Martin Foran Wrongfully Jailed 1985 Cleared After 28-Year Fight *BrumMail, 17/04/13*

Martin Foran was jailed in 1985 for the gang robbery of a Birmingham pub landlord and a plot to raid a post office in Water Orton days later. The 69-year-old, who used to live in Ladywood and describes himself as a 'forgotten man', served eight years in prison on the back of evidence from the same discredited police outfit that investigated the Birmingham Six. The disabled father-of-five has always protested his innocence, claiming he was framed by the notorious West Midlands police squad which was disbanded in 1989. Mr Foran was accused of being one of three balaclava-clad robbers who stole £1,700 from the landlord of the Trident pub, in Shard End, in September, 1984. He was arrested in his car days later after one of the robbers, Paul Addison, told police he had committed the raid with someone called 'Martin'. Mr Foran has always complained that none of his alleged victims appeared in court to testify against him. One even failed to pick him out of an identity parade. Mr Foran, who now lives in Manchester, has always denied making the confession, but lost two previous attempts to overturn the convictions. He applied to the Criminal Cases Review Commission for a review of his case in June 2011, which brought it back to court last month. The grandfather was supported in court by family, friends and Paddy Hill, one of the Birmingham Six who were wrongly jailed for the Birmingham pub bombings. Almost 28 years to the day since he was sent to prison, Lord Justice Leveson said Mr Foran's conviction must be overturned due to the serious tainting of police evidence. At the High Court, Lord Leveson said the trial may have gone in a completely different direction if the defence had known about problems with officers' evidence regarding Mr Foran's claimed confession. Lord Leveson said: "A substantial number of convictions arising from investigations conducted by the squad have been quashed as a result of concerns regarding the working practices adopted by officers there. Malpractice subsequently identified included physical abuse of prisoners, fabrication of admissions, planting of evidence and mishandling of informants. It is clear that the conviction of the Once the reliability of the police evidence is called into serious question we have no doubt that this conviction cannot be regarded as safe." Mr Foran sought to appeal against the convictions, but it was dismissed in July, 1986. He later applied to the Home Office for a review of his case. His second appeal was dismissed in February 1995. Mr Foran said he had been "fighting from day one" to clear his name. In a previous case, Martin spent over 47 days on the roof of HMP Nottingham, after he was convicted in June 1978 on four counts, involving three robberies, and sentenced to 10 years' imprisonment on each, the sentences to run concurrently. He consistently asserted his innocence and repeatedly staged various types of demonstration to draw attention to his case.

Hostages: Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, 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, 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.

Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Fax: 087 2023 1623

MOJUK: Newsletter 'Inside Out' No 421 18/04/2013)

Prison Writings: Welcome to the Factory of Manipulation and Deceit

By Terry Smith, currently serving 12 years

When it comes to the manipulation of evidence and facts, no one does it better than the police. From the very cradle of enrollment, when a constable swears an oath to the Queen to serve "without favour or affection, malice or ill will," the implacable indoctrination of manipulation begins. This is where year by year the police and associated State agencies learn to manipulate the legal framework in which they work to such a corrosive extent; the presentation of evidence becomes a ruthless synthesis of fact and fiction, truth and lies, anything providing a conviction is obtained.

The blueprint of manipulation and by extension a miscarriage of justice usually begins when an elite squad of determined detectives target a suspect whom they believe committed a serious crime or crimes, but the evidence suggests otherwise.

It appears the key to the perfect police fit-up is to convince or dupe a jury that the accused is lying, for lying equates with something to hide and guilt. The police do this through the careful concoction of false evidence which may be refuted by way of a request for formal disclosure from the very fabricators who manufactured the evidence. It is tantamount to asking your accuser for the keys to the truth which will expose the injustice.

Once the manipulative police disclosure officer proclaims there is nothing to disclose that would assist the defence case, or they refuse to put the requested material in the public domain, the accused is ripe and ready for character assassination.

With all the putative checks and balances of the trial process well and truly neutralized by non-disclosure of vital, exculpatory evidence, the Crown begin to denounce and denigrate the accused testimony as "a Big Fat lie". What's more, the Crown's case becomes more plausible and credible than that of the defence and the jury in all their gullibility are left with one overriding option but to wrongly convict having been deprived and dispossessed of all the relevant facts in the case.

While the maliciously prosecuted and wrongly convicted victim trundles off to long term imprisonment, the process of police manipulation of the facts continues in the media where the senior investigating officer states something like the accused was a " ••• cynical individual with no regard for the law who was prepared to go to frightening ends to ensure his demands were met."

The senior investigating officer is publicly praised and rewarded for the successful manipulation of the entire Criminal Justice System with promotion and decorated with the Queen's Police Medal for Distinguished Service. What has it come to when public servants are rewarded for their brazen mendacity and deceit?

In a last desperate throw of the dice to seek justice, the victim makes a formal complaint to the police watchdog and narrates his veritable tale of woe. He then suffers a further injustice when the accused learns the very police force that authorized and bank-rolled the grade A police fit-up are to investigate themselves.

However there is a salient problem for the Professional Standards Department, as uncomfortably they realize and determine the accused is telling the truth which requires a further layer of manipulation of the police complaints system.

In a bizarre twist of role reversal the official manipulators of the police complaints process condemn the complainant as "manipulative" as the complaint is "out of time" and/or is "an abuse of process". This is where it is alleged the complainant/victim is misusing the police complaints system in order to acquire original disclosure material that he was unlawfully denied during the trial process.

The police and police watchdog then connive and collude together to boot the targeted victim out of the police complaints process so that work colleagues of the specialist police squad can deal with the complaint " ••• as they feel fit." In a masterstroke of manipulation, it appears the police and police watchdog between them have hijacked and re-configured the complaint in such a way that it can be manipulated to fail.

Months after the lodging of the complaint, however, the wrongly convicted victim learns the recently promoted and decorated senior investigating officer, mendacious disclosure officer and the identification liaison officer have all taken the dastardly route of early retirement, rather than face misconduct proceedings.

