Do It Yourself Judicial Review For Terry Smith

Just received MOJUK Newsletter No.384, and was delighted to see the front page article in relation to Norman Grant. I have always stated that "the brutal truth" has funny ways of coming out! It is like "the truth" is a special entity and no matter how much the police manipulate and twist it, it will come back to bite them on the bum.

Reading Norman's article has inspired me to provide you with an update on the police-Loomis constructed fit-up and concomitant ANPR fiasco. Hence please find enclosed a 350-word piece entitled: "Judicial Review For Terry Smith.I have decided to conduct the Judicial Review proceedings myself as, to put it bluntly, this is such a high-ranking fit-up, everyone seems to be slamming doors in my face. Therefore, if I do it myself, no one can noble me!

In February 2010, Terry Smith was wrongly prosecuted and convicted of conspiracy to rob a cash-in-transit van that he claims he was incapable of committing as the Loomis van ~ was located on Automatic Number Plate Recognition (ANPR) cameras elsewhere in Essex at the precise time of the offence.

This is where, the 'True Crime' author proclaims, Security Personnel at Loomis Security UK (believed to be ex-senior detectives) in cahoots with British Transport Police (BTP) and Essex Serious Organised Crime Agency (SOCA) officers unlawfully substituted the details of a old Loomis van at trial in order to denounce and denigrate Mr. Smith as "an absolute liar" at two trials and bring about a hideous conviction.

As a result of the police-Loomis constructed fit-up and the deliberate suppression of potentially exculpatory ANPR evidence, Mr. Smith made a formal complaint to the IPCC against both BTP and Essex Police in July 2011.

BTP sought "dispensation" without mandatory referral to the IPCC as to the best way to conduct the investigation and Essex Police sought "discontinuance" of an investigation and then "dispensation" without notifying the complainant of the contradictory and unorthodox procedure. This is contrary to rigid IPCC statutory codes of practice.

More significantly, Mr. Smith proclaims an explosive 30-page dossier of police evidence and exhibits that forensically pinpoints the serious suppression and tampering of ANPR data by the disclosure officer in the case which was sent to the IPCC and disappeared without being acknowledged, recorded or investigated by the respective police forces.

As a consequence, a Judicial Review of the Decision by the IPCC to grant the police "dispensation" to both complaints was served on the Administrative Court in the capital on 30th July 2012.

In correspondence to Mr. Smith the IPCC accepts that it breached IPCC statutory guidance procedures, but is defending the litigation on the basis that the claimant is "out of time" to submit the Judicial Review (3 months) and also "out of time to submit the complaint against the police neither the police nor the IPCC have ever proclaimed that the complaints are without foundation or merit. Will keep you updated.

Terry Smith:A8672AQ, HMP Swaleside, Eastchurch, Sheerness, ME12 4AX.

Hostages: David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Peter Hakala, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 385 16/08/2012)

David Ferguson Is Innocent

For over a decade I have sat in prison for a murder that I did not commit. Unless you experience this torment first hand it is impossible to conceive. It is an experience I wouldn't wish on anyone. Do not believe what can be read in the press, prison is no holiday camp, especially when you don't belong here. It is an environment where those in power seize every opportunity to belittle, humiliate and abuse those who that they are supposed to be rehabilitating. It is an environment controlled by psychologists whose agenda is nothing less than to push prisoners to breaking point.

I have ended up in this situation because of a fallible justice system. At my trial key evidence was withheld by the prosecution. They gave misleading statistics and ignored evidence that pointed away from me. I do not believe that the original intention was to 'fit me up' at some point though it was decided that the so called evidence could be presented so as to make me appear guilty. By this point the prosecution became blinkered to the many discrepancies in the evidence being claimed against me.

In 2002, two years after my conviction I secured over 500 pages of previously undisclosed evidence. Over 300 pages of this was previously unseen FSS (Forensic Science Service) documentation. Amongst this disclosure is evidence demonstrating that the prosecutions acclaimed DNA match is not reliable. It is in respect of this evidence that Professor Sir Alec Jeffries agreed that it would be wise to have the original DNA swabs retested to establish the validity of the prosecutions forensic claims. My legal team and I are now actively seeking the necessary access to the DNA evidence to perform re-testing. The police and the CPS (Crown Prosecution Service) have yet to grant this access.

For over a decade I have held firm that eventually I will be proven innocent. Sadly though, for this to occur Susan Kent's family will be made victims again by a justice system that doesn't care about truth, just as long as a conviction is gained. Susan Kent's killer is still out there and walking free amongst you.

Finally, I wish to thank Bob (Woffinden) and Steve (Sinclair) for their hard work and support, Carol, my beautiful partner for her belief in me and all my family and friends who have stood by me without question; you know who you are. Lastly organisations such as MOJUK, SAFARI, FACT etc., your work and support for those of us who are wrongly convicted is never given the credit it deserves. Unlike victims of crime groups you are ignored and sometimes pariahed. It is hard work by the likes of yourselves that has on so many occasions shown just how badly the British justice system can get it wrong.

David E Ferguson, A8270AA, HMP Wakefield, Love Lane, Wakfield WF2 9AG

Blog entry 25th May 2012: For the past six months my legal team, Rajan Mawji and Riffat Hussain at Harrison Bundey Solicitors in Leeds, have been pursuing Kent Police for permission to access the key forensic samples for new DNA testing. To date Kent Police and the Crown Prosecution Service have been evasive to say the least. Riffat hasn't even been able to get an assurance that the original samples have been retained, let alone be told that we can access them for physical retesting. This is worrying considering the disbandment of the Forensic Science Service recently, resulting in stored samples and testing processes being

out-sourced to private companies. Riffat was due a response by April 25th 2012, but I have not been told whether Kent Police have done so.

Rajan and Riffat have agreed that physical re-testing is vital due to information that has been discovered in forensic documentation that wasn't handed over by Kent Police and the CPS until two years after my trial and wrongful conviction. Handwritten notes made by the prosecutions forensic technician clearly indicate that LCN DNA testing was first performed on the key samples first; to 'grow' them enough to enable SGM+ testing to be performed. Even then, not one sample produced a full profile despite the prosecution indicating such at court by claiming a 1 in a billion match.

