

Issue
25

SAFARI

December
2005

Supporting All Falsely Accused with Reference Information
Web Site: <http://home.vicnet.net.au/~safari>

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

WELCOME TO OUR EXPANDED 25TH EDITION of the SAFARI newsletter. We are now two years old.

RESPONSE FROM THE CICA

SAFARI ASKED THE Criminal Injuries Compensation Authority [CICA] to clarify how they would deal with those found to have unlawfully claimed compensation having made a false allegation. They responded as follows: "Where an offender lodges an appeal against a conviction we would establish the outcome of that appeal. What action the Authority takes would depend on the reason for an appeal being successful. For example, numerous appeals are lodged as a result of mistakes / legal technicalities at the original trial. In these cases it would be unlikely that the Authority would take any action. If however, an appeal showed that the original allegation was completely false then we would consider recovering any award that was made and would approach the Police if appropriate.

"In terms of your enquiry regarding a parent who had forced a child to make a false allegation - I am afraid I cannot comment. A decision like that would have to be made by the CPS and then ultimately, the courts. The CICA would consider any application of mental child abuse [*for forcing the child to produce false allegations*] on its individual merits and as such would obtain information from the relevant bodies to inform the Claims Officer on the appropriate decision, assuming a claim had been made. If the identity of an abuser and nature of abuse had changed [*e.g. the 'abuser' was now discovered to be an adult making the child produce those false allegations*] the Authority would record that fact on an original claim."

SAFARI's view is that pressurising a child or other vulnerable person into making a false allegation is possibly one of the most serious forms of emotional abuse ever encountered.

RESPONSE FROM SPPU

Philippa Goffe of the Sentencing Policy and Penalties Unit [SPPU] has responded to SAFARI's request for clarification about appropriate charges for those making false allegations. This follows numerous cases where those found to have made false allegations were only issued with a "Penalty Notice for Disorder" [PND] £80 fine.

Philippa told SAFARI: "The operational guidance issued by the Secretary of State to the police makes clear the circumstances in which officers should and should not issue penalty notices for disorder. This guidance is issued in accordance with section 6 of the Criminal Justice and Police Act 2001... The decision would have included consideration of the implications of pursuing a court prosecution..."

"The guidance makes it clear that an officer should issue a penalty notice *only where the offence is not too serious* and is of a nature suitable for being dealt with by such a notice..."

"The type of offending you have in mind [*the making of false allegations*] will normally be regarded as *too serious to be dealt with by section 5[2]*... Such offending will probably, as you suggest, be more appropriately dealt with by the common law offence of perverting or attempting to pervert the course of justice, which is triable only on indictment and for which penalty notices for disorder are not available..."

"I hope this reassures you that the PND scheme was NOT devised for the type of offending which concerns you. It is there as an additional means for the police to penalise *minor* offending in a quick and effective way and for dealing with the type of anti-social behaviour that previously might have resulted in only an unofficial warning."

Of course any such action would not be taken against a child pressurised by an adult into making a false allegation.

'IN DENIAL' MEANS 'GUILTY'!

The term 'In Denial' describes a psychological defence mechanism in which a person, faced with a *fact* that is uncomfortable or painful to accept, rejects it instead, insisting that it is not true despite what may be overwhelming evidence. It does *not* mean 'maintaining innocence.' If you are truly innocent then you are not in denial!

SAFARI NEWSLETTER NOT ARRIVING?

We have been alerted to the fact that some editions of SAFARI newsletters going to some prisons do not arrive. Please note that we always post newsletters shortly before 1st of each month and you should therefore get yours between 1st and 7th of each month. If you do not receive your copy, please do let us know.

THE SCOTTISH EXECUTIVE is paying £200,000 a year to compensate people jailed for crimes they did not commit. More than £1.2 million has been spent in damages to victims of miscarriages of justice since devolution. The rise in damages payouts has been sparked by a steady growth in successful appeals against convictions.