Notwithstanding the early retirements, dismissals and demotions of police officers, the manipulation continues as the police watchdog claim they were not involved in disciplinary proceedings against the respective Police Forces involved in the fit-up.

It soon becomes apparent the police have manipulated the police complaints process to such a degree whereby it is prepared to push the arch masterminds of the organized police fit-up out of the Police Service with their armour-plated pensions intact and leave their deeply wounded victim to vegetate in prison.

What ever happened to those commendable ideals of the police serving the Queen " ... without favour or affection, malice or ill will"? What ever happened to the putative probity and integrity of police who lead the force into the battle against crime and criminals only to flee when faced with becoming a liar?

Do such former decent men marinate in guilt and shame while they tend to their gardens in dotage? No they justify and manipulate their actions to suit their cause and are more than willing to let their victims suffer in silence.

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

State Has A Duty To Protect A Person's Physical Well-Being

Lack of medical assistance for a pregnant woman requiring emergency treatment breached Article 2 of the Convention. In ECtHR Chamber judgment in the case of Mehmet Sentürk and Bekir Sentürk v. Turkey (application no. 13423/09), which is not final,1 the European Court of Human Rights held, unanimously, that there had been: a violation of Article 2 of the European Convention on Human Rights.

The case concerned the death of a pregnant woman following a series of misjudgments by medical staff at different hospitals and the subsequent failure to provide her with emergency medical treatment when her condition was known to be critical. The Court held that the deceased had been the victim of blatant shortcomings on the part of the hospital authorities and had been denied the possibility of access to appropriate emergency treatment. It reiterated that failure by a State to comply with its duty to protect a person's physical well-being amounted to a breach of the substantive aspect of Article 2 of the Convention. In view of its findings concerning deficiencies in the criminal proceedings, the Court also found a violation of the procedural aspect of Article 2.

The prison made effective use of its resources to ensure almost all prisoners were engaged in work, education or training. As far as possible, prison industries reflected a realistic working environment, although the working day was short. Prisoners valued the opportunity to earn a little extra money. There were good opportunities for education and vocational training in a stimulating learning environment in which prisoners were motivated to progress. PE provision and facilities were also good - important in such a confined environment.

Some of what the prison was trying to do, such as the abstinence recovery centre and the development of a realistic working day, was genuinely innovative and showed early signs of success, even if further development was required. The effectiveness of the prison's innovative offender management system was more in the balance. Offender supervisors, responsible for addressing a prisoner's offending behaviour, were based on the wings and also had residential duties rather than being located separately in the offender management unit. In principle, this seemed a good idea as it would enable them to have a much better handle on a prisoner's actual behaviour and the opportunity for day-to-day reinforcement of learning outcomes from offending behaviour programmes. In practice, however, they were often diverted to other duties and offending behaviour work sometimes lacked sufficient focus. The model was still relatively new and it was too early to come to a settled view about its effectiveness - but it would need to be kept carefully under review. Practical resettlement arrangements - help with accommodation, family links and so on - were well organised.

Overall, we had two main areas of concern. First, the perceptions of black and minority ethnic prisoners and Muslim prisoners about many aspects of their treatment and conditions were much more negative than for white and non-Muslim prisoners. For example, significantly fewer told us staff treated them with respect and significantly more said they felt unsafe. The prison's own monitoring had revealed that some important areas, such as complaints and work allocation, were out of range, and they were taking steps to investigate and address this. However, we did not find evidence to explain the strength of these perceptions. The prison had done some work to try and understand these concerns, but more imaginative consultation and communication with these groups was required.

Second, our longstanding concerns about the management of some of the most challenging prisoners remain unresolved. The segregation unit had improved since our last inspection but still offered a very limited regime with little stimulation for those who were held there for long periods. We were concerned that the prison had not identified some of those who had sought refuge in the unit for their own protection. There was insufficient focus on improving behaviour and helping the men reintegrate back on the main wings. Some men on ACCTs (suicide and self-harm prevention procedures) had been held in segregation without evidence of the exceptional circumstances required to justify this. Almost a quarter of men who self-harmed were placed in strip clothing - tear-resistant and fire retardant gowns - in gated cells in health care. We found little evidence to support the need for such extreme measures; they were not authorised at a sufficiently senior level and risked exacerbating some men's despair.

HMP Full Sutton is already a good prison and it is continuing to improve. The foundations of a generally safe environment in which prisoners are treated as decently as the necessary constraints allow appear to be increasingly embedded. Some significant new developments in important areas of the prison are still at an early stage and create the potential for further improvement. These improvements still need to reach some of those with the highest level of need and be seen to leave no part of the prison population behind.

Made Bail - Stole a Car - Crashed it into police luxury car Headbutted the Occupant

Wayne Kevin Beard had been given a small amount of money to find his way home to his address at Walker Street, Bowburn, from a court appearance on an unrelated matter – and had decided to walk instead. But the 34-year-old later reached a village pub and went in, stealing some car keys and mobile phone from an unattended jacket on a clothing stand. He used the keys to gain access to a Fiat Punto which he promptly reversed into the Mercedes, belonging to DCC Michael Banks of Durham Constabulary – and then attempted to headbutt him. causing thousands of pounds worth of damage to both vehicles.

Beard admitted aggravated vehicle taking, assaulting a police officer in the execution of his duty, theft of the mobile phone and failing to provide a blood specimen. Handing down a two-year custodial sentence Judge Peter Kelson told Beard he has, "an absolutely appalling record", despite an improvement in his behaviour in recent years and that a prison sentence was inevitable.