I have also asked Riffat and Rajan to pursue disclosure of withheld evidence relating to a footprint. Whilst held for questioning the police took copies of my bare footprint to test against a sample at the crime scene. The police custody log completed at the time of my questioning clearly states that this footprint would either 'prove or disprove' my involvement in the murder. No such evidence was offered at trial and despite repeated requests to Kent Police and the CPS they have declined to disclose any evidence relating to the unidentified footprint.

Meanwhile, prison life continues as normal. I spend as much time as possible in the gym. When I'm there I'm not in 'prison'. It's only there that I can truly shut this nightmare out for a brief period of respite. My partner Carol is still being refused clearance to visit me. This is something that we are both struggling to cope with and find very difficult. As of the 1st June I should have a new distraction. After winning a judicial review against HMP Wakefield last September the prison has finally facilitated my desired distance learning Open University degree course. Else wise, aside from my job as a wing cleaner my time is spent up to my eyeballs in paperwork to challenge my conviction or the abuses of basic rights and failures rife within the prison's regime and system.

Blog entry 6th July 2012: Due to a lack of progressive action and a failure to answer my letters I issued a formal complaint to my appeal solicitors in June 2012. This is now being investigated by their complaints manager.

The complaint did produce some immediate positive results though. Through my webhost, Riffat, my solicitor informed me that the prosecution had informed her that all of the key forensic samples relied on by them had been destroyed by the testing process in 1999. Obviously this now means that we cannot have the original crime scene swabs retested so that we can show the results claimed by the prosecution are not sustainable. In that respect it is very 'convenient' for the prosecution.

All is not lost though. In fact far from it. The destruction of the crime scene forensic swabs by the prosecution infers specific connotations and events. These, in themselves, could and most likely are vital to proving my case and innocence. At this juncture I cannot go into specific detail for fear of enabling the police and prosecution to circumvent disclosure of necessary further evidence.

As a result of the prosecutions admission, Riffat, my solicitor , visited me on June 26th and took fresh instructions to seek disclosure of a wealth of forensic documents that the prosecution have clearly failed to declare at my trial and have continued to hide despite a comprehensive Data Protection Act disclosure request served on them in 2002. Considering the prosecutions attempts to date to withhold evidence that will and shall prove my innocence irrefutably I expect them to be nothing but obstructive in dealing with our disclosure requests.

Meanwhile life at chez Wakefield continues as normal. Any member of the public who believes prisoners have it easy should live a month of my life. Yes, prisoners have game consoles, televisions and DVD players, but only the ones who work and save their own money for them. Yes we get 3 meals a deal, but mostly they are inedible and have little or no nutritional content. Yes we access

ignored. Here it is again: “Wherever suffering is ignored, there will be the seeds of new conflict, for suffering degrades, embitters and enrages.”

Self-determination and human rights discourse alike owe their existence to a right so fundamental that we have unwittingly managed to demote its importance. The language of human rights may well have a shelf-life. But for the time being, at least, it seems here to stay. It is time we started using it to acknowledge, and to develop, our primary interest in the well-being of our fellow human beings.

Moved: Ray Gilbert:A6806AJ, to HMP Guys Marsh, Shaftesbury, SP7 0AH

Medical Justice for Imprisoned Daniel Roque Hall

29 year old Daniel Roque Hall, curently in the health wing HMP Wormwood Scrubs, is in an advanced stage of Friedrich’s Ataxia, a degenerative, life-limiting disease. Wheelchair-bound, he has little voluntary movement. Speech impaired, he has difficulty swallowing, his heart is seriously damaged and he has Type One diabetes. Curvature of the spine puts pressure on his heart causing breathing difficulties and constant, severe pain. Intellectually he is unimpaired.

Daniel needs 24 hour, one-to-one care. An exercise regime repeated many times a day is vital to maintain as much muscle strength as possible and to reduce pain.

Never having been in trouble before, Daniel was arrested at Heathrow in November 2011 attempting to import cocaine. He immediately admitted his crime. Detained for questioning, the seriousness of his medical conditions meant that Border Control had to send him urgently to hospital; it was deemed appropriate that he then be sent home, tagged, to await trial, imprisonment being clearly unsuitable for someone with Daniel’s severe disabilities.

Daniel appeared on four occasions before a judge at Isleworth Crown Court; committal to prison could not take place until assurances were given by Wormwood Scrubs that Daniel’s health needs could be adequately met. His neurologist’s report stated: “If the appropriate support is not put in place, Mr Roque Hall can deteriorate quite rapidly”.

On July 6th Daniel was sent to prison, the judge having received an eleventh hour assurance from the governor that Daniel’s health needs would be met.

Within two hours of arriving at Wormwood Scrubs, Daniel, left alone on an examination trolley, had fallen off owing to an involuntary muscle spasm and suffered a head injury. Daniel takes Warfarin, a blood-thinning medication, so needed an immediate CAT scan for possible brain haemorrhage and other internal bleeding. The prison was not intending to act; it took repeated and insistent phone calls from Daniel’s friends before he received the necessary hospital treatment.

Daniel was taken to an old people’s home, where he remained chained to a prison warder 24 hours a day, was given no exercise whatsoever and was served food impossible for a diabetic to eat; after five days of this regime, Daniel was transported back to Wormwood Scrubs and denied access to his lawyer for 14 days.

In the prison hospital wing, primarily housing prisoners with mental illness, Daniel is being denied the care he needs for his conditions. Wormwood Scrubs refuses to allow him to use any exercise equipment, essential for preventing further deterioration. Owing to this, he is in pain so severe he is unable to sleep. The effect of prison for Daniel is further and irreversible damage to his health and the shortening of his already curtailed life expectancy. It is “degrading, inhumane and manifestly disproportionate” (Private Eye, 27th July 2012). He is deteriorating daily.

combatants', or the reckless bombing of civilians, to name but two – are frequently committed by those seeking individual gain, in the name of human rights and democracy.

Without a forum for meaningful discussion of the primary purpose of human rights, political discourse is limited and distorted – how can we talk about the importance of our freedom to help each other if we fail to articulate it? In taking the right for granted, we have managed to breed the popular assumption that it is somehow less important to us than it actually is.

