

Presumed Guilty

the plight of falsely accused carers and teachers

Parliamentary briefing paper launched at Spring Conference

Launched at its Spring conference F.A.C.T.'s parliamentary briefing paper provides a compelling analysis that the response of police and the prosecutorial authorities to allegations of historic sexual and/or physical abuse in children's homes and residential schools many years ago, is a presumption of guilt.

This well researched document provides incontrovertible and shocking examples of innocent carers and teachers being falsely accused and wrongly convicted of criminal offences against children.

The document also challenges the continued legitimacy of police investigatory methods

and prosecution practices in the area of allegations of historical abuse. Both the police and prosecution authorities are shown to be more interested in obtaining convictions regardless of the evidence rather than pursuing the truth and just outcomes for the accused, victims and society as a whole.

The paper calls on parliamentarians to re-visit the issue of allegations against carers and teachers, particularly when allegations are historic, with a view to root and branch reforms that re-introduce evidential standards in line with other areas of criminal justice and which adhere to the letter and the spirit of the presumption of innocence.



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Falsely Accused Carers and Teachers

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FACTion:

FACTion is produced at approximately bi-monthly intervals at the national committee's discretion, and is provided free of charge to F.A.C.T. members.

The editorial team welcome articles for publication, of between 150 and 1,500 words, and letters of not more than 200 words. These should be sent, preferably by email to: faction@factuk.org or by post to **FACTion, PO Box 15971, Solihull, B93 3GG**

The editorial team reserve the right to edit any article or letter sent for publication.

All submissions must be accompanied by your name and address which, on request, will be withheld from publication.

The views contained in FACTion do not necessarily represent those of F.A.C.T., or its national committee.

Contributors are reminded that FACTion is also published on the internet and therefore is, potentially, available for everyone to read.

Editorial

Firstly may I begin by thanking everyone for the support at the EGM and for attending the Spring Conference. We were particularly delighted with the attendance and pleased to see many new members as well as old friends.

We were also delighted to use the occasion to launch our new parliamentary briefing paper 'Presumed Guilty'. Although it's been a while in the making I think you will agree that the end result is very pleasing. As I said at the conference the document is intended to be a resource for lobbying rather than just something to read.

We very much hope the fact some of the speakers were not able to make it on the day did not spoil things too much. From the feedback we have had it's clear that many appreciated more time to meet with each other and share experiences. This is something we will try and build in to future conferences.

We were also very pleased with some of the suggestions you made for taking F.A.C.T. forward. I am particularly keen on the idea that we develop some occupational groupings such as education, care work, health care professionals, fostering etc. If you would like to lead, or be part of a particular occupational group, please let us know. Another idea which caught my attention was the suggestion that F.A.C.T. should facilitate social contact in a context where the experience of being falsely accused, or supporting someone who has been, can be put to one side for the moment. Two suggestions made to me were that, for example, we set up a family history group and/or a Twitter/Facebook social media group. Both these suggestions have considerable merit so let us know what you think.

Elsewhere in this edition you will see that I am looking to step down from editing FACTION, having done this for several years. Having produced 26 editions, I think FACTion would benefit from a fresh approach. This would also give us the opportunity to re-assess how often FACTion should be produced and what type of magazine it should be. More importantly, it will also give me more time to concentrate on my quest to increase our membership and further develop F.A.C.T.'s website.

Talking about FACTion, can I just remind you that we welcome letters and articles for publication. Please keep them coming in.

Michael

Important: Change of address:

***Due to the increased cost of PO Boxes
(costs are virtually doubling)
the Cardiff PO box will cease
to operate from 7th July.
Any future F.A.C.T. correspondence will all
therefore need to be sent to
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Supreme Court Allows Miscarriage of Justice Compensation Appeal

Two men cleared of murder on appeal are to be awarded compensation for wrongful imprisonment after a landmark Supreme Court ruling defined a "miscarriage of justice". However, a similar appeal by a third man was rejected.