Report on an announced inspection of HMP Full Sutton

Inspection 3–7 Dec 2012 by HMCIP, report compiled February 2013, published 11/04/13

Inspectors had concerns: - the perceptions of black and minority ethnic and Muslim prisoners about their treatment and conditions were much more negative than for white and non-Muslim prisoners. Inspectors did not find evidence to explain the strength of these perceptions and the prison had worked to try to understand these concerns, but more communication with these groups was required; - the segregation unit, though improved, still offered a very limited regime for those held there for long periods and there was insufficient focus on improving behaviour and helping men reintegrate back on the main wings; and - almost a quarter of men who self-harmed were place in strip clothing in gated cells in health care, and inspectors found little evidence to support the need for such measures. - longstanding concerns about the management of some of the most challenging prisoners remain unresolved - prison had not identified some of those who had sought refuge in the segregation unit for their own protectio - a quarter of men who self-harmed were placed in strip clothing - tear-resistant and fire retardant gowns - in gated cells in health care. We found little evidence to support the need for such extreme measures; - they were not authorised at a sufficiently senior level and risked exacerbating some men's despair.

Introduction from the report: HMP Full Sutton, near York, is a high security prison that holds 600 or so of the country's most serious offenders. It is generally an impressive establishment that maintains an effective balance between providing the necessary levels of security and affording the men it holds decent treatment and conditions. Recent inspections have reported positively on the prison and, although some longstanding concerns remain, this inspection found it had improved further. The prison dealt very effectively with challenges that many other prisons find difficult to manage: levels of violence were low, drug use was low and there was a range of good quality, well-managed purposeful activity available.

Good security processes, effective behaviour management and generally positive relationships between staff and prisoners made for a safe environment. There was a very low level of fights and assaults, and the atmosphere was calm. Sophisticated and covert intimidation and bullying by prisoners convicted of gang and terrorist related offences was identified and dealt with. There was effective action to keep the supply of illegal drugs to a very low level and rigorous management of prescribed medicines that could be misused. Action to reduce supply went in parallel with the establishment of an innovative abstinence-based recovery centre, and the first tranche of prisoners who had passed through it spoke every highly of the help they had received.

Government Blackmails Ex-offenders Into Making Hopeless Job Applications

Ex-offenders with serious criminal records but who are seeking to live safely in the community are being threatened with the withdrawal of their Job Seekers Allowance if they do not apply for at least three jobs every week, despite Job Centre Plus (JCP) knowing that those with convictions for sexual or violent offences are often barred from applying for certain jobs and in any case are unlikely to be taken on by unsympathetic employers. Indeed, research by Loughborough University has shown most released sex-offenders will not even be granted an interview, employers being terrified of the backlash and potential damage to their business that could arise should knowledge of their employment of a sex offender end up in the public domain.

The Conservative led coalition has taken a clear decision to play to the middle class voters whose support they have lost. This involves the very public policy of bullying people back into work by forcing them to apply for often wholly unsuitable jobs – whilst at the same time refusing to acknowledge the fact that there are those who are also expected to apply but with because of their age or criminal record have no hope of success.

With regards to the lack of help for the 30,000 sex offenders now living in the community, most of whom are unemployed and unemployable, both the WP and JCP are refusing to comment or to even acknowledge that a problem exists.

We contacted the Department of Work and Pensions (DWP) to ask the Secretary of State for Work and Pensions, Iain Duncan Smith for his views on the threats being made against unemployed people and the lack of support for those with serious convictions. Duncan Smith would not comment but a spokesman told us that under the new benefits regime, claimants will be expected to spend 35 hours looking for work each week. The new 'Job Search' form that is being issued requires claimants to detail:

The DWP spokesman also told TheOpinionSite.org that the problems encountered by those with serious criminal convictions were not the responsibility of the DWP but of employers: "It is ultimately a matter for employers as to who they do or do not employ. The government cannot force employers to take on those with criminal records." However, when we asked whether it was right to force people into applying for jobs that they had no hope of ever obtaining, the spokesman refused to comment further.

The Regional Manager of one Work Programme provider suggested that those who were experiencing serious problems such as those outlined above, "…should seriously consider whether they should go self-employed." In other words, the Work Programme has given up on the most difficult cases, primarily because under the government's "payment by results" system, the Work Programme provider won't make any money out of difficult to place clients.

TheOpinionSite.org believes that with the government steadfastly refusing to even acknowledge that there is a serious problem for many with criminal convictions or who are simply too old for an employer to consider, the new requirements and regime of the DWP being forced upon disadvantaged job seekers is unfair, unjust and possibly even discriminatory. Whilst most people would agree that if someone has the opportunity and the ability to work they should do so, there are nevertheless many thousands of individuals whose past criminal history (or even their age) makes them particularly disliked by employers.

Those with serious criminal offences in their history and who are subject to Multi Agency Public Protection Arrangements (MAPPA) will most likely never be offered a job again – thanks to government restrictions on them together with this country's obsession with so called 'public protection'.

If Iain Duncan Smith and his team do not even have the courage to accept that there is a

problem, the prospect of thousands of our of work ex-offenders losing their JSA and turning back to crime is a very real probability. In particular, if sex offenders lose their JSA because they are being forced to reveal highly sensitive information about themselves that could be accessed by vigilante groups and others, they may become destabilised and feel insecure in the community and may therefore reoffend; something that the government seems to have either overlooked or chooses to ignore. *By Raymond Peytors - theopinionsite.org, 08/04/13*

Everyone is Entitled to Have a Wrongful Conviction Overturned.

Entitled to ask the CCRC to Refer it to the Court of Appeal. But for the CCRC to devote personnel time and money to a sentence of 190 hours community work and £510s in costs, whilst hundreds upon hundreds of prisoners are serving serious time, beggars belief!

CCRC Refers Assault Conviction of Tomislav Stojanovic To Appeal Court

The Criminal Cases Review Commission has referred the assault conviction of Tomislav Stojanovic to the appeal court. Mr Stojanovic pleaded not guilty but was convicted of common assault at Sussex Central Magistrates Court in January 2008. He was sentenced to 190 hours Community Service and ordered to pay £100 compensation and £410 costs. He appealed to Lewes Crown Court but his appeal was dismissed. He applied to the Commission for a review of his case in March 2011.