Nowhere is this clearer than in our domestic immigration debate, which is defined exclusively in terms of benefit or detriment (usually economic) to the host state. Astonishingly, arguments from both sides of the political spectrum take little if any account of our real interest in the welfare of the immigrants we are discussing, many of whom, we know, take immense personal risks to get here.

Instead, immigration continues to be presented as a zero sum game: if we indulge immigrants' interests, we shall detract from our own. The crude assumption here is that our interests exist exclusively of theirs. They do not. And until our leaders realise this, many of us will continue to feel disenfranchised. For whether we choose to recognise it or not, our profound interest in each other's welfare is being systematically ignored.

Ed Miliband's recent change of tack on immigration was premised on the need to be 'fair' to our domestic working classes, to whom so-called 'cheap immigration' is allegedly less beneficial. He needs to change tack again if progress is to be made. Fairness cannot be considered in a vacuum, or applied to one group of people and not to another. To do so is, by definition, unfair. And misguided statements such as this serve only to contain and foreclose genuine egalitarian aspirations. Perhaps we feel that is precisely what we want – to keep things as they are? Yet history shows, with pellucid clarity, that we do so at our peril.

If we're serious about human rights – and we should be – we need to acknowledge why they are important to us. And we need to start valuing them above our immediate, short-sighted, economic interest. Would we really exchange a safer, fairer world for some extra cash?

Well, alarmingly, the evidence here in the UK suggests that we would. We seem to have lost sight of our profound interest in helping each other – the same interest that united nations in their efforts to pre-empt the type of worldwide atrocities that we continue to see, day in, day out.

We have only to consider the savage assault on legal aid courtesy of the recent Legal Aid, Sentencing and Punishment of Offenders Act 2012. Bar a small number of exceptions, it will, inter alia, effectively exclude the poor from legal assistance in immigration cases. This will breach the legal aid providers' right to help poorly resourced clients, by making their work (still more) economically unsustainable – or rather, it would, if that 'right to help' were articulated: we lack the language to defend ourselves.

More recently still, the government issued a Statement of Intent on family migration. Although its gory details are not the subject of this article, the changes – incorporated into our domestic immigration rules this week – effectively undermine, in one fell swoop, years of brilliant and painstaking legal analysis in respect of the right to family and private life. How could this possibly be in our collective interest?

This type of systemic myopia is not, of course, limited to the UK. And unless we can develop a political discourse to reflect our common interests more accurately, we can brace ourselves for another 60 years of tyranny, insurrection and humanitarian triage operations on the wounds inflicted by our collective disenfranchisement.

For all the excitement of her recent visit to the UK, the warning conveyed by Aung San Suu Kyi in her inspirational Nobel acceptance speech last month appears to have been all but

to a gym, but for those who use it, it is a life line. It is a place where they expel the significant frustrations created by a collapsing penal system that has no true interest in rehabilitation or justice. It is said that the humanity and development of a country can be judged by how that country treats its prisoners. If British prisons were run the way the general publics reported views wished, we would rank lower than most third world countries. As it is, in many aspects we already rank behind countries such as Afghanistan, Russia, China and Pakistan.

Bob Woffinden, Britain's leading writer on miscarriages of justice, has given us permission to use article below which he wrote about Dave's case for the June 2010 issue of Inside Time.

Susan Kent's body was found in the front bedroom of her house at about 4.15 in the afternoon of 24 November 1999. She worked part-time both as a schools dinner lady and also as a childminder. She had a young son and it was because she had neither arrived at work as normal around midday nor picked her child up from school that the alarm was raised. She had separated acrimoniously from her son's father, and it was her mother who went round to her house on the outskirts of Gillingham, Kent and found the body.

It was a brutal murder. Susan was face down on the bed, wearing just a pair of black stockings, with her hands handcuffed behind her back. She had been stabbed ten times in the chest and her throat was cut. There were, though, two enormous advantages for investigators: the crime was discovered within a few hours (the murder having occurred, prosecutors argued, at about 10.50am); and the bedroom provided a small, self-contained crime scene.

Logically, investigators could expect to recover a significant amount of important evidence in such circumstances. So, indeed, they did. None of it, however, could be associated with David Ferguson, the man who was arrested for the crime three weeks later and subsequently convicted of it. The first clue was that there was no sign of forced entry or disturbance elsewhere in the house. So the victim must have known her attacker or, at least, was prepared to let him into her house. The circumstances suggested that she may have been interested in bondage or fetishistic sex. Certainly, visitors to her home had noticed the handcuffs.

Ferguson is a fully-qualified machine and hand bookbinder, a trade that still flourishes in Kent and East Anglia. He agreed that he had met Kent at the casino, a local night-club in Rochester. They exchanged telephone numbers and subsequently met on a few occasions, but he insisted that their relationship was never a sexual one. Nor had he seen her for some time before her death. Certainly, there was no evidence that he had ever been inside her house.

The prosecution case was constructed on two main areas of evidence: firstly, a kind of general character assassination, with suggestions that Ferguson himself practised what the tabloid press would doubtless term kinky sex, and that he had researched how to commit a murder on the internet; and secondly, DNA evidence.

The Crown's forensic scientist told the Court that there was only a one in a billion chance that the DNA profile derived from someone other than Ferguson. These were impressive statistics. Were they true? That remains a subject of intense debate. There were only two pieces of forensic evidence. Firstly, bloodstains on one of Ferguson's boots were said to match the victim. However, the scientist had only been able to obtain a profile by combining four different samples–a practice that, amongst others, Sir Alec Jeffreys, the man who created the science of DNA profiling, regards as unscientific. Similarly, anal and vaginal swabs from the victim were said to have produced Ferguson's profile, but again this work is hotly disputed.

Four swabs of the victim had yielded a mere three sperm heads – an astonishingly small number. This suggested that whoever had deposited them was effectively infertile, some-

thing that happily does not apply to Ferguson.

What we do know, on the basis of a recent appeal court judgment, is that the judges accepted that the value of DNA evidence could be overstated in court and that, as a result, the claimed scientific results needed to be examined in the context of all the other evidence. In this case, the other evidence was virtually non-existent.