A statutory scheme for compensation was set up in 1988 under the Criminal Justice Act, which, in line with Article 14.6 of the International Covenant on Civil and Political Rights (ICCPR), [which was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, and entered into force 23 March 1976] states that the Secretary of State **shall** "pay compensation for the miscarriage of justice to the person who has suffered punishment as a result of such conviction." Despite the legal commitment to compensating people wrongly convicted of crimes, miscarriages of justice victims are still having to wait years before they receive any money.

Donations very much appreciated at:



Or hit the button on the website!

a/c name: 'SAFARI', Sort Code: 30-92-02, a/c No.: 2702360

Contact us by eMail at SAFARI_Editor@yahoo.co.uk

[We can accept no responsibility for errors in this newsletter as we only share information received]

HOW DO I PROGRESS IN PRISON?

Many prisoners have asked what else they can do to achieve Enhancement and / or category reduction as stating their *innocence* means they often don't qualify for courses requested of them. Many of them have even been told that IF they had been a drug addict, they could have attended the drug course and IF they have an anger problem, they could attend the anger management course but as they had no problems, they couldn't demonstrate a lowered risk by attending anything!

In connection with this and other IEPS issues, SAFARI has been in discussions with Nina Buckby of the Offender Policy and Rights Unit of the National Offender Management Service [NOMS] regarding prisoners having their Enhanced Status removed or refused solely because they maintain their innocence.

Nina helpfully confirmed that PSO 4000 paragraph 1.7.8 [which confirms that the loss of Enhanced Status must not be associated with guilt or punishment] has not been superseded [as at least one prison had stated]. She goes on to say "To attain enhanced level privileges there would be an expectation that a prisoner should engage positively with his / her sentence plan" but that "the sentence plan should contain *achievable* and *realistic* targets."

However, Nina stated that Mr Justice Moses said that there "was nothing unfair or inappropriate in requiring [*a prisoner*] to attend a course even if he denies he is guilty of these offences. It is a key purpose of imprisonment to encourage constructive behaviour by a prisoner and thereby reduce the risk of his re-offending and increase the protection of the public. It is therefore, fair and rational to encourage participation in a course which may reduce the risk of re-offending by means of schemes for providing an incentive to attend such a course and granting privileges to those who undertake such courses."

SAFARI did comment that perhaps Mr Justice Moses was not aware of the requirement to discuss alleged offences in detail – impossible for someone who had not committed those offences – and Nina replied that Mr Justice Moses was aware of the requirements of the SOTP course.

Hmmm. Perhaps he believes that the so-called "deniers" SOTP is readily available.

We noted that this left one key issue unanswered: does this mean it is lawful to set an *unachievable* target? [such as SOTP for someone who is *not allowed* to attend as a consequence of maintaining their innocence], and we asked Nina to clarify this issue.

She spoke with the unit which dealt with sentence planning and received the following reply: "*Unachievable sentence plan targets are not set for prisoners.*" She says that policy relating to the setting of sentence planning objectives states that objectives must always be achievable and reflect what opportunities are actually available. The focus must be on what the assessor is trying to change.

"Objectives must be Specific, Measurable, *ACHIEVABLE*, Realistic and Time-bound [SMART] and directed towards a long-term impact, after the offender returns to the community. However, in relation to an overall objective, it may be sensible to stage the work over a period of time. This will then be reflected in the sections on how the work is to be done, and the timescales for doing it."

The fact that the Sentence Planning people *believe* that "Unachievable sentence plan targets are not set for prisoners," when this is plainly not the case, is an issue we are now taking up with prison governors all over the UK; we hope to report back in a future newsletter in early 2006.

On the subject of doing courses: one reader questioned our logic in recommending that all prisoners *agree* to attend any courses asked of them when that prisoner is attempting to appeal their conviction, with specific reference to the Enhanced Thinking Skills (ETS) Course.

We have to say that we still stick by our recommendation. The issue is not whether you are *lodging an appeal* but rather whether you are *innocent*. As an *innocent* prisoner, you can do ANY COURSE AS LONG AS YOU TELL THE TRUTH THROUGHOUT and it won't affect your appeal. See newsletter 24 [November 2005] for our original article.