The court said a miscarriage of justice was when a new fact showed evidence was "so undermined that no conviction could possibly be based upon it".

The ruling could have implications for dozens of former prisoners in England, Wales and Northern Ireland.

Lord Phillips, president of the Supreme Court, said the new test should ensure that innocent defendants are not precluded from obtaining compensation because they cannot "prove their innocence beyond reasonable doubt".

The Justices at the court ruled on the question of whether compensation should only be given if someone subsequently showed conclusively that they were innocent of the offence.

A Ministry of Justice spokesman said: "This is a long and complex judgment which will take time to consider in full. However, while the court has set a new test for "miscarriage of justice", we expect that compensation will still only be paid in very few cases."

R (on the application of Adams) (FC) (Appellant) v Secretary of State for Justice (Respondent) On appeal from: [2009] EWCA Civ 1291; [2010] NICA 3

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and have no prior experience of the criminal justice system. Often these allegations involve uncorroborated, historic allegations.

In this complex arena specialist legal advice and representation is vital especially as recent changes in the law, designed to convict genuine offenders, also put the innocent at greater risk of injustice.

We particularly welcome carers, teachers, and health care professionals who have been accused of abuse and are likely to be subject to a criminal investigation.

Where allegations have been made we would be happy to advise, whether or not criminal investigations are underway.

For further information please contact

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New Book by Richard Webster

We are delighted to report that Richard Webster has announced that Orwell Press are due to publish a new book of his on false allegations later this month.

It will be titled '*Casa Pia - the making of a European witch hunt*'. The book describes one of the largest and longest lasting paedophile ring scare there has ever been, and one which, arguably, has caused the most damage to the institutions of the country in which it originated - Portugal.

The scandal involves allegations that a leading left wing politician, a lawyer, a doctor, an ambassador, and Portugal's most famous television presenter, Carlos Cruz were all members of a paedophile ring, which preyed on children in Lisbon at a children's home known as Casa Pia.

Although six people including Cruz were convicted at the end of the five and half year trial, and although their membership of a sinister paedophile ring had been reported as fact there is no credible evidence that such a ring ever existed. Indeed, quite recently one of the accusers informed the Press that the allegations he made were untrue.

'*Casa Pia - the making of a modern witch hunt*' is the first book to explore how these monstrous lies came into being, and how it came to be accepted as the truth not only by a significant number of Portuguese, but by journalists throughout the world.

Casa Pia - the making of a modern witch hunt is published by Orwell Press and is available from them.

The Orwell Press
Paperback original
110 pages, £7.95
To be published on 30th June

FACTION Update

As you will have read in the editorial F.A.C.T. is reviewing how best to keep members and others informed of relevant issues of concern to falsely accused carers and teachers. With this in mind we would appreciate your views on FACTION. Does it deliver the right balance between fact, information, opinion and news. Is there a right balance between serious and light hearted news. Is it easy to read or does it need refreshing. Would more illustrations improve the layout or would they detract from the articles. Please let us know, especially if you are reading this whilst in prison. Would you prefer a quarterly edition of say twenty pages or a smaller monthly/bi monthly news-sheet similar to SAFARI's excellent magazine.
See back page

Vacancy for an Editor

With the above in mind we shall also be looking for a new editor. He/she will be expected to produce either a quarterly magazine of 20-24 pages or a smaller version on a monthly/bi monthly basis.

The editor will be responsible for the receipt of articles, deciding on content, copy editing, page layout, arranging proof reading, and the transmission of the finished publication to the printers.

If necessary the software will be provided (Microsoft Publisher or Page Plus or equivalent). Reasonable expenses will be paid.

An in depth knowledge of issues relating to the falsely accused is not essential. Likewise, previous publishing experience is not required as usually a steady stream of articles are submitted for publication.

Anyone interested in the position should contact the Chair or National Secretary as soon as possible.

Children May No Longer Be Cross-Examined in Criminal Courts

According to an article on the Guardian web site, written by Amelia Hill, children may no longer be called to give evidence in the criminal courts except in the "most extraordinary circumstances", even if that means risking their abusers going free, following a case due to be heard in June.