The computer information regarding what contacts Ferguson was making and what details he was seeking is highly dubious. The technological development of PCs has been so rapid over the past decade that anything from 1999 is virtually Neolithic by current standards. A message supposedly sent from Ferguson's computer mentioned an attack on Susan Kent. Leaving aside the question of why anyone intending to murder someone would helpfully send a computer message stating their intentions, it is highly doubtful if this ever was sent from Ferguson's computer. The prosecution had to admit that if the computer had subsequently been used, then the memory would have been overwritten; yet Ferguson's phone bill shows that his computer was in regular use from the time of the murder up until the time of his arrest.

Weighed against that must be all the evidence that exculpates Ferguson. There were cigarette butts at the scene. Ferguson has never smoked, and it seems that the victim did not either. Whatever evidence they provided, it was not evidence that incriminated Ferguson. A footprint was found at the scene; again, not Ferguson's. There were two bloodstained sections of carpet. While some staining fully matches the victim, someone else's blood appears to be there; again, not Ferguson's.

Two DNA profiles were obtained from the handcuffs. One matched the victim. The other, a partial profile, did not match Ferguson.

There was potentially vital evidence from one witness who said he saw a red car parked on Kent's drive that morning. The owner of this car has never been traced. Ferguson did own a red car himself, but the prosecution had to accept that on that day it was immobile.

He actually had an alibi that morning. He was with his father. Family alibis are generally regarded as worthless in a criminal justice context (something which has always baffled me; most of us are with family members much of the time, so it's logical that a significant percentage of alibis will be family alibis), but this is not solely a family alibi. There was a statement from one witness regarding the time that Ferguson's father left a garage (about 10.40-10.45). He then went to his son's house. A lodger heard them leaving at about 11.00. They drove into Chatham, where the father needed to pick up a prescription. That's a reasonable chain of events, and it's one that gives Ferguson a complete alibi.

At the time of the murder, he was suffering health problems. He had had a stent fitted because of a serious kidney complaint. This caused some pain, and he was taking medication which included strong painkillers.

While it may not be unknown for those suffering severe physical discomfort to engage in sex-and-violence romps at eleven o'clock in the morning, one might well conclude that it was certainly highly unlikely. When this is factored in to a scenario in which there is compelling evidence that Ferguson was not at the scene, and also evidence that someone else was, then the impression that he is the victim of a major miscarriage of justice becomes overwhelming.

Friends of David Ferguson, have set up a very comprehensive website, factual background of the case, court transcriptions detailing the police investigation, Crown Prosecution case, defense, judges summig up. http://www.free-david-ferguson.org.uk/.

of perverting the course of justice, while Lee and Thomas Griffiths were also found guilty of conspiracy to supply class A drugs. It was claimed during their trial 33-year-old Mr Vincent had been killed by the group because they believed he had stolen drugs and money from them. Mr Vincent had lived with the Griffiths at Southfield Road, Scartho. A post-mortem examination revealed he had been tortured in the days leading up to his death.

A fourth man, Luke Griffiths, 19, was jailed for 26 years for murder and perverting the course of justice. Matthew Frow, 31, of Southfield Road, Scartho, was acquitted of murder but was sentenced to 15 years for causing grievous bodily harm, perverting the course of justice and conspiracy to supply class A drugs

The Right to Help Each Other

Tom Gaisford argues that our discussion of human rights ignores one of our greatest freedoms

The policy and discourse of human rights is mired in the dialectic of rights versus responsibilities. But this limited mode of thinking overlooks the synthesising power of one of our most important and uncodified freedoms: the right to cooperate.

Amongst all the rights defined in the 1948 Universal Declaration of Human Rights there is no mention of our freedom to help each other. Nor has it been characterised as a human right since. Why not? The answer is simple: we have taken it for granted.

Consequently, however, there is a gap in the discourse. Rights are contrasted with responsibilities as if the two were entirely distinct. They are not. And the devastating result of this false distinction is that our responsibilities – to others as much as to ourselves – are socially and politically devalued.

The drafters of the Declaration came close to identifying the nexus between rights and responsibilities when, by implication, they recognised the importance to each of us of protecting each other. In the preamble they wrote that the protection of human rights by the rule of law is "…essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression…"

Yet in defining the need for protection at all, they were in fact assuming a more fundamental, ingrained and important privilege: the freedom to help. The human rights movement did not come about solely as the result of human atrocities, but of our unquestioned will to prevent them reoccurring. That volition is ours, by birth right.

You could argue that our freedom to help each other is already provided for by means of political participation, through which, together, we help to decide which rights we collectively wish to endorse. And yet a closer look reveals that even the right to political participation derives legitimacy from the unspoken assurance that we have a right to assist each other. First we assume the right to pre-empt and counter tyranny and oppression, then we work on the most effective way to achieve this aim. It is worth noting that neither democracy, nor human rights discourse for that matter, would exist without our latent endorsement of our right to help each other.

Paradoxically, this right is so entrenched in our psyche that we have failed to see the importance of making it part of the human rights debate. A lamentable consequence of this is that we are able to contest and undermine the legitimacy of other, derivative human rights with ease. Without recognition of our collective endorsement of the importance of being able to help each other, human rights have the appearance of being simple, ungrounded pronouncements.

In this context, it is perhaps unsurprising that many of the very abuses that we sought to avoid after the horrors of the second World War – systematic torture of so-called 'enemy

Kevan Thakrar - Guardian Article Updated

Thakrar has made repeated complaints about his treatment in prison and had 180 investigated over the last four years but the parliamentary ombudsman ruled in June that he suffered "injustice" after the ombudsman failed to properly investigate the alleged assault.

Nigel Newcomen, the Prisons and Probation Ombudsman who took on the post in September 2011, said there was confusion about what Thakrar wanted to be investigated. But he added: "I take the Parliamentary Commissioner's report extremely seriously. Where we have got something wrong, it is essential we learn lessons and improve… a new investigation into the original allegations is under way." "I am committed to ensuring that any deficiencies exposed by this case are remedied." Mr Newcomen defended his organisation's role to "robustly and independently" investigate complaints about the treatment of those in custody.