Having considered the case in detail, the Commission has decided to refer Mr Stojanovic's conviction to the Crown Court (see note 1). The referral is made on the basis that the evidence of new witnesses, taken together, casts doubt on the prosecution's case that Mr Stojanovic committed a common assault, and therefore that there is real possibility that Mr Stojanovic will be acquitted at the re-hearing of his case. Mr Stojanovic is not currently legally represented.

Note 1) A reference by the Commission of a summary conviction results in an appeal by way of a re-hearing at the Crown Court; in this case that is Lewes Crown Court.

R v Claridge - [Admission of Hearsay Evidence That Can't be Challenged]

[Even though your counsel will not be able to question the absent witness, counsel can and must put to the jury a list of questions they would have asked if the witness were present!]

The judge was not in error in admitting hearsay evidence under s116(2)(e) Criminal Justice Act 2003 where a witness was fearful of repercussions. The appellant was convicted of causing grievous bodily harm with intent and sentenced to eight years' imprisonment. At about 11 at night, Stephen Cunniff was in the kitchen of a home with the householder, Terri, her friend Sabrina, Sabrina's boyfriend, Shaun, and Cunniff's girlfriend, Kerry Healey. Someone kicked open the back door and struck Cunniff with a metal bar fracturing his jaw. Cunniff had had no time to respond, had no idea of the identity of his assailant and could describe only height and clothing.

The Crown's case was that the appellant had been the assailant and it relied on a 999 call immediately afterwards in which Miss Healey named him, a man she had known for years. Her later witness statement reflected that allegation. By the trial she had told the Crown she would not give evidence because she was fearful of repercussions, and recorded that in a witness statement. The Crown was allowed to lead her evidence in writing.

The defence was that whether innocently mistaken or motivated to lie, she was wrong. The appellant served an alibi notice and relied on it. His evidence was that he had been at the home of his girlfriend's grandmother, arriving at 10.30 in the evening and staying the night. He told the jury that someone might be trying to put him in the frame. Sabrina had taken a break-up between him and

Automatic Computer-Generated Issue Of Warrants Of Commitment -Unlawful

A recent landmark legal ruling means that people will currently not be arrested and sent to prison for not paying their fines. Until last month, an arrest warrant or money warrant was issued automatically for anyone who did not pay a fine and they were taken to prison. However, a judicial review in March found the practice was unlawful. It was felt by the judges that people who failed to pay fines should have been brought before a magistrates court instead of automatically being sent to prison. Until the legislation is altered, the courts have had to withdraw all outstanding money warrants and therefore the Police Service Northern Ireland (PSNI) will not be making any arrests. Arrest warrants issued to 20,273 people, who together owe more than £7.5m, have now had to be withdrawn.So there is a big question mark as to how or when this money will be recovered.

Solicitor Ciaran said: "This has highlighted the unfairness of the procedure where defendants are sent to prison for a default period without any involvement of a judge. The consequences of this ruling are that the court service will now have to review their procedures with immediate effect. There are also possible civil implications for those imprisoned as a result of this procedure." Any person who has been previously arrested for not paying their fines and who has spent time in prison may now be able to claim for damages .

The Department of Justice has consulted on a range of measures to reform the way in which fines are collected and enforced and is working to establish a new fine enforcement service within this assembly mandate" A Department of Justice spokesperson said the department and the NI Courts and Tribunals Service were "assessing the implications of the judgment and the implications for sentencing, fine default and fine enforcement reform. It is likely that significant changes will be required regarding how judges decide and impose default periods for unpaid fines which may require legislative reform. The implications are being addressed so as to allow relevant cases of fine default immediately impacted by the judgment to be brought back to court."

In a statement, the Lord Chief Justice's Office said: "The Court of Appeal found that the practice and procedures for dealing with non-payment of fines failed to comply fully with the legislative provisions. The Judicial Studies Board has organised an event for the judiciary to provide guidance on the revised procedures prescribed by the Court of Appeal." The Northern Ireland Courts and Tribunal Service said in a statement: "The Department of Justice has consulted on a range of measures to reform the way in which fines are collected and enforced and is working to establish a new fine enforcement service within this assembly mandate. It's intended the new service will have a range of powers to collect and enforce fines."

Delivering judgment in the case last month, Lord Justice Girvan said: "The system as currently operated and as applied in the instant cases, breached the law in a number of respects. There has been no hearing before a judicial officer before a warrant of commitment is currently issued. The automatic computer-generated issue of warrants of commitment is not subject to judicial oversight." He also held that a judge should be involved in determining the appropriate form of enforcement and the length of period involved. "Commitment is not inevitably or always the most appropriate form of enforcement, particularly bearing in mind that imprisonment should be a last resort," he said. "The particular circumstances of the individual case must be properly taken into account. For these reasons we conclude that the warrants as issued were not lawful warrants of commitment."

The judge, sitting alongside Lord Chief Justice Morgan and Mr Justice Treacy, said the PSNI was clearly unhappy with the role imposed on it of pursuing offenders who have the option to pay a fine rather than face imprisonment. He said that, unlike the rest of the UK, no civilianised fine collection or enforcement service existed in Northern Ireland.

Counsel for Mr O'Carroll, Ronan Lavery QC, set out today how he was being blocked by an amendment to the Criminal Justice Act which brought in the two-year limit for applications. He argued that it was implausible to suggest his client did receive notification and ignored it. According to Mr Lavery there are exceptional circumstances in Mr O'Carroll's case which mean he should be awarded compensation. The court was told that assessments are believed to be underway on applications lodged by others whose convictions were quashed at the same time.

Tony McGleenan QC, for the Secretary of State, contended that insufficient reasons have been given for making an exception. Mr Justice Treacy then agreed to adjourn the hearing for more details to be provided.

