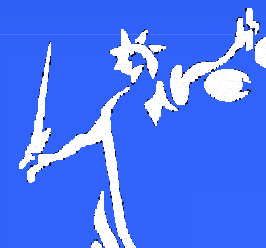
“Hayley” – a young woman who was in the pub with Sally on the night of the shooting



Jodie”

Would it make a difference if:

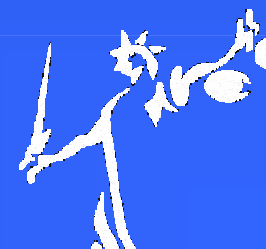
- a) “Jodie” was partially sighted
- b) She had a condition affecting her memory eg Alzheimer’s disease
- c) She had three convictions for shoplifting and had pleaded not guilty at her trials
- d) She had two convictions for being drunk and disorderly and had pleaded guilty
- e) She lived next door to Eric’s mother?



Roger”

Would it make a difference if:

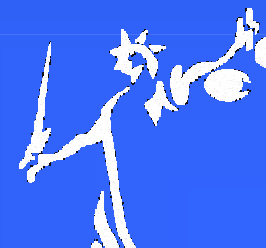
- a) “Roger” was not an undercover officer but a police informant?
- b) He was suspended without pay in disciplinary proceedings two years ago after an assault on a suspect?



Hayley”

Would it make a difference if:

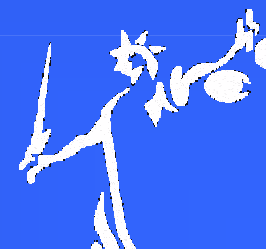
- a) “Hayley” was receiving treatment for alcoholism?
- b) She and Eric had previously been in a relationship?
- c) Eric was a member of the Ludgate Hill gang; Hayley’s boyfriend was a member of the rival Cannon Street gang?
- d) “Hayley” and Eric were both members of the Ludgate Hill gang; Sally was a member of the Cannon Street gang?



The case

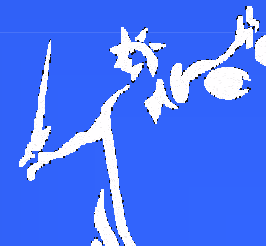
Would it make a difference if:

- a) Eric was charged with robbing Sally at gunpoint in the pub?
- b) Eric was charged with stealing Sally's purse from her bag and faced trial in the magistrates' court?



Further reading

- The Coroners and Justice Bill (currently before Parliament) – Part 3
- JUSTICE's briefings on the Coroners and Justice Bill
- *R v Davis* [2008] UKHL 36
- *R v Davis; R v Ellis and others* [2006] EWCA Crim 1155
- *R v Mayers* [2008] EWCA Crim 2989
- *Osman v United Kingdom (App 23452/94)*
- *Chief Constable of Herts v Van Colle* [2008] UKHL 50



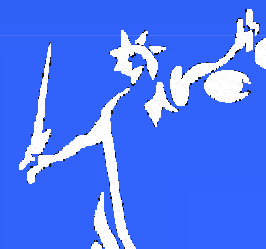
Relevant ECHR articles

Article 2 (right to life)

Article 8 (privacy)

Positive obligations

Article 6 (especially Article 6(3)(d))



Relevant HRA sections

- Section 3 – statutory interpretation
- Section 2 – ECHR jurisprudence
- Section 6 – unlawful conduct by public authority

17/03/2009