But Mark Leech, the editor of the prison newspaper Converse, said: "We need a robust, open, transparent and accountable Prisons Ombudsman, one which enjoys the credibility of those it investigates as well as the confidence of those who make the complaints to it; at the moment it has neither and therein lays the danger." *Guardian UK, 13/08/12*

"There was also an incident in the Close Supervision Centreon 31st July, which has been reported to and logged by Thames Valley Police, reference number URN1253 6 August 2012. Letter below from Kevan details the alleged incident:

"Today, Tuesday 31 July 2012, the cretinous senior officer of the Close Supervision Centre, Andy Bailey, and his minions, attempted to take advantage and manipulate the lunatic prisoner Danny Walker, into murdering me.

"These fools encouraged Walker into creating a weapon, which he did, and stabbing me in the neck with it whilst unlocked together. Obviously Walker didn't execute the plan, maybe because his weapon was 2 pencils sharpened and strapped together and he knew it wouldn't be that simple. But the fact remains, Bailey tried to have me assassinated.

"Now that Walker and others have informed me of this, I have been forced into even further isolation 'for my own safety' by Bailey. Now I can't even move on the landing at the same time as loons like Walker. Funny, my 'safety' wasn't an issue when Walker was allowed to follow me into the interview room armed and close the door…

"The cowards aren't able to kill me with the media watching, but talking a mental patient into it seems to be their solution for my exposure of the corruption within the prison service, which will undoubtedly lead to a call for more staff needed!

"For everyone reading, if anytime in the future you hear of my death within prison, please remember that it has been caused by the prison service, no matter how it may be made to look. Unless that day comes, I will continue to reveal the evil clandestine ways of British prisons." Kevan Thakrar AS4891AE, HMP Woodhill CSC

Grimsby Men Jailed for Adam Vincent Murder to Appeal *BBC News, 13th August 2012*

Three men convicted of the murder of a Grimsby man have been granted permission to appeal against the length of their sentences. Adam Vincent's body parts were found in waterways across north Lincolnshire in 2011. Lee Griffiths, 43, his son Thomas, 22, and Mark Jackson, 27, all of Scartho Grimsby, were convicted of murder in January. No date has been set for their appeal to be heard.

Lee Griffiths was jailed for at least 32 years, Thomas Griffiths for 27 years and Jackson for 29 years, following their trial at Sheffield Crown Court. The three men were also convicted

Rioters who Looted Notting Hill Restaurant Given Long Jail Sentences

Gang of 16 attacked lone shopkeeper and robbed diners at Michelin-starred Ledbury restaurant in four-hour rampage *Sandra Laville, guardian.co.uk, 08/08/12*

Rioters who rampaged across west London for four hours, attacking a lone shopkeeper and robbing diners at a Michelin-starred restaurant, have been given some of the harshest sentences for crimes committed during last August's UK riots. Most of the 16 young men, aged from 15 to 25, had previous convictions – many for violence. They were members of rival gangs who had put aside their differences in a plan, orchestrated via text and BBM messages, to run amok in one of the most extreme episodes of the urban disorder, inner London crown court heard on Wednesday 8th August 2012. Three were jailed for nine years, and one was given a seven-year term while others were jailed for six years and six-and-a-half years and three received four-year sentences. Only one rioter was given a non-custodial sentence. All but four had previous convictions, and several had breached detention or curfew orders to take part in the rioting, the court heard. Detective Chief Inspector David Hutcheson said the police were still looking for more than 20 key figures involved in the rioting.

The full story of the violence on 8 August last year, which Judge Usha Karu said was one of the most extreme nights of the four days of urban disorder, can be told now following the end of two trials. It involved the storming of the Ledbury restaurant in Notting Hill. In previously unseen CCTV footage 30 diners are shown diving under tables as rioters burst in, some carrying batons, and sticks and shouting for diners to get on the floor. Watches, cash, jewellery and phones were taken by rioters wielding poles, knives and baseball bats. One woman had her wedding ring pulled off her finger, and a chauffeur waiting in a Bentley outside was attacked.

The court heard that the Ladbroke Blood gang and the Lisson Green Men had put aside rivalries to plan and carry out what the judge said was "carnage", "mayhem" and "mob criminality". One rioter was tackled to the ground by the TV historian Dan Snow.

A three-day sentencing hearing heard how the four-hour rampage included an attack on a shopkeeper, Mohammed Haroon, which was not previously detailed in the extensive coverage of the disorder. Haroon was beaten about the head with a looted champagne bottle by 19-year-old Kalen Hinds in an attack caught on CCTV inside the Super Save shop on Westbourne Park Road. In the footage, which can only now be shown, Haroon cowers in the corner of the shop, surrounded by masked youths. Hinds can be seen battering him about the head with the bottle. "They hit me so many times I was very scared," Haroon told Channel 4 News. "I think they were trying to kill me. After that attack I became dizzy and left the shop. I went out and called the police. The police didn't pick up." Jailing Hinds for nine years for conspiracy to burgle, conspiracy to commit violent disorder and the wounding and robbery of Haroon, Karu said the violence was "completely inexcusable".

Sentencing all 16 – the youngest of whom is a 15-year-old asylum seeker from Sudan – Karu said: "It was a year ago today that you were involved in the mayhem and mob criminality that so disturbed the law abiding public. Today, in stark contrast to those scenes of arson, looting and criminal damage London is hosting the Olympics which demonstrates the excellence that can be achieved in sport as an inspiration to all. However, those involved in these events were involved in the opposite."

The 16 defendants were among 50 people who rampaged through west London at a time when the police were clearly outnumbered and overwhelmed, the court heard. "The evidence shows this was not a random meeting but a planned campaign between some of you who knew each other

as a result of belonging to gangs and communicated with each other by mobile phone," Karu said. "Two gangs put aside their differences in order to get together to perpetrate the serious disorder. The object was to … cause chaos, damage and to loot." Three of the 16 admitted taking part in the Ledbury raid: Anas Ibrahim, 17, was jailed for six years; Ahmed al-Jaf, 19, was jailed for nine years for the Ledbury raid and his part in the attack on Haroon; the 15-year-old Sudanese asylum seeker, who cannot be named, was sentenced to three years in detention.