Judge Orders CCRC to Investigate Blackmail Conviction *Birmingham Mail: 12/04/13*

Warren Paul Sturridge, 23, and friend, Leon Brown, 27, were convicted last year of using gun threats to demand cash, land and copper from a West Midlands landowner. The men, who were jailed at Birmingham Crown Court, continue to deny any wrongdoing and their case appeared before three senior judges at the Court of Appeal in London on Thursday 11th April.At the appeal their barrister, Michael Wolkind QC, said a defence witness had come forward to say that he knew one of the jurors and that she blamed him for an alleged criminal act in the past. That jury member may also have known the victim's son and possibly the victim himself, the witness said.

After hearing of potential jury bias, appeal judge Lord Justice Laws ordered the Criminal Cases Review Commission to contact the juror and begin an investigation into the witness' claims. He said the pair's prospective appeal revolves around the suggestion that one of the jurors knew and was "unconsciously" biased against a defence witness. The fact the juror might have known the witness would not have justified an inquiry, but that she might have known the victim and his son did. He ordered

Jailing the pair last September, Judge Robert Orme said Sturridge and Brown "menaced and threatened" a man who employed them in a Midland copper extracting business in March last year. He told them: "I am satisfied these threats involved references to firearms and guns". The landlord's son allegedly owed them money and they made threats in order to get the victim to allow them to extract copper from his land in March last year. Sturridge and Brown said they were recruited by the victim to extract copper, that there was a falling out and that the allegations had been invented.

P**risons: Strip Searches of Women**

Lord Lester of Herne Hill to ask Her Majesty's Government, further to the Written Answer by Lord McNally on 18 March 2013 (WA 126), why the routine strip-searching of women in prisons was ended in 2009.[HL6387]

Minister of State, Lord McNally: Routine full searches (previously known as strip searches) of women prisoners were ended in 2008 following a review of the National Offender Management Service policy on full searching of women. This review was conducted in light of the Gender Equality Duty introduced in 2007 and Baroness Corston's 2007 report Review of Women with Vulnerabilities in the Criminal Justice System. The report identified the complex physical, psychological and social needs of women prisoners and made 43 recommendations, one of which was to reduce the number of full searches of women prisoners. The decision to accept this recommendation was influenced by the ease with which women prisoners can conceal illicit items internally, thereby making full searches for this group of prisoners far less effective.

her badly and was ill-disposed to him. He denied a motive for going round because she and a friend had given him grief shortly before the attack, and explained some turbulence with his own girlfriend on the evening of the attack which had prompted him to go out for a ride on his bicycle and then to his girlfriend's grandmother's flat. That lady, Mrs Tutill, 82, gave evidence that he had arrived at about 20 past ten, gone to sleep on her sofa, she got up several times during the night and, so far as she knew, he had not gone out.

The Crown relied upon s116(2)(e) Criminal Justice Act 2003. The judge reminded himself of the 999 call on the night in which Miss Healey had made plain that her boyfriend had been assaulted by the appellant. Additionally, Miss Healey's mother had made a statement saying she had collected her daughter after the attack and that Miss Healey had pointed out two men, saying one was the assailant, and indeed Miss Healey had accosted that man in the street. The individual had threatened to "get her done" were she to say anything to the police and pointed out that he knew where she lived. The application suggested that Miss Healey was in fear. The judge reminded himself of her witness statement expressing anxiety about repercussion, although in it she did not identify any individual as the source of her anxiety.

The judge positioned her evidence in the wider context of, as he put it, a completely unprovoked and serious attack on her boyfriend. He was satisfied having considered her statement, the 999 call and Mrs Healey's statement that Miss Healey was in fear.

He went on to consider whether it was in the interests of justice to admit the statement. She was a very prominent witness and without her the Crown's case as to identity was weaker. The judge had been told that special measures would not assuage her fears. He accepted that if the Crown were to succeed, the defence would not be able to cross-examine her but that did not prevent the appellant from raising his alibi defence, which the Crown would have to disprove. It was in the interests of justice to admit the statement, especially in light of the 999 call and Mrs Healey's evidence. The weight to be attached to it was for the jury. Statutory provisions had been introduced to cater for just this situation.

It was submitted that the judge fell into error in allowing the Crown to read the statement of Miss Healey, the only witness to identify the appellant; second, his direction to the jury on how to approach her evidence lacked substance and did not form a proper safeguard so as to ensure that the trial was fair.

In Ibrahim [2012] EWCA Crim 837 Aikens LJ posed four questions that the court should ask itself in relation to the reading of such hearsay statements: (a) was there justification for admitting the untested hearsay (b) how important were the statements (c) how demonstrably reliable were they and (d) were the counterbalancing measures inherent in common law properly applied to ensure a fair trial.

As to (a), it was suggested that the judge failed to make enquiries such that would satisfy him that the untested hearsay as a last resort should go before the jury. Miss Healey had, after all, attended court on the morning and only then claimed to be fearful. The judge should first have heard from her before reaching a conclusion. In Riat [2012] EWCA Crim 1509, Hughes LJ said: "the critical thing is that every effort has to be made to get the witness to court".

Next, how important was the hearsay evidence? The contention was that Miss Healey was the sole decisive witness and her evidence crucial to the case for the Crown.

Next, how demonstrably reliable was her statement? This was a recognition case and the reliability of her statement testable only under cross-examination, absent other independent supporting evidence. In addition, her reliability could further have been challenged in ques-

tions going to her motives and any animus. It was argued that the judge over-emphasised the 999 call which, whilst it was capable of being supportive evidence, particularly in regard to its spontaneity, could not go to reliability, coming as it did from the witness herself.

Finally, were the counterbalancing safeguards properly applied? In that regard the criticism was of the direction in the summing-up, which we will return to.

