

Supporting All Falsely Accused with Reference Information

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Key: **SOTP**: Sex Offenders' Treatment programme, **ETS**: Enhanced Thinking Skills, **CICA**: Criminal Injuries Compensation Authority, **ECHR**: European Court of Human Rights, **CCRC**: Criminal Cases Review Commission, **DNA**: DeoxyriboNucleic Acid, **IPCC**: Independent police Complaints Commission  
**FACT**: Falsely Accused Carers and Teachers

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

SECRET EVIDENCE BREACHES Human Rights. The Law Lords have ruled that the use of secret evidence breached Human Rights legislation. In a unanimous decision, a panel of nine Law Lords found in favour of three Libyan men, who argued that the Government's refusal to give any details of the evidence against them made a fair hearing impossible. SAFARI tends to agree. It's hard enough to demonstrate your innocence when the evidence against you is someone's word alone, but trying to do so when you're not even told what the evidence is, is crazy! Under current rules (now shown to breach Human Rights), suspects can be banned from meeting certain people, stopped from using mobile phones or computers, or even forced to adhere to a strict 16-hour home curfew. Lord Philips of Worth Matravers, the senior Law Lord, said: "A trial procedure can never be considered fair if a party to it is kept in ignorance of the case against him." Alan Johnson, the newly installed Home Secretary, called the ruling "extremely disappointing", adding that it would make it more difficult to protect the public from terrorism. "All control orders will remain in force for the time being and we will continue to seek to uphold them in the courts. In the meantime, we will consider this judgment and our options carefully," he said. It never ceases to amaze SAFARI that instead of seeking justice and protecting the innocent victims of false allegations, the Government continue to be 'disappointed' when they are proved to be in breach of Human Rights. Shami Chakrabarti, director of Liberty, says: "Control orders constitute permanent punishment without trial and one of the worst legacies of the 'war on terror'. The innocent can be placed under permanent house arrest on the basis of secret intelligence, possibly flowing from torture – the guilty may easily remove their plastic tags, disappear and do their worst."

FALSE ABUSE CLAIMS coordinated through social networking sites. False abuse claims against teachers are increasing with pupils using social networking sites to coordinate those claims. Teaching unions claim that only 5% of allegations against teachers are true. The Government's Children, Schools and Families Select Committee, who are conducting an inquiry into the scale and nature of false allegations against teachers, heard that the rise in number of complaints against teachers is a result of greater awareness of child protection among pupils. Julian Stanley, Chief Executive of the Teacher Support Network, said: "It may be that within these schools the young people have cottoned on that by making complaints they can achieve desired outcomes for themselves." The unions claim that the system of dealing with allegations means teachers are presumed guilty before any evidence against them is gathered. A cross-party committee of MPs heard that one teacher discovered a hate campaign against him when his daughter, a pupil at the school, found it being discussed on Bebo, a social networking website. One union, NASUWT, said there were 192 allegations in 2007. Only seven led to cautions or convictions. In 1997 there were 118 accusations against members, which ended in seven cautions or convictions. Even when an allegation is shown to be untrue it remains on the teacher's record and can be seen by future employers. This totally misguided system was introduced as a result of the Soham murders. Allegations against Ian Huntley did not show up on his record and enabled him to go on to be a caretaker at the school of his victims Holly Wells and Jessica Chapman. But this is the wrong approach. Punishing innocent people because they MIGHT be guilty of something one day is wrong. Mr Stanley told The Times: "Allegations against teachers seem to be on the increase."

"They are overwhelmingly found to be untrue and the often-protracted period between accusation and resolution, combined with a frequent assumption of guilt, ensures that many teachers, despite doing nothing wrong, are being put under severe emotional strain, the confidence in their own abilities undermined. We have seen too many occasions when teachers have been unable to return to work despite being cleared of the allegations." If you are a teacher who has been affected by false allegations, we recommend making contact with FACT at PO Box 838, Newport, Gwent, NP20 9HX (<http://www.factuk.org>)

DR MALCOLM DARLEY HAS BEEN CLEARED of possessing and making indecent images of children. During his three-day trial, Dr Darley told the jury that he had been unaware that the images of children were on the computer and that someone else in the house could have put them there.

COMPENSATION FOR FALSE IMPRISONMENT too low. The Court of Appeal have ruled that the compensation awarded to Stephen Miller for spending 4 years and 1 month in prison before his conviction for murder was quashed, was too low. The case will have ramifications for others who have complained that they have been inadequately compensated for years spent in prison for crimes they did not commit. The court of appeal ruled that the independent assessor, who operates under the auspices of the Ministry of Justice, had "erred in law" in awarding only £55,000 for the "loss of liberty and the consequences of imprisonment". In the judgement, which upheld Miller's appeal against the dismissal of his request for a judicial review, Lord Brennan was instructed to "re-assess his award". Sir Paul Kennedy, giving the judgment, stated: "I do not see how £55,000 could possibly be sufficient for a period of incarceration of over four years which was unlawful from start to finish."

CORROBORATION: SCOTTISH LAW. (From David Hingston 'Hingston's Law' with permission to re-print) "One of the fundamental rules of Scots criminal law is that the essential elements of the charge require to be corroborated before anyone can be convicted on that charge. There are exceptions to this rule, but they are few and far between and usually involve only minor statutory charges. The same rule does not apply South of the border, where rules of evidence and procedure are very different. Corroboration does not require two witnesses. What it does require is two or more separate sources of evidence. It is the different source that matters, not the type of evidence. These sources could be oral from witnesses who saw or heard something, admissions by the accused or "real" evidence such as fingerprints or blood. It follows that an admission by the accused is not enough evidence to convict in Scotland because that evidence needs to be corroborated from another source.