Hutcheson said afterwards: "These are some of the most significant sentences that have been given for the rioting. These events involved members of several gangs who organised themselves via social media to cause mayhem. Hopefully these sentences will send a strong message to those involved in gangs or those contemplating involvement."

The following sentences were given out by the judge: *Kalen Hinds,* 19, sentenced to nine years imprisonment after being convicted of conspiracy to burgle and commit violent disorder, robbery and wounding of a shopkeeper: *Rico Myers,* 17, sentenced to four years after pleading guilty to conspiracy to burgle and commit violent disorder, robbery of a shopkeeper and a taxi driver: *Gyasi Skinner*, 20, was sentenced to nine years and two months after pleading guilty to conspiracy to burgle and commit violent disorder: *Karl Jensen*, 24, sentenced to three years after pleading guilty to conspiracy to burgle and commit violent disorder: *Liam Hodge,* 22, sentenced to four years and four months after pleading guilty to conspiracy to handle stolen goods: *Tyler Brewer,* 19, sentenced to four years and one month after pleading guilty during trial to conspiracy to handle stolen goods: *Nasir Muhsen*, 18, sentenced to six years and six months after pleading guilty to robbery of a shopkeeper and being convicted of conspiracy to commit violent disorder: *Ahmed Al-Jaf, 19*, sentenced to nine years after pleading guilty to conspiracy to burgle and conspiracy to commit violent disorder, robbery of a shopkeeper and robbery of customers and staff at the Ledbury restaurant in Notting Hill: *Ali Abdul Waga*, 20, sentenced to seven years after being convicted of conspiracy to burgle, conspiracy to commit violent disorder and robbery of a taxi driver

Most People Prefer a Better Bargaining Tool than Havoc

From the Gloucestershire cheese riots on, wrongly ascribing motives to rioters only intensifies their sense of impotence *Zoe Williams,guardian.co.uk, Wednesday 8 August 2012*

The anniversary of last year's riots has been a muted affair, both overshadowed and made a little incomprehensible by the unforced togetherness of the Olympics. To look now at the nation's youth – striving for excellence in every task, whether it's jumping over an impossible beam or giving you directions to the tube – you wouldn't believe the way they were characterised last August, feral and unruly (like all crowds) but with a new twist of avarice.

In 2011, all they were interested in was trainers; in 2012, all they're interested in is running. And part of this, of course, is that there's no texture in a mainstream narrative: the dominant one wins. Equally, there's not much nuance of mood in a crowd, it's either exceedingly happy or exceedingly angry. This national turnaround is unsurprising.

I suppose it's somewhat surprising that the debate never moved on – it started off with one camp saying this is what happens when inequality is high, and the other saying it was "pure criminality", and that is roughly where it's remained. I went to a meeting recently about it, in which a Conservative whom I believe I'm not supposed to name was grinding on about poor parenting. I said that it was hard to be a very hands-on parent when you had two jobs, and it was hard to persuade your kids to stay at home if it was cramped or squalid; any conversation about parenting and its place in the riots had to include a discussion about wages and one

Multiple murderer Donald Neilson asked prison staff not to keep him alive if his health deteriorated, an inquest has heard. The 75-year-old, who became known in the media as the Black Panther, died of pneumonia in December 2011 after being taken from Norwich Prison to hospital.

Neilson, from Bradford, was convicted of four murders, including that of 17-year-old heiress Lesley Whittle. He was jailed for life following a trial in 1976.

The rejection of an appeal in 2008 meant Neilson was never released He shot three sub-postmasters dead during armed robberies between February and November 1974, before kidnapping and murdering Miss Whittle in Shropshire in January 1975. After more than 30 years in prison, he had been diagnosed with the irreversible muscle-wasting condition motor neurone disease in 2009, the inquest heard.

He was then moved to Norwich Prison from Full Sutton in East Yorkshire. Claire Watson, offender health commissioner for Norfolk and Waveney NHS Trust, said he was "becoming increasingly dependent on others". She described Neilson as a "challenging and unco-operative" patient who had asked medics not to resuscitate him if he suffered a cardiac arrest. "Norwich Prison was thought to be the best place for his needs," she added. "Prisons aren't the best place for people who can't dress themselves and can't wash themselves. "Norwich has a specialist wing which does provide a level of care over and above what you would find in a normal prison." She added: "He was a challenging and unco-operative patient and staff at the prison are to be commended for the level of care they provided which was equitable with that he would have received in the community."

Prison officer Richard Baird-Parker was on duty on the day of Neilson's death and was called to the hospital to maintain a "bed watch" on the killer. "I knew him quite well and I knew he was severely ill," he said. I was present when he was pronounced dead at about 6.30pm."

Norfolk Coroner William Armstrong said: "At the time of his death he struggled to do even the most basic things and was virtually dependent on other people." He added that Neilson's family had been informed of the inquest at Norwich Coroner's Court but chose to stay away.

Relatives did not visit him in jail, although after the inquest it emerged that his daughter, Kathryn, had sent prison staff a card thanking them for the care they provided. A jury returned a verdict that Neilson, who had contracted pneumonia, died of natural causes.

Mr Neilson's first victims were Donald Skepper, killed in Harrogate, North Yorkshire; Derek Astin, in Higher Baxenden, Lancashire; and Sidney Grayland, in Langley, West Midlands. He was also responsible for about 400 burglaries during a 10-year criminal career. He was dubbed "The Black Panther" by the media after a witness described his dark clothing and powerful physique.

Dr Freddy Patel Labelled 'misleading' Over Tomlinson Case *BBC News, 13/08/12*

A disciplinary panel says the pathologist who conducted the first post-mortem examination on Ian Tomlinson is "dishonest" and "liable to bring his profession into disrepute". Dr Freddy Patel said Mr Tomlinson, who was pushed to the ground by a policeman at the G20 protests in London in 2009, had died of coronary artery disease.