In Riat the Vice President first considered aspects of Horncastle [2010] 1 Cr App R 17, which itself included a number of references to hearsay as "demonstrably reliable" or "capable of proper testing" and went on to consider how those two phrases had been interpreted. He said that arguments before the court suggested that that language was perhaps being misunderstood to mean that hearsay must be demonstrated to be reliable, i.e. accurate, before it can be admitted, but that was not what those passages from Horncastle said. The issue in Horncastle was whether English law knew an overarching general rule that hearsay which could be described as sole or decisive evidence was not to be admitted, or, if it were, would inevitably result in an unfair trial. Dealing with Wilson, he pointed out that all three relevant witnesses had said that screens might solve their difficulties, then changed their minds, and then two out of three said they would attend court if screens were available. All were silent as to any threat. All three simply said he or she was scared because those who answered the allegation knew where they, the witnesses, lived. Wilson's convictions were quashed, there having been no proper examination of their position. At an interlocutory stage live evidence would have been wise. The fear hurdle had not been cleared.

In Fagan & Fergus [2012] EWCA Crim 2248 dealing with a witness who expresses reluctance to give evidence, the court said that although the judge's ruling and his reasoning were unappealable, more effort should have been made to secure his attendance. The court said:

"Whether or not the Crown felt it a pointless exercise or that the usual familiar steps would so increase the pressure on [X] as to make it less likely he would give evidence, it would have been wise for the court to ensure he was brought ..."

The court went on to commend Kelly (unreported, no citation), in which Butterfield J essayed every effort known to the courts before, in the face of a determinedly unwilling witness, permitting the evidence to be read.

Riat and Fagan read together make plain that it is wise for first instance courts to make every possible effort to persuade a witness to do his or her civic duty before considering whether to admit evidence in written form as hearsay.

That said, the court was in no doubt that the judge was entitled to make the ruling he did in this case. The court accepted that the 999 call was an example of supportive evidence rather than of anything else, but there was ample support for the judge's conclusion that fear in the statutory context of section 116(2)(e) was made out. Per Riat and Fagan & Fergus, a counsel of perfection might have led to the judge exploring with Miss Healey – who was at court - whether she could be persuaded into giving her evidence. That this did not happen does not threaten the safety of the conviction.

The judge followed all the appropriate statutory steps, asked himself the appropriate questions and his answers were unimpeachable.

The court turned to the second ground of appeal, the insufficiency of the direction to the jury on how to approach the topic. The judge said:

"Let me remind you of one important aspect of the case ... the statement made by Kerry Healey which was dated the 31st October of 2011, was read to you. Ladies and gentlemen,

smashed into three pieces and then walked back towards the train station.

Around 3.30am witnesses reported seeing Mr Anikinas smashing a bottle which he then used to injure the right side of his neck. Officers approached Mr Anikinas as he was holding the broken bottle. Two officers used Tasers on Mr Anikinas which resulted in him dropping the broken bottle. He was then restrained and officers administered first aid. Paramedics arrived but Mr Anikinas was pronounced dead at 4.20am.

IPCC investigators independently examined the circumstances surrounding Mr Anikinas' death specifically the actions and decisions taken by Sussex Police officers when they first encountered him, the use of force and the actions taken to save his life. The IPCC investigation, which concluded in August 2012, found no evidence of any criminal or misconduct offences but publication of the findings has awaited the inquest. On Wednesday, 10 April, an inquest jury at Horsham Coroner's Court returned a verdict that Mr Anikinas took his own life.

IPCC Commissioner Mike Franklin said: "This is a terribly sad case and my thoughts are with Mr Anikinas' family whom, by all accounts, he was trying to get home to when he tragically died. Our investigation concluded the officers' use of Taser and restraint was appropriate given the distressing scene which confronted them of a man inflicting horrific injuries upon himself. However, plainly Mr Anikinas was in a distressed state when officers first encountered him. He was agitated having tried to cut his wrists and then proceeded to smash his mobile phone in front of them. The decision for officers to restrain someone under Section 136 of the Mental Health Act can be difficult, but faced with these circumstances more could have been done to try to identify why Mr Anikinas was so agitated."

Although there is no criticism of the officers' attempts to stop Mr Anikinas self-harming it is concluded they could have done more to try to help him during the initial encounter by trying to establish what was wrong. While officers acted lawfully in requesting Mr Anikinas leave the airport a more appropriate course of action would have been to move to a comfortable environment and speak to him.

Man Cleared of IRA Kidnap Launches Legal Challenge *Belfast Telegraph, 11/04/13*

James O'Carroll was among eight people whose convictions over the IRA kidnapping and interrogation of Sandy Lynch in 1990 have been quashed. The others, who include former Sinn Fein publicity director Danny Morrison, are expected to receive pay-outs for miscarriages of justice following a landmark Supreme Court ruling. But Mr O'Carroll has been barred due to the introduction of a two-year time limit in applying for compensation. His lawyers are seeking to judicially review the Secretary of State's stance, claiming he did not receive correspondence from previous legal representatives explaining the situation.

The 50-year-old was sentenced to 10 years in jail for the false imprisonment of Lynch. But in October 2008 the Court of Appeal quashed his conviction along with seven other related cases referred by the Criminal Cases Review Commission. Their acquittals were based on the contents of a secret intelligence dossier. Lawyers had questioned whether the confidential documents were being kept under wraps to protect an informer. Reference was made at the time to Freddie Scappaticci, the west Belfast man who denies claims that he was the top British spy within the IRA, codenamed Stakeknife.

Following the quashing order the chances of receiving compensation were boosted by the redefining of the test for payments to those wrongfully convicted. In 2011 the Supreme Court removed a requirement to prove innocence beyond reasonable doubt.

An employment tribunal found last week that Casson – still a serving police officer – was 'unfairly treated' by the force when he highlighted the failures. From what has been done to Casson, it shows no matter what the cost [the Met] will cover it up – even victimising their own staff, even though Casson did the truthful thing he was persecuted." His family believes the 53-year-old bus driver and part-time DJ was killed by a criminal gang because he was a police informant. They also claimed police officers failed to take his death seriously because he was black. That the Met had robbed the family of their right to justice for their loved one."