Remember, too, that we strongly advise against *refusing* to attend any course. 'Not attending' *because you don't qualify* is fine, but a 'refusal' is a clear indication of '*unco-operative behaviour*' and is highly likely to mean your time in prison will be made harder, and you will be *written up* as '*unco-operative.*'

FACT CONFERENCE, BIRMINGHAM

On 1st October 2005, SAFARI spoke at FACT's [Falsely Accused Carers and Teachers] annual conference in Birmingham. We talked about SAFARI's origins and our goals for the future. We'd like to take this opportunity to thank FACT for inviting us to speak at the conference, and all those present for their appreciation and kind remarks.

HOW CAN I CHANGE THINGS?

We are often asked by readers what *they* can do to make a difference in the fight against false allegations and wrongful convictions. SAFARI seeks to promote change of circumstances that actively increase the chances of false allegations resulting in convictions [such as offering vast sums of financial compensation for making an allegation]. Where laws already exist to deal with false accusations, Police [and other authorities] malpractice, and wrongful convictions, to *encourage* the authorities to apply that law *vigorously* [for example, the Police and Judges must NOT continue to ignore the parts of the Police and Criminal Evidence Act [PACE] that they don't like].

So what can *you* do? Keep providing the ammunition! Send us copies of any replies you receive from authorities [Police, Social Services, MPs, etc.] when you complain. PLEASE NOTE WE CAN RARELY REPLY TO YOUR LETTERS but we do take from these documents information necessary to achieve changes.

WORKING WITH THE PAROLE BOARD

On 1st November 2005, SAFARI attended the Parole Board's Stakeholders' Meeting in London. We were delighted to have been invited and found it constructive. We were given front row seats [!] and were able to voice the concerns of SAFARI members going through the parole process. We were also able to put forward ideas for improvements for ways in dealing with those falsely accused within the parole system. The Parole Board have already taken on board our suggestion of replacing their proposed term "offenders maintaining innocence" [instead of "deniers"] with the new term "prisoners maintaining innocence" – a minor change that makes a major impact on how prisoners feel and are viewed. We have already been invited to the next Stakeholders' Meeting in 2006, and look forward to a continuing constructive relationship with the Parole Board.

INPUT TO THE BBC

SAFARI has been invited to assist the BBC, who are making 3 one-hour TV programmes for BBC2 about the work of the Parole Board. The series is likely to be transmitted during the summer of 2006 but, as yet, they don't have an exact transmission date. They will examine the role of the Parole Board and explain the process by which parole decisions are reached.

The programme makers are looking for parole hearings to feature in this series and want to look at a range of cases that will reflect the work of the board accurately. They are particularly keen to feature cases where a prisoner is protesting his or her innocence, as there has been speculation about whether a prisoner is penalised for not admitting guilt - and even held in custody until they are prepared to do so.

The BBC will be filming some Parole hearings until April 2006 so if *you* are eligible for parole up until that point and would like to be involved in the programme [anonymously if you prefer], please contact SAFARI and we'll pass your details to the BBC.

YOUR COMMENTS ON THE CCRC

We have received numerous reports from readers about the Criminal Cases Review Commission [CCRC]. We're sad to say that NONE of them was positive. Not one. This is worrying because those who do not win an appeal in the first instance can *only* go through the CCRC in future.

One response, typical of many, said: "They have totally failed me and failed to investigate my case, they use excuses not to investigate; they seem to forget that they were set up to *investigate* miscarriages of Justice, not to make *excuses* for them." Another: "I found their investigation at best incompetent and at worst criminal."

A recurring theme in complaints against the CCRC is that, when evidence or allegations of Police malpractice or corruption are presented to them, their chosen course of action is to ask the Police themselves whether there is any merit in the claim! [Does anybody out there NOT see the problem with this..?]