The change, which could transform the approach of the criminal courts towards children, arises from the refusal of a local authority to let a six-year-old girl give evidence against her father in court.

The Crown Prosecution Service is demanding that the child is cross-examined over allegations of sexual abuse she has made against her father, including that of rape.

If the local authority wins in the Crown court, a precedent will be set that will severely curtail the ability of the criminal courts to ask children to give direct evidence or to submit them to hostile cross-examinations.

If the local authority loses, however, it will take the case to the Court of Appeal. Its lawyers say that under European law, the court must rule in the child's favour.

This would create new case law, compelling all criminal courts in England, Wales and Northern Ireland to balance the human rights of the child against the right to a fair trial every time they consider calling a child to give evidence. This, say legal experts, would make it almost impossible to justify the use of child witnesses.

According to research by the NSPCC and the Nuffield Foundation, to be published in June, the number of children called as witnesses by the criminal courts has increased by 60% in recent years.

Francis Wilkinson, a lawyer for the local authority concerned, said that he was "deeply concerned" by the increase in such witnesses – a rise from 30,000 children in 2006-07, to 48,000 in 2008-09. Wilkinson said the criminal courts were breaching EU law by calling children, sometimes as young as four and a half years old, to give evidence. The landmark case is supported by other legal experts.

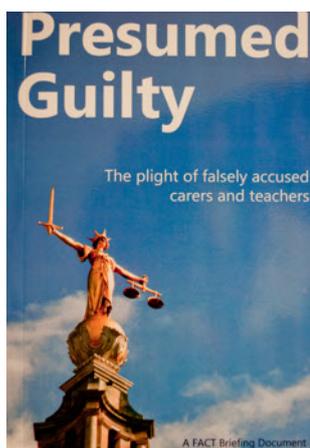
One judge, who asked not to be named, said the current system of cross-examining children was not "fit for purpose". He said present methods "decrease significantly the accuracy of children's reports and may therefore thwart the fact-finding function of the criminal justice system". He added, "We've achieved the worst of all possible worlds. The current system is absolutely absurd".

The Ministry of Justice has rejected Wilkinson's claims. "We do not believe children giving direct evidence is a breach of article 8 of the European convention on human rights," the department said. "Children are only required to give evidence when absolutely necessary in the interests of justice. In these cases we strive to ensure that everything is done to support [them]."

Arwel Jones, head of the law and procedure unit at the Crown Prosecution Service, said child witnesses could be crucial in securing convictions: "There will always be cases where, for the defendant to have a fair trial, the defence will need to be given the opportunity to ask questions of a child witness. Without that, it may well be difficult for a defendant to have a fair trial."

Martha Cover, head of Coram legal chambers and co-chair of the Association of Lawyers for Children, agreed: "The child's welfare is important but not paramount. Allowing children's words to be heard can be very helpful to the court. Children's evidence can be central, important and outweigh their welfare." But Wilkinson said that by calling children, criminal courts were breaching article 8 of the convention. "The courts are, and have always been, guilty of completely ignoring European convention by failing to question whether their calling of children to give evidence is properly balancing the defendant's right to test the evidence, against the child's right not to be harmed by the process," he said.

Launch of 'Presumed Guilty'



The launch of F.A.C.T.'s latest Parliamentary Briefing paper took place during the Conference when the Chairman also paid tribute to the growing numbers of authors who are writing books about the impact false allegations have on their lives. It was important, he said, that those accused tell their stories - a theme later taken up by Gabe Tan, the conference's key-note speaker.

The Chairman also paid tribute to George and Iris Jensen who wrote the initial drafts and whose idea it was to write a parliamentary briefing paper. Their idea was partly to ensure that the plight of carers and teachers accused of abuse - particularly historical abuse

- was not forgotten and partly to help newly established MPs by providing an up to date commentary on the failures of investigative practice and failures of the justice system - elements which are critical to a proper understanding of the issues we face.