A Medical Practitioners Tribunal Service panel found this was wrong. The panel also found that his conduct was "misleading". In total, 68 failings were identified by the Medical Practitioners Tribunal Service in Dr Patel's work on the case of Mr Tomlinson. The panel will now determine if his "fitness to practise" was "impaired by reason of misconduct and/or deficient professional performance" and if he should be allowed to continue as a pathologist.

gramme as it had filed for liquidation this month but the department confirmed they are still interested in setting up call centres from inside the prison estate as part of their programme for expanding ONE3ONE Solutions, formerly known as the Prison Industries Unit. In a leaflet sent out to various organisations late last year, UrbanData said it could offer "lower costs and overheads" if businesses signed up.

"The opportunity for your organisation is a higher corporate responsibility profile by engaging in a high-profile initiative supported by the Ministry of Justice, lower costs and overheads for trained contract centre agents, flexible resources that can deal with overflow calls and specific projects, all dedicated to growing and supporting your business," the leaflet read. Advertising the scheme as a "fantastic rehabilitation revolution" the flyer added that prison-run call centres could offer trained operators "with British Regional [sic] accents as an effective alternative to off shoring operations". A marketing email sent with the flyer confirmed the plans to get prisoners to work manning phones were backed by the government.

"Working in partnership with the Ministry of Justice, we are establishing call centres inside prisons," it said. We are training prisoners to become qualified contact centre operators. This gives them employment during their prison term and also prepares them for a more productive life when they return home," the email said.

The Prison Industries Unit which was rebranded as ONE3ONE Solutions after the 131 prisons in the prison estate, has used inmates to make uniforms and office and garden furniture or package headphones for companies such as DHL and Virgin. However putting call centres inside prisons would be one of the first instances of prisoners serving lengthy sentences coming into direct commercial contact with the public. The idea is already established in the US. It follows revelations that prisoners from open jails in Wales were being paid just £3 a day to work in private call centres outside of prison walls. It is unclear how much prisoners would be paid at call centres inside prisons but under current rules prisoners on "work experience" are paid £3 a day, with no set maximum to the work experience period. The MoJ said there were varying levels of pay for those working inside prisons with the lowest being around £3 a day.

In a ONE3ONE prospectus, David Cameron urged businesses to take advantage of the opportunity working prisoners offered. "Prisoners working productively towards their own rehabilitation will contribute to the UK economy and make reparation to society," he wrote. "Many businesses, large and small, already make use of prison workshops to produce high quality goods and services and do so profitably. They are not only investing in prisons but in the future of their companies and the country as a whole. I urge others to follow their lead and seize the opportunity that working prisons offer." Sandra Busby from the Welsh Contact Centre Forum said she did not think such a scheme would undermine her members' interests but was worried about them complying with data protection and Ofcom legislation. "There's a lot of legislation you've got to be very, very careful about," she said.

An MoJ spokesperson said, "Prisoners who learn the habit of real work inside prison are less likely to commit further crime when they are released. For that reason the Prisons Service is looking at a number of potential schemes to increase work opportunities in prisons. "All contracts with outside employers must comply with a strict code of practice which sets out that prisoners cannot be used to replace existing jobs in the community. Prisoner wages, for those in closed prisons, are set by prison governors and companies have no control over the level of payment."

Donald Neilson 'Asked Staff Not to Keep Him Alive' BBC News, 09/08/12

about rent. "I don't want this to get too ideological," he said. "No," said the chair, "we're trying to move away from old arguments." Yeah. Because the thing with poverty is that it's old, ergo monumentally tedious, not just to live with, also to talk about.

There's still too much heat in the debate, but if we maintain these opposing positions, by the time we've cooled down we'll be more immovable than ever (I was working up a blacksmithing metaphor, but it's way too complicated). I suggest a longer view. This year isn't just the first anniversary of last year's riots, it's also the 200th anniversary of the Luddite machine-wrecking riot. Eric Hobsbawm called it "collective bargaining by riot", which was precisely correct of people who deliberately broke looms, but is broadly correct of all riots. How do large groups of people, with no power other than their numbers, assert themselves? By reminding the world of how much damage they could do.

Riots and the responses to them observe some broad rules. People who aren't food rioters are written off as spoilt and indolent, the logic being that if you will destroy the fabric of society when you're not even hungry, you must have reached a state of depravity that only excess can create (here, the Luddites and last year's rioters have something beyond a birthday in common – they were both widely described as people who were made greedy by already having too much).

Where it is a food riot, there's always an attempt to dismiss it with ad hominem attacks on an unnamed hardcore, whether in Yemen in 2007 or in the Gloucestershire cheese riots of 1766 – a local paper reported on that second event: "[In the area live] a great number of desolate, idle fellows, that delight more in drinking than work: four of these sort of people being assembled together at Pitchcomb feast, and there getting drunk, were the first who kindled the flame of disturbance here; these incendiaries communicating their mad resolutions to others." Most people aren't hungry, in other words – they are just fermented by (curiously persuasive) workshy drunkards. It's a line of attack I can easily imagine Iain Duncan Smith using.

History – as opposed to immediate chronicling – favours the political or ideological riot over the food riot, which is irrational, since there can be no more political statement than to protest your hunger, or your powerlessness. More than that, history favours the riot that destroyed the status quo – so last year's riots in Egypt and Tunisia were part of the Arab spring, while the food riots in Bangladesh, Cameroon and Indonesia were so fast-forgotten that they didn't get a name. All of that unrest sprang from the same cause: massive increases in the cost of staples. As Christian Parenti wrote: "The initial trouble was traceable, at least in part, to the price of that loaf of bread." But not all of it was ascribed the same nobility.

Rightwing opinion always tries to bring the riots back to a question of moral compass – why don't the young know right from wrong? How can we teach them right from wrong? Yet there has never been any such thing as a riot that was entirely noble, nor one that was comprised entirely of bad seeds; there are only riots that became movements, and riots that achieved nothing, and could be written off in retrospect. We're not quite at "retrospect" yet with 2011 – to write off a riot prematurely merely intensifies the perception of impotence that it was expressing in the first place.

More importantly, this question we're stalling on – do these rioters have a real grievance, or are they just bad people? – is irrelevant. Generally, people prefer it when they have a better bargaining tool than havoc. If enough people feel that destruction is their only leverage, it doesn't really matter if they're bad people, or their parents are useless.