Do, please, continue to keep us informed about the way the CCRC deal with your case [but do remember, as always, we can rarely respond directly but will use the information in our dealing with the authorities.]

APPEAL JUDGES ARE GETTING BETTER!

At a recent [successful] appeal against a false allegation / conviction of rape the appeal judge stated, "There is a question as to whether or not the appellant was competently represented at this time. Many a competent solicitor would have at least *asked* for the GP records and might then have noticed ... that the appellant had had a vasectomy in 1975." (The presence of sperm, in light of the complainant's statement that she had not had intercourse with anybody else, was a factor in the case. The amount of sperm found was not sufficient for a DNA test - but clearly did not belong to the defendant!)

IF IT'S VITAL, DO IT YOURSELF!

Never trust anyone completely! Always check things yourself! One reader left prison, attended Probation and informed the Police of his agreed hostel address, and went to the hostel - only to find that there was no place for him so he was moved to another hostel. He told the staff at the hostel that he had already registered the agreed address with the Police, and they said they would "sort everything out." However, they failed to do so and shortly afterwards he was *breached* and returned to prison for living at the wrong address! He was recalled in June of this year, and is still awaiting an oral hearing (having had two hearings cancelled.) Relying on somebody else has cost him another six months (at least) in prison. The golden lesson here is to ensure that if someone promises they've done something for you ... CHECK IT OUT!

PRESERVE TRIAL RECORDINGS!

Are you approaching five years since your trial? Is *anything* which was said or done during your Trial relevant to an appeal? If so, ask your solicitor to request that the tapes which would be used to produced transcripts are preserved. After five years, these tapes can be destroyed and at some point you may need to refer to one or more parts of your trial at appeal. Judicial misconduct IS grounds for appeal - but you have to prove that it happened!


DETAILS NEEDED!

Many people write to us about stories they have read in a newspaper or heard on the grapevine. If you do this, please supply as much detail about the people and places involved [names, dates, events, etc.] as possible, as we need to investigate the stories ourselves and often can find no trace of them without additional information.

DR MICHAEL HEATH: HEARING

A host of murder cases could be reopened after a recent judgment highlighted a catalogue of serious flaws in the evidence of Home Office pathologist Dr Michael Heath. The court delivered a damning analysis of his evidence at the trial of Steven Puaca, whose conviction for murder of his partner, Jacqueline Tindsley, was quashed. Dr Heath put the cause of death as smothering but two defence pathologists - backed up by five more pathologists at appeal - said there was no pathological evidence for that conclusion. The judge said Dr Heath had failed to draw attention to the lack of pathological evidence supporting his findings. Lord Justice Hooper also outlined the appeal judges' "strong criticism" of the way Dr Heath gave evidence.

Dr Heath, who has been a Home Office pathologist for 14 years and carried out post-mortems in a number of high-profile cases, including those of Lin and Megan Russell, for whose killing Michael Stone is serving life, now faces a Home Office forensic pathology board disciplinary hearing next June.

| | |
|---|--|
|  | Thanks to Terry McCarthy (Parole Board for England and Wales) for statistics of those who achieved release on Parole whilst maintaining innocence. |
|---|--|

| | | | |
|---|----|-------|-------|
| Figures for the month of October 2005 | | | |
| <i>Non-lifers:</i> | | | |
| All offences | 20 | of 60 | 33.3% |
| Rape | 6 | of 25 | 24.0% |
| Indecent Assault | 2 | of 6 | 33.3% |
| Other Sex | 0 | of 2 | 0.0% |
| Violence | 1 | of 4 | 25.0% |
| Property | 2 | of 8 | 25.0% |
| Drugs | 6 | of 8 | 75.0% |
| Others | 3 | of 7 | 42.9% |
| Total Sex | 8 | of 33 | 24.2% |
| Total Non Sex | 12 | of 27 | 44.4% |
| <i>Lifers only</i> | 0 | of 1 | 0.0% |
| [0 of the 1 lifers recommended for open conditions] | | | |

"Here's freedom to him who would speak,
Here's freedom to him who would write,
For there's none ever feared that the truth should be heard
Save he who the truth would indict."