Thanks were also paid to Dr Michael Naughton for his most generous foreword which the Chairman said captured the sense of the document and the strength of our commitment very well.

Arrangements have already been made to target relevant MP's, Members of the House of Lords, Members of the Scottish Parliament and Assembly members in Wales and in Northern Ireland. F.A.C.T. members were given a brief synopsis of the book and urged to use it as a resource and lobbying tool.

As the booklet was written against the background of the loss of some dear friends of F.A.C.T. during the past year it was considered appropriate that it be dedicated to the memory all those in F.A.C.T. who are separated from us, including in particular, Paddy Cosgrave QC; John Hughes, solicitor and Coroner for North East Wales; John Hesdon; Tom Carolle, a founder member of F.A.C.T.; Molly Gee who taught us so much about campaigning; Betty Star, who as a mother, and Edna Hepburn who as a wife, symbolise the very essence of supporting victims of false accusations. To each of them F.A.C.T. owes a great deal and all are sadly missed.

See back page if you have not received a copy of Presumed Guilty or Claims of Innocence .

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Scotland's Legal System to Change

All suspects in Scotland are to be allowed access to a solicitor as soon as police want to interview them under recently announced changes to the Scottish legal system.

The move, designed to pre-empt a challenge under human rights legislation, is expected to cost taxpayers tens of millions of pounds in increased legal aid bills.

It is also possible that a ruling due later this year will mean thousands of suspects denied access to lawyers in previous cases could appeal their convictions or sue the Scottish Government for compensation.

Matt George

We were very disappointed to hear that Matt George was not successful in his appeal.

Matt was originally jailed for 10 years after the jury found him guilty of 18 charges of physical and sexual abuse against pupils at Kerelaw school .

In his bid to overturn the conviction, his legal team argued that he was not given adequate access to paperwork at Ayr Police Office during the investigation.

They also claimed that prosecutors failed to disclose statements which had been made to social workers investigating complaints of ill-treatment at the school.

The appeal judges made minor alterations to two charges, deleting an allegation that one boy had been pelted with golf balls and that an assault which involved slapping a girl on the head had happened only once, not several times.

Another hearing is to be set which will allow Matt to challenge the 10 year sentence imposed at the end of a his trial in 2006.

GUILTY

A verdict of GUILTY

Gives one faith in the law

A feeling of security

And safety at one's door

But listen to the many

Whose partners are convicted

For deeds they did not, could not do

I'm INNOCENT they've insisted

The jury sitting separated

Detached from all in court

Have read all the details

In the newspaper report

Their minds already made up

The ghastly deed WAS done

The man sitting in the dock

He's GUILTY, justice WON

But how can there be justice

When innocent of all crime

A man is sent to prison

To serve the sentence – TIME

The prosecution's job complete

Another man convicted

Of crimes he did not, could not do

A result too easily predicted

For the law is skewed in favour

Of allegations made

Irrespective of the truth

The prosecution paid

Without a shred of evidence

Its hearsay through and through

You haven't listened to the truth

These crimes he DID NOT DO.

The families bereft and drawn

The trial its toll has taken

But to the men who are convicted

You're not forgotten, not forsaken

Our fight to free you will go on

We'll strive with all our might

Never will a day go by

When we'll give up our fight

Surviving the Trauma of False Allegations

Gabe Tan's key-note speech to F.A.C.T. 's spring conference

Thank you for inviting me to talk at this conference today. I have been to F.A.C.T. conferences for the last three years and I have always found them thought provoking and inspiring. So I am really glad today to have this opportunity to address this conference.

My talk today is based on an article that I've recently published in an international journal called Critical Criminology. The title of the article is '*Structuration Theory and Wrongful Imprisonment: From 'Victimhood' to 'Survivorship'*'.

In short, the article looks at cases of individuals who were wrongly imprisoned and how they seek to rebuild their lives after release.