This is entirely different in England, where corroboration is not required. I note that most of the recent high profile convictions that have been overturned in England relied on uncorroborated confessions. It also does not matter how many times he confesses or to how many people as all the confessions emanate from only the one source i.e. the accused. There is an exception to this rule which first came to light in the case of Peter Manuel who strangled a number of people in the Fifties. If the confession contains details that could only be known to the perpetrator of the crime, then the confession may corroborate itself. In Manuel's case, he knew where the bodies were buried. It is for this reason that the police do not give out details of a crime so that any confession cannot later be attacked by claiming the details had been read in a newspaper. As to the amount of corroboration required, that will depend upon the strength of the primary source. An admission does not need much. One recent murderer was convicted on his confession to having drowned the victim being corroborated by having wet trousers when arrested. A weaker piece of evidence will need better corroboration. It is a case of weaving the threads together to make a rope strong enough to support the case. If the threads are thin [the evidence is weak] more are needed. Why do we need corroboration at all? Simply because people are fallible. The witness could be mistaken or have misunderstood and this is a valuable check on the accuracy and reliability of their evidence.

*In short it makes it more difficult to convict and thus less likely that the innocent will be convicted. It is an essential safeguard in our system of justice. It has an adverse effect as well. One can be perfectly confident that the accused committed the crime but he cannot be convicted, as there is no corroboration. This is a serious problem in domestic violence cases. Undoubtedly as a direct result of the corroboration rule in Scotland more violent partners get away with it than they would if it happened in England. This is totally unacceptable. Unfortunately bad cases make bad law. So far, the establishment view is that removal of the essential safeguard that is corroboration, even if it means that domestic abusers are not punished and their abused partner not protected, is not justifiable. This is a serious and complicated problem. If to protect victims the corroboration rule is to be loosened or removed, in what circumstances should this be allowed? Are there boundaries to it? Should it be restricted to spousal abuse given the large number of unmarried households? If not, is there some limit to whom it may apply? For example at present no one would consider that someone entering your home and assaulting you should be considered a case of domestic abuse but those cases may also not be able to be proved because of lack of corroboration. How do you differentiate? Does the attacker have to be living with you, and if so for how long? What is the position if the victim is particularly vulnerable? What if it is the accused who is vulnerable?"*

11<sup>TH</sup> HOUR U-TURN: In last month's newsletter we confirmed that Chief Constable, Colin Port, of the Avon and Somerset Police, was refusing to abide by a court order to return computer equipment and data to its owner, Jim Bates, despite it being unlawfully seized. We are glad to see that hours before he was due in court to answer the contempt allegation, the material was delivered to the offices of Mr Bates' solicitor, who now intends seeking compensation for the illegal search. Lord Justice Stanley Burnton said Mr Bates had held all the material "in a professional capacity" and that Mr Port's delayed compliance with a court order was "regrettable". "The conduct of the chief constable since the order was made has been of concern to us". We are happy to see the Police being forced to abide by the law.

INSIDE TIME (THE PRISONERS' NEWSPAPER) has expanded its website which contains useful information for the families of prisoners. It can be found at: <http://www.insidetime.org>.

IAN LAWLESS' MURDER CONVICTION has been quashed at the Court of Appeal after three senior judges ruled that fresh medical evidence cast doubt on whether he could have played the part he claimed in the 2001 killing of retired sea captain Alf Wilkins in Grimsby. Ian (a fantasist who tried to persuade fellow prisoners on remand that he was a Taliban fighter) triggered the fresh hearing by presenting medical findings to the Criminal Cases Review Commission. Lord Justice Richards, sitting with Mrs Justice Gloster and Mrs Justice Dobbs, said today that the Appeal Court was satisfied that the new medical evidence "might have affected the jury's assessment of the reliability of the various confessions made by the appellant. Their verdict might have been different." The Court also bore in mind the "very long period of deliberation" before the guilty verdict was returned.

Ian's previous appeal had failed and he had had a second attempt through the CCRC. His personality disorder was detailed, adding that his need for attention was made worse when he was drunk. He made a string of confessions to fellow drinkers at a Grimsby pub, but later denied them to police. The appeal was not opposed by the prosecution and no retrial was ordered. Ian felt "ecstatic but strange" to be out of prison after so long. His solicitor said that the case showed the continuing risk of "vulnerable people being pushed through the court process without the necessary safeguards in place".

SAFARI E-PETITIONS: Please get everyone you know with Internet access to sign our on-line Government ePetitions. 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 May 2009			
<i>Non-lifers:</i>			
All offences	1	of 33	3.0%
Rape	1	of 20	5.0%
Indecent Assault	0	of 4	0.0%
Other Sex	0	of 2	0.0%
Violence	0	of 1	0.0%
Property	0	of 0	n/a
Drugs	0	of 2	0.0%
Others	0	of 4	0.0%
Total Sex	1	of 26	3.8%
Total Non Sex	0	of 7	0.0%
<i>Lifers only</i>			
	0	of 0	n/a
[ No lifers were considered this month ]			