[Robert Burns]

And finally: A reminder about what SAFARI does ... and doesn't... do!

Two years on, and SAFARI has gone from strength to strength. Issue 1 [December 2003] was distributed to a handful of prisoners. Issues are now distributed [via 'SnailMail'] to over 500 people [most of them in the UK but some overseas] including prisoners and ex-prisoners, prison governors, Members of Parliament [including the Prime Minister and Law Lords], other support groups, solicitors and many others. Every single newsletter has been published on our web site and another 150+ people are on our emailing list. With copies being made and distributed by our readers, we estimate there to be over 1,000 readers each month.

We'd like to take this opportunity to thank all those who have supported SAFARI over the past two years - in the form of donations which are *vital* to the success of the group, letters which help us collate the information necessary to publish in the newsletter and push for necessary changes, and in spreading the word about SAFARI and its aims and objectives.

As if you didn't already know, SAFARI stands for "Supporting All Falsely Accused with Reference Information" and, as the name suggests, we provide powerful and positive information that is likely to be of use to those who are in a position to make necessary changes in our investigative and judicial systems, those who have been affected by false accusations, including the family & friends of victims, and those who have suffered from being pressurised into making false accusations.

There may be little you can do about a problem by yourself, but, by working together, we can make and are making a difference.

What you can expect from us:

We aim to send you [or make available to you via the Internet] SAFARI newsletters in the first week of each month. We read and log your letters & eMails and, if doing so will be beneficial to a significant number of our readers, research and publish details of issues you raise.

What you cannot expect from us:

SAFARI is run by two people who fit it in between trying to earn a living and fighting their own appeal. SAFARI's mail [forwarded on to us from our accommodation address in London – no we don't actually live at the London address!] arrives in daily bundles and is processed as quickly as possible. Due to limits on time, money & manpower, we decided early on that we would not be able to offer one-to-one support and that our main efforts will be involved in publishing the newsletter each month. In 2004, we also started working harder to communicate with those who could make a difference to the system [we are now in communication with the Police, Home Office, CCRC, CICA, Prison Service, the media, Parole Board, various support groups and others].

Please be aware that we are rarely able to respond to individual letters or make photocopies, don't telephone people on your behalf, and almost never discuss your case with a solicitor, etc. Additionally we won't generally be able to obtain statistics you might ask for unless they can be obtained quickly and easily and are likely to be of use to a large number of people.

What you can do to help:

Please do keep us informed of your current address so that we don't lose contact with you. Tell us [and supply details] whenever you achieve some level of success in your case [such as winning an appeal, achieving Parole, finding a solicitor who achieves positive results, etc.] Make donations if and when you can [we quite understand that many of you are not in a position to do this]. Tell others about SAFARI [you could pass out photocopies of the newsletters - some readers already issue 50+ copies every month - or suggest to others that they join our mailing list.] Send us copies of any correspondence you receive from officials [i.e. MPs, prison staff, Probation, etc.] which either [a] contain information you feel would be useful to other readers or [b] highlight an issue which you believe needs to be addressed by a higher authority in an attempt to achieve changes in Law or procedures.

SAFARI is a non-profit-making organisation reliant solely on voluntary donations. To donate to SAFARI you can bank money directly into our account: "SAFARI", Sort Code: 30-92-02, a/c Number: 2702360. [Please give your name as the 'reference' so we know where the money is coming from!] Donations can also be made very simply by clicking on the PayPal 'donate' button on the SAFARI website.

One final and very important point: SAFARI exists to support those who have had false accusations made against them, and others affected by this issue. One thing we would ask of everyone who is falsely accused, for their own good and the integrity of the group, is to ADMIT what you DID do [if anything], make use of any course or programme for which you are genuinely eligible, and be resolute in maintaining your innocence of anything you did NOT do.

Above all, be honourable in all your dealings.

Best wishes to you all in the festive season; may the coming year help us all towards true justice