I've been working in the area of wrongful convictions for about seven years now. First as a student on the Innocence Project and now working full time for the Innocence Network UK. It has become very apparent over the last seven years that one of the main issues in this area, is the difficulty that victims of wrongful imprisonment face after release and their inability to move on with their lives. It is for this reason that I started undertaking research on this issue. I wanted to explore, not just how victims are harmed by their wrongful conviction, but also, how they could survive it and rebuild their lives after release.

Whilst the article focused on cases of wrongful imprisonment, many of the harms they face, the strategies they use to survive, will equally apply to those who have not been imprisoned, those who have been charged but acquitted, those who were falsely accused but had the charges against them dropped.

Indeed, although those who have been wrongly imprisoned can be conceived as the 'worst cases' of miscarriages of justice, there are many types of harm that are shared by those who have been falsely accused in general. The stigma, the loss of jobs and difficulty of regaining employment, the psychological stresses experienced by individuals and their families, the financial costs incurred in seeking to challenge the allegation and so on.

I have to admit at the outset that in many ways, I am perhaps not the best person to be giving this talk. I am sure that many of you who are sitting here today have survived a false allegation. Some of you may have been imprisoned and achieved release after overturning your convictions. You are better placed than I am to talk about how you have survived your ordeal. Indeed, this research was very much based on your stories, the biographical and autobiographical accounts of people like Paddy Hill, Gerry Conlon, Patrick and Anne Maguire, Michael O'Brien of the Cardiff Newsagent Three and so on. Each individual story is a unique one. Many are heartbreaking, such as the story of Sally Clark who never got over the trauma of her wrongful conviction and imprisonment. At the same time, many are inspiring and they give a real insight into the human tenacity and ability to survive the harms of the wrongful conviction, no matter how devastating they are.

My aim is not to give a definitive guide on how to survive a wrongful conviction. The objective, instead, is to bring these stories together, and discern some shared, common factors that enable those who have been wrongly convicted and imprisoned to move on from being a victim to a survivor.

Premise

My research is premised on a notion that victims of wrongful imprisonment are not passive. Yes, the harms they have sustained are complex and devastating. It impacts on their lives, their futures, their families and their communities. Many of these harms will be permanent and life-changing. Survivorship is not about 'going back to normal' as if the wrongful conviction has not happened or the false allegation has never been made. It is about being empowered to confront the situation, overcome the odds and move on with life.

This premise is based on the theory of a sociologist by the name of Anthony Giddens. To put it simply, Giddens was saying that yes, our ability to act, to achieve things are controlled by the structures that we are living in. It is limited by social factors beyond our control. But what Giddens is saying is that we are not passive. Human beings have agency and we can change the social conditions that we are in through our actions as well.

Transition from victimhood to survivorship

In all stories of survivorship – whether one is looking at victims of wrongful imprisonment, those who have been through other forms of trauma, being a victim of abuse, being a victim of a debilitating accident, being a victim of war, being a victim of a serious crime, a common thread lies in how people overcome the harms inflicted on them. It involves three crucial ingredients: stability, identity and resistance.

1) Stability

When victims of wrongful imprisonment are released, particularly those who have been released after spending many years in prison such as the Birmingham Six, the Guildford Four, Robert Brown and Paul Blackburn who spent 25 years in prison, they are often released with no structure in their lives.

Their families have been torn apart. They have no support, no stable accommodation, no income, they don't know anyone. They are released into a world which they are complete strangers to. Many victims of wrongful imprisonment live very unstructured lives for the first few years of their release. In a recent report on Andrew Adams for instance, during his 14 years in prison, his mum died and his father developed Alzheimers. After his release, he has no home to go to, no income, no support. He stays in hostels, sleeps on the floor of other people's homes.

Indeed freedom from imprisonment does not mean freedom from all structures and constraints of social life. On the contrary, all human beings need routines, they need structures. For the vast majority of people, our routines are very mundane. We get up at six in the morning, go to work or school, go back home after an 8 hour shift, have a bit of an argument with our families, go to bed, and start again the next day.

