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"The only thing necessary for the triumph of evil is for good men to do nothing." (Edmund Burke)

SAFARI PETITION IN PARLIAMENT: On Wednesday 22nd October 2008, at 7:14pm, Bob Spink MP stood up in the House of Commons and presented one of SAFARI's ePetitions to MPs. (Mr Spink has been falsely accused himself, and, as a result, recently received substantial libel damages from five national papers and the Conservative Party over allegations of an affair with a former Conservative councillor.) He said: "SAFARI ... is an organisation that fights for people who have been falsely accused and seeks to make convictions safer. Some may think that the British judicial system is perfect. I do not subscribe to that view, so I am pleased to put questions to the Government and I thank those involved in trying to make the system safer. The petition, which supports an electronic petition of 224 signatures, states that too many people are wrongly convicted because the law allows too much weight to be given to the word of one or more people, without other more tangible evidence to support the conviction; believes it is wrong that the jury only have to be persuaded that the defendant is guilty, and that this leaves the system open to abuse and puts people at risk of being convicted because someone has lied to the court or is innocently wrong in their assertions, and the person who tells the lie and secures the conviction can then claim compensation from the Criminal Injury Compensation Board. The Petitioners therefore request that the House of Commons urges the Government to ensure that people are not normally convicted when the only evidence is the word of one or more persons." You can read and watch the petition being presented on-line at <http://www.theyworkforyou.com/debate/?id=2008-10-22a.415.6> or click the link on our web site. The web site also links directly to the entry in Hansard.

ACCESS TO CHILDREN: HUMAN RIGHTS AND THE LAW.

Article 8(1) of the European Convention on Human Rights secures the right to a family life for everyone, including the right to be with and raise their children.

Article 12 secures the right for everyone to marry and have a family, including having children.

Article 14 secures the rights for everyone to have the protection of the Convention without any form of discrimination on whatever grounds that may be presented. Regardless of religion, ethnicity, crime etc., they are entitled to their Human Rights.

Section 6(1) of the Human Rights Act 1998 states; It is unlawful for public authority to act in any way which is contrary to a Convention Right".

Simply put, that means that a public authority or any person acting on behalf of such a body is not permitted to act in any way which may deny another person their Human Rights.

Probation officers and local authority social workers fall into the category of public authority within the meaning of this Act.

The importance and precedence of the Human Rights Act may be found in the judgement by Lord Justice Scarman R v Home Secretary exp Phansopkar (1976) 606 where he stated "Problems of ambiguity or omission, if they arise under the language of the Act, should be resolved so as to give effect to or, at the very least, so as not to derogate from the rights recognised by the Magna Carta and the European Convention". Simply put - the rights under the convention have overriding status.

Many of those convicted have what are referred to as 'Sexual Offences Prevention Orders' (SOPOs) attached to their sentence, or are granted parole which has conditions attached, under section 104 of the Sexual Offences Act 2003.

People who are at present serving sentences are also subjected to rulings by MAPPA (Multi-Agency Public Protection Arrangements) or Social Services regarding contact with their children. In most instances contact in any form is disallowed or severely restricted, often resulting in a total ban on letters, birthday cards, phone calls etc.

On January 23rd 2006 an appeal was heard before Lord Justice Latham, Mr Justice Burton, and The Recorder of London (Sitting as a Judge of the Court of Appeal Criminal Division) Case No: 2005/05513/A2 - Listed as Regina V Shiers.

The appeal contended that the following prohibitions:

- not residing in any household with ...
- not engaging in any employment or other activity (either on a professional or voluntary basis) with ...
- not having any unsupervised contact (except within the line of sight and range of hearing of that child's parents or legal guardian) with ...

... a child or young person whom he reasonably believes to be under the age of 16 years, and

- not to contact or meet his biological children save with the express permission of the social services

... offended Article 8(1) of the Convention on Human Rights and section 6(1) of the Human Rights Act 1998 as it effectively denied him access to his own biological children, against whom there was no allegation of offending.

The judgement was that the wording of the SOPO was wrong, and that there were no biological children the subject of Social Services direction. The court allowed the appeal to the extent of *deleting* the prohibition of contact with the appellant's own children, and substituting 'The previous paragraphs **shall not apply to any biological child** unless a court so orders.' This judgement might have considerable implications for people who are or have been in prison or on licence and are not allowed either to have contact with their children or to move back to their matrimonial home, where their children were not the subject of any allegation against them.

(Source: article by George Jensen for FACT [Falsely Accused Carers & Teachers], May 2008.)

LURKING DOUBT SHOULD MEAN RETRIAL. Professor Graham Zellick, the outgoing chairman of the Criminal Cases Review Commission (CCRC) has said the Court of Appeal should order retrials in cases that have a "lurking doubt" about the safety of the conviction. Instead of waiting to see compelling new evidence, Professor Zellick argues that the Court of Appeal should quash convictions where they simply believe the prosecution's case has not been proved. (We only hope the CCRC's new chairman shares his view.)

Prof. Zellick said: "It is far better that 10 guilty men go free than one innocent man is wrongfully convicted... We know from bitter experience that juries get things wrong. The Court of Appeal ought to be more active in quashing convictions even though there has not been any irregularity in the trial process."