There are bad people and useless parents at every price point. They will continue to destroy until they perceive their leverage to be better – the question is what to do about that. We can't hold an Olympics every year.

R v Abdul [2012] EWCA Crim 1788

The appellant was convicted of possession of a false identity document with intent, contrary to section 25(1)(a) of the Identity Cards Act 2006. Unfortunately, it was overlooked by everyone that the Identity Cards Act 2006 was repealed by section 1 of the 2010 Act, which came into force on 21 January 2011, a few months before the appellant's arrest.

The court agreed that the conviction should be quashed on the basis that the process which culminated in the conviction was a nullity, and conceded by the Crown that the appeal on the ground that the appellant was convicted of a non-existent offence should be allowed.

They were then invited to consider whether the problem could be addressed by reference to section 3 of the Criminal Appeal Act 1968.

Held: "In our judgment it is established as a matter of principle that section 3 of the 1968 Act cannot be used in order to substitute a verdict of guilty of an offence for which the defendant could, if charged, have been convicted when the offence of which he was in fact convicted did not exist at the date when the alleged criminal conduct occurred. Accordingly, the conviction must be quashed."

Defence Of Insanity

The defence of insanity is one which is rarely touched by Defence lawyers; it is raised in under one percent of criminal trials in the United Kingdom and only a quarter of those raised succeed. If a defendant has been charged with a criminal offence and there is any suspicion that that person is either currently suffering with mental health illness or was suffering from mental health illness at the time of the alleged offences; then there is a potential defence of insanity arising. The burden of proof is reversed onto the defence when insanity is raised. If the defence is successful at trial; the Jury must provide a special verdict of 'not guilty by reason of insanity'.

The defence of insanity dates back to 1843 when the case of McNaughton [1843] UKHL J16 established the criteria for proving the defence of insanity. The McNaughton rules criteria states that in order for a defence of insanity to be proved that 'at the time of the offence the accused was suffering from a defect of reason which is caused by a disease of the mind and that that defect of reason must be such that the defendant did not know the nature and quality of the act he was doing, or if he did know, he did not know the act was wrong.' The case is so old that the above criteria are taken from other sources as there are no transcripts of the ruling.

In order to raise the defence of insanity; two S.12 approved forensic psychiatrists in the relevant field should be instructed to assess the client. The medical experts should give their opinions on the client's mental health at the time that the alleged offences took place and obviously give positive conclusions regarding the client's insanity at the time of the offence.

The medical experts should subsequently follow-up the assessments in a psychiatric report which complies with the format that is in line with the Criminal Procedure Rules on expert witnesses. The reports will become important medical evidence which in turn will then be served on both the Crown Prosecution Service and the Court prior to arguing the defence of insanity at trial.

The McNaughton rules are currently criticised mainly for the reverse burden of proof being anomalous and there have been several proposals to reform the law but these attempts have so far been ignored. In my opinion the law on insanity following the McNaughton Criteria is sufficient for the time being although there will come a time in the future when reforms will need to be implemented as the current law could be seen as outdated. *By Hayley-Jane Knight*

Reducing the use of Imprisonment - What can we learn from Europe

Like so many famous political phrases, David Cameron never actually said that anyone should 'hug a hoodie.' No matter. For it became a saying that helped define him as a new kind of Conservative, someone ready to slay the old shibboleths in his drive to decontaminate the Tory brand. In fact, what he said was far more interesting. In a keynote speech soon after becoming leader, he stressed the need to understand the long-term causes of crime and recognise there was no hope of answering why people commit crime unless we ask the right questions. And he pointed out that these questions were complex, revolving around issues such as family breakdown, mental health, poor education, inadequate state care systems and substance abuse.

The fact that this was remotely controversial, that it was leapt on by his opponents as some kind of political gaffe, shows only the depressing level of what passes for debate on crime and justice in this country. Prison populations rise, spending soars but politicians must endlessly resort to tired and reckless rhetoric to appease hysterical headline writers.

So Michael Howard declared 'prison works' despite all evidence to the contrary. Under New Labour an astonishing and shameful 28 criminal justice bills were passed in 13 years; one new law was put on the statute book for every day they were in government. The coalition set out determined to let reason and reality intrude on the crime debate - but sadly is now wobbling in the face of fury on the backbenches, in the party and the media as it strives to shore up waning popularity. It is widely expected that Ken Clarke will be replaced as justice secretary and that his successor will resort to the more familiar gesture politics of the past.

All this is profoundly depressing. After nearly two decades of simplistic slogans and cheap political stunts, it should be clear that locking up more and more people does not solve society's problems or, in itself, cut crime. Britain now puts proportionately more people than anywhere else in Europe behind bars - but still there are insatiable demands to get even tougher on crime. This is the politics of the madhouse.

We would do well to wake up to what is happening abroad. In the United States, some of the toughest states such as Texas are leading a revolution in rehabilitation after recognising that an expensive prison system locking up the same people again and again is just another sign of state failure.

Closer to home, there have been remarkable experiments in Finland, in Germany and - perhaps most pertinently for Britain - in the Netherlands, as outlined in this important and timely paper. They prove that countries do not have to keep consigning the flotsam and jetsom of society to jail in every greater numbers. There are alternatives that work as well, if not better - as well as being far cheaper, an important consideration amid the current economic maelstrom. Political courage combined with coherent policies on community punishments and rehabilitation can deliver the holy grail of declining crime, declining prison populations and declining budgets.

Despite the derision, Mr Cameron was on the right lines in his so-called 'hug-a-hoodie' speech in 2006. We will never solve society's most fundamental problems if we do not ask the right questions and learn the right answers - wherever we can find them.

Prison Call Centre Plans Revealed Shiv Malik, guardian.co.uk, 09/08/12

The Ministry of Justice is planning to set up call centres inside jails as part of its work programme for prisoners, according to documents promoting the scheme. Details of the plans have emerged after marketing material from an MoJ- supported company, which described the call centre scheme as a "rehabilitation revolution", were passed to the Guardian.

The MoJ stressed that the company, UrbanData Ltd, was no longer involved in the pro-