According to the Met, the death is now being treated as 'unexplained' and an investigation, ordered by the Met Commissioner, is ongoing. Two police officers are due to travel to the United States for a period of five days to look into a fresh line of inquiry, The Voice was told last week.

Olaseni Lewis Campaign for Justice and Change

Olaseni Lewis, known to his family as Seni, was a young black man aged 23 years, engaged in post-graduate Masters studies in IT and Business Management at Kingston University. He had no prior history of mental illness or any untoward behaviour until the evening of Sunday 29 August 2010 when his family and friends noticed that he was behaving strangely, alternating between calm and agitated phases.

They sought professional help, resulting eventually in his admission as a vulnerable voluntary patient at the Bethlem Royal Hospital early in the evening of Tuesday 31 August 2010. Within hours of leaving him at the hospital, however, they were to learn that he had collapsed after being restrained by police officers who had been called by hospital staff. Seni was taken by ambulance to Mayday Hospital where brain stem death was confirmed following tests on 3 and 4 September 2010.

Seni's family and friends are determined to ensure that all the circumstances of his tragic death are brought under proper scrutiny so that they can obtain the answers that they need from those responsible for the fatal restraint and those to whom their loved one had been entrusted. To that end, they will be keeping a close eye on the investigations that are said to have been launched by the Independent Police Complaints Commission and the South London and Maudsley NHS Foundation Trust.

Findings Issued Following Inquest into Death of Ernestas Anikinas

[Once again MOJUK is perplexed, police tasered Mr Anikinas, immediately befor he died, true he was suffering from self-inflicted injuries, but he was not in anyway threatening the police, so why was he tasered and did the tasering accelerate the death?]

An investigation by the Independent Police Complaints Commission (IPCC) has found Sussex Police officers acted appropriately by restraining a man who was self-inflicting neck injuries. Shortly before 3:00am on 8 February 2012 four Sussex Police officers responded to a call from staff at Gatwick Airport regarding a man who was acting strangely and had self-harmed.

Ernestas Anikinas, 33, was trying to travel home to Lithuania when he became distressed and agitated in shops at the south terminal of the airport. Officers spent approximately 20-minutes with Mr Anikinas, they conducted a Police National Computer (PNC) check on him, used an interpreter language line to communicate with him and assessed him for injuries. They then escorted Mr Anikinas towards Gatwick Airport railway station and informed him he could not return to the airport. Mr Anikinas walked towards the rail ticket office but he turned around walking back in the direction of the officers. He threw his mobile phone on the floor which

I told you before it was read to you that there are circumstances where the law does allow such a statement to be read, even though the witness is not available to give live evidence in Court. But, ladies and gentlemen, it is for you to decide what weight you give to that evidence. You are entitled, ladies and gentlemen, to say, 'We've looked at all the other evidence in the case and we're satisfied so to be sure that she was giving a truthful and accurate account of events, and we will act upon her statement'. But you are not bound to do so. You must take into account the arguments raised by counsel. And it is important you should understand, ladies and gentlemen, her statement was not read to you as an agreed account of what happened. The Defence have not had the opportunity of being able to challenge and to clarify aspects of her evidence. And so, ladies and gentlemen, that is something you should bear in mind when you consider the weight that you should attach to it."

In the court's judgment, that direction was unimpeachable: it was clear, lucid and accurate. Once again, it might have been wise for the judge in dialogue to have invited a list of questions counsel would have wished to ask of Miss Healey. The court had read many summings-up in which such a list is rehearsed into the directions so as more sharply to focus the mind of the jury on any disadvantage endured by the appellant. However, its absence was not fatal to the safety of this conviction; there was no identifiable unfairness to this appellant, either in the admission of the hearsay statement or in the direction and the appeal was dismissed.

Inquest Into Death Of Melanie Beswick at HMP Send

Opened Thursday 11 April 2013 Before HM Coroner for Surrey Richard Travers Sitting at HG Wells Conference Centre, Church Street East, Woking, Surrey

Melanie Beswick was 34 years old when she died on 21 August 2010. She was found hanging from a ligature made from shoelaces attached to the window of her cell in HMP Send.

In March 2009 Melanie was given a nine month prison sentence for fraud. This was her first offence. Melanie had a long history of depression and self harm, and self harmed on several occasions during her first period of imprisonment. Confiscation proceedings were brought and following her release Melanie was ordered to repay the money she took within 6 months or serve a further 12 month prison sentence in default. Short of selling the family home and making her husband and two young children homeless Melanie could not repay the money in time and was sent back to prison by the court.

She self-harmed on several occasions during her imprisonment and was subject to an ACCT (Assessment, Care in Custody, and Teamwork – the system used for prisoners who are at risk of self harm) on three occasions. She had also reported bullying on several occasions, and expressed fear that she would not be able to repay the money and so face further imprisonment. On the day of her death, she had been found unresponsive and motionless in her cell and, despite no obviously signs of physical ill health, was taken to hospital, where she became agitated and tried to harm herself several times. The doctor eventually discharged her but instructed that she was at high risk of self harm and needed constant observation and mental health input.

Despite this, on Melanie's return from hospital that afternoon the duty governor decided that she did not need an ACCT or monitoring. Apparently unknown to him another officer had already begun the process but she was only placed on hourly observations. At about 7.45pm Melanie asked to speak to a Listener (prisoners trained by the Samaritans to support other prisoners in distress) but was told to wait because the on-duty Listeners were busy with other prisoners. At 8.35pm, she was found hanging in her cell and despite attempts to resus-

citate her was pronounced dead at 10.02pm at hospital.