He added that when he had raised this argument with members of the judiciary he had been "admonished" for asking judges to second-guess the jury. "They tell me that in this country we have trial by jury, so who are they to go behind the verdict of the jury which has seen all the evidence? Well, I say we have trial by judge and jury, not just jury."

Professor Zellick, who has been in charge of the commission's referrals to the Court of Appeal for the past five years, said a more interventionist approach would allow the court to order a retrial when judges were unhappy about the safety of a conviction. "The Court of Appeal is even more reluctant in 2008 than in the 1990s to quash convictions because they think they are unsafe. We are more deferential to a jury now than in the 1990s when things were going wrong."

Bearing in mind that polygraph (lie-detector) tests have consistently proved to be *more* reliable at lie-detecting than juries, and the Government and judiciary will still not allow polygraph evidence to be admitted on the basis that it's "not reliable", one has to question why the even-less-reliable jury is still the foundation-stone of justice in the UK and judges are loath to question a jury's lie-detecting skills!

SAFARI WOULD LIKE TO TAKE this opportunity to remind readers to keep their letters short and to the point and ensure they are specific to false allegations and the issues surrounding them. Other subjects such as the success rate (or otherwise) of courses, complaints about treatment by prison staff etc. do not fall into this category.

FAMILY COURTS: SIR MARK POTTER, Britain's most senior family judge and President of the Family Division, has said that family courts should be opened to the media to dispel the "myths and inaccuracies" surrounding the system. He favours allowing the media into children's care cases, where there was the strongest case for greater transparency, and supports allowing similar access to private family disputes over money and children, subject to the discretion of the judge. He argued that Judges should be able to exclude the media in certain disputes between couples where there may be "prurient" interest because of their "sensational" nature, but where the facts were of no concern to the public.

He said: "In an age of transparency and amidst largely misplaced criticisms of "secret justice", it is clear that the public ... should have confidence in the judiciary... The balance now seems to me to have come down in favour of increased openness by permitting the attendance of the media, subject to provisions to protect anonymity." SAFARI asks that any new legislation is retrospective so that any people whose lives have already been destroyed by what were, at the time, unchallengeable and wrong decisions, can be compensated and - where possible - children returned to their loving parents.

THE TAPLIN RULING: We have been asked to remind readers about a case dating back to 2004, the precedent of which can still be used today. In R (Taplin) v Probation Service [2004], Taplin was convicted of sexual offences which he always denied.

He was unable to complete the Sex Offender Treatment Programme (SOTP) in prison, as it required him to admit guilt. He was released on licence after he had served two-thirds of his sentence. It was a requirement of his licence that he should comply with any requirements reasonably imposed by his supervising officer for the purpose of ensuring that he addressed his sexual offending behaviour problems.

He was recalled to prison for failing to comply with a condition to attend a SOTP. The Administrative Court found that if a licence condition which requires 'reasonableness' is sought to be enforced by a *requirement* that an individual does something which it is known that he could *not* do, consistent with, for example, his continued denial of guilt, then it may well be that this would be unreasonable, and thus there would be no breach of the condition in his failure to comply with such a requirement.

FALSE MEMORIES? Alleged psychic, Patrick Hutchinson, claimed during a show in a pub to have sensed that a woman in the audience had 'demons from her childhood'. He said he got a message from 'the spirit world' from the relative of a woman in the audience, who said the woman had been abused. The woman then went to the police to report Terrance Dunston for abuse she believed she had kept hidden for 10 years. Mr Dunston was then found guilty of abusing three girls aged nine to 11. SAFARI is very concerned to note that a conviction was achieved as a result of someone being 'told' that they'd been abused. If the woman in question had not been abused but, following her meeting with Patrick Hutchinson, she really *believed* that she had, this does sound a prime candidate for an appeal on the basis of False Memories (see SAFARI's October 2008 newsletter).

NICOLA SMALL HAS BEEN FOUND GUILTY of perverting the course of justice after lying under oath. Initially she told police that her ex-boyfriend had pushed her to the ground, causing her to cut her head. However, it was shown that on the day in question, she had been off work sick and he had been at home sending eMails. Two weeks later she told police she had been leaving work, when someone dragged her into their car and drove to a barn where her ex-boyfriend was waiting, and he told her to drop the charges against him. Police checked his Oystercard (travel card) which proved he had been on the London Underground at the time.

SAFARI ePetitions: Please get everyone you know with Internet access to sign our on-line Government ePetitions. Please visit:

<http://safari-uk.org>

..to view all our ePetitions.

Thanks to Terry McCarthy (Parole Board for England and Wales) for supplying us with the statistics of those granted release on Parole despite maintaining innocence.			
Figures for month of September 2008			
<i>Non-lifers:</i>			
All offences	3	of 51	5.9%
Rape	1	of 27	3.7%
Indecent Assault	0	of 5	0.0%
Other Sex	0	of 4	0.0%
Violence	0	of 3	0.0%
Property	0	of 0	n/a
Drugs	2	of 2	100.0%
Others	0	of 10	0.0%
Total Sex	1	of 36	2.8%
Total Non Sex	2	of 15	13.3%
<i>Lifers only</i>			
	0	of 0	n/a
[There were no lifer applications this month]			