Her family hopes the inquest will address the following issues:

- What HMP Send should have known about Melanie's medical history - The ACCT process - The medical care Melanie received in HMP Send and her undiagnosed underlying mental health condition - How the prison dealt with Melanie's allegations of bullying - Information Melanie was given about her sentence - The care she received at hospital on the morning of the day of her death - Information breakdown between the hospital and the prison - The decision of the Deputy Governor not to instigate ACCT monitoring - The Listener scheme - The provision of first aid by prison staff

Melanie's husband, daughters, mother and step-father are represented by INQUEST Lawyers Group members Jo Eggleton of Deighton Pierce Glynn and Jesse Nicholls of Tooks Chambers.

French Prisoner Dynamites His Way Out Of Prison *Harriet Alexander,Telegraph, 13/04/13*

Redoine Faid, who published a book on life as a criminal in France's tough city suburbs, took four prison guards hostage inside Sequedin prison near Lille on Saturday morning 13th April 2013. He then set off a series of explosions, blowing open five prison doors in turn, allegedly using explosives that his wife had smuggled into prison that morning wrapped in handkerchiefs.

Photos taken immediately after the explosion showed a door blasted open, the reinforcements hanging out from within the white metal barrier. Faid, 40, released the guards but escaped in a car which was later found burnt out near Ronchin, south of Lille. Police were trying to trace a second vehicle to which he was thought to have switched. "It happened very quickly, it was clearly very well organised, and we are still busy putting the facts together," a local administrative official said.

Faid's lawyer, Jean-Louis Pelletier, told French newspaper Le Parisien that he was "not at all surprised" that his client had escaped. "That a prisoner should escape is, in principal, not particularly surprising," he said. "Especially when the prisoner is someone in his situation, and, if I may say so, someone with his social network. There was certainly the possibility that this could happen." Mr Pelletier, who also represented Jacques Mesrine, the most infamous criminal in French history and the subject of a celebrated eponymous film, described Faid as "remarkably intelligent".

Christiane Taubira, the justice minister, visited the prison after the escape to see for herself how it occurred. "Given the severity of the events, the justice minister has decided to travel to the site," said a spokeswoman. Etienne Dobremetz, the prison guards' union representative, said that the four men taken hostage had been deeply traumatised. He said that Faid's wife had provided the explosives – a claim denied by her lawyer, who said that she had not visited the prison that morning.

Faid was described by Frederic Fevre, the prosecutor for Lille, as a "particularly dangerous prisoner". He had a reputation for attacking armoured vehicles carrying cash, and was serving a prison sentence for a May 2010 armed robbery in which a policewoman was killed.

Born in the socially-deprived Paris satellite town of Creil – a municipality known for its gritty housing estates and high unemployment – Faid grew up as a juvenile delinquent before graduating to armed robbery. He spent eight years evading the law, staging a series of brazen robberies and taking hostages. In 1995 he took the manager of BNP bank in Creil hostage, along with his wife and four children. Two years later he held a jeweller and his wife at gunpoint while he raided their store. In October 1998 he took a Swiss policeman hostage, before fleeing to Germany. In 1998 he was sentenced to 30 years for the catalogue of at least eight armed robberies and bank thefts, but in 2009 he was released on parole.

A year later he published his book, Thief: The great banditry of the suburbs, in which he recounted his life story and claimed to have put his past behind him. He said his life of crime was inspired by American films such as Scarface and Heat – in which actor Robert de Niro carries out an armoured car heist – and was dubbed "the most talented thief in France". Faid went on to become something of a media star, sought for his commentary on France's troubled banlieus and their social problems.

However, in January 2011, three days after he appeared on a Canal Plus programme to discuss the gang problems, Faid was named as the chief suspect in the botched 2010 robbery, which cost the life of 26-year-old policewoman Aurelie Fouquet. Some 27 people were arrested in a sting operation following the murder – but Faid escaped. He was finally arrested in June 2011 and sent to prison for eight years – the prison from which he fled on Saturday.

Torture for All Seasons

How can those in power be comfortable with the torturous conditions of HMP Woodill's Close Supervision Centre (CSC)? Those who wish to justify torture don't do so by avoiding moral thinking; rather, they override the obvious immorality by the presumptive morality of the larger endeavor. If the endeavor is deemed important enough, there is little that can't be justified in their minds. There are no lengths to which one may not go. The labeling of CSC prisoners as 'dangerous' and 'disruptive' allows them to believe the treatment of prisoners is correct. It is this argument which begins every slippery slope in the justice system, e.g., 'we must be able to stop and search terrorists', which led to ethnic minorities being targeted to have their personal autonomy invaded by law.

It is a logic without limits. Thomas More points out the dangers in a celebrated exchange in Robert Bolts' A Man for All Seasons, when he asks his son-in-law, William Roper, if he'd be willing to cut a swath through the laws in order to ensare the devil. "I'd cut down every law in England to do that", Roper says. Thomas More replies, "Oh? And when the last law was down and the devil turned round on you – where would you hide, Roper, the laws all being flat?"

Cutting through the laws to justify implementing the severe oppression in the CSC is an extremely dangerous prospect. Nobody deserves to be tortured no matter what they have or may have done, but without independent interference, the presumptive morality will continue to override the thinking of the vanguard.

Kevan Thakrar:A4907AE HMP Woodhill – CSC, Tattenhoe Street, Milton Keynes, MK4 4DA

Family Slam Met Police Over Bungled Inquiry *Jermaine Haughton, The Voice, 08/04/2013*

The family of an African-Caribbean man believed to have been burned alive have slammed the Metropolitan Police for punishing the detective who exposed errors into the investigation. "What's going to happen to the officers who are still walking around and who failed?" questioned Roger David, the brother of victim Kester David who was found dead under a railway arch in north London on July 7, 2010. Officers originally deemed the death as suicide.

However, Inspector Brian Casson produced a report that found a 'catalogue of errors' with the police inquiry, such as failing to check CCTV footage, mobile phone evidence or speak to witnesses. The document was leaked to the media and Casson was later charged with misconduct on an unrelated charge. The officer later alleged that he was pressured by his bosses to state in his report that David had committed suicide.

Roger David told the BBC: "From day one…we knew that Kester didn't commit suicide."