With little or no structure in their lives when released, victims of wrongful imprisonment often slide into destructive routines to fill the void – drug addiction and alcoholism seems to be the most common of all. Many victims call it 'self-medication', a way of numbing their pain; take their minds off their ordeal temporarily.

The first step to survivorship is to have a semblance of a stable structure. Somewhere permanent to stay, a stable source of income, a stable circle of friends, family. This stability forms the first step towards survivorship. It is like building the foundations for a house. Without this foundation, you cannot build anything else.

continued on page 8, col 2

EGM

There was an excellent attendance at the recent EGM. Two resolutions were considered.

Resolution 1 (proposed by the Chairman, and seconded by the Secretary).

'At the request of F.A.C.T. North Wales, the National Committee recommend that any F.A.C.T. member who, for reasons of illness, infirmity (which would include disability), and any other unavoidable reason cannot attend, should be permitted to apply for a postal vote at any future AGM or EGM in respect of nominations for office and resolutions received.'

The meeting was reminded that as the resolution potentially involved a change to the constitution it would require at least 2/3rds of members attending to vote in favour. It was also stressed that although this was an open meeting, only members were eligible to vote. It was agreed without dissent that it was not however necessary to ask for a show of cards.

Asked whether anyone objected, the following questions were raised:

1 A Sussex member expressed a personal dislike of postal voting in general and asked for clarification of 'any unavoidable reason'. It was pointed out there could be several reasons why people are not able to attend, and in general people go to considerable lengths to attend. It would therefore be left to each individual to decide whether to apply for a postal vote.

2 A Cornish member asked whether prisoners were included. It was explained that reluctantly it was decided they should not be allowed to vote.

After ample discussion the matter was put to a vote. The resolution was passed unanimously with no abstentions and none against.

Resolution 2 : A separate resolution in support of the Committee and chairman's lead was also passed.

Woman who falsely called man a paedophile' fined

A Hillingdon woman 'falsely called man a paedophile'

A woman from west London who falsely branded a neighbour a paedophile in an "unseemly outburst" must pay £1,500 in compensation for slander.

Patricia O'Connor of Hillingdon turned on retired landscape gardener Michael Clynes in a row lasting a few seconds in October 2009, the High Court heard.

They fell out over a CCTV camera which Mr Clynes positioned outside his home.

Mr Clynes spent his life savings on defending himself as he was so incensed by the outburst, the court was told.

He was accused by Mrs O'Connor of installing the recording system so her could watch children playing.

She "hurled at him, groundlessly, what seem to have been the most insulting epithets that came into her head – 'wife-beater', 'drug dealer' and either 'paedophile' or 'perv'," said Mr Justice Eady.

The judge awarded Mr Clynes £1,500 in compensation for slander for what he called a "very sad case".

Birthdays

Happy Birthday

Kevin August 7th

Brian October 22nd

We'll be thinking of you

Enjoy the day

continued from page 7

For this reason, compensation and post-release support are very important. Yes, victims want compensation because it is the only semblance of accountability that they can get for what has happened to them. But compensation has a very practical function too, which is to provide them with some financial stability, the capital that they need to start to rebuild their lives.

2) Identity

The second ingredient is identity. In the last seven years, I have met many victims of wrongful imprisonment who seem to be unable to move on, despite the fact that they have been released for many, many years. Some have been out longer than the time that they have actually spent in prison.

One of the factors that seems to contribute to their inability to move on is the fact that they have become entrenched in the identity of being a victim of wrongful imprisonment. This has implications on first, how they view themselves, second, how they relate to others, and third, how others relate to them. Put simply, if you identify yourself as a victim, you will always remain a victim and others will see you as one.

However, there are other ways in which a victim of wrongful imprisonment can identify themselves – as a parent, as a grandparent, by their occupation (if they do manage to regain employment) and so on. An example is Michael O'Brien and how he has managed to move on over the years from just being one of the Cardiff Newsagent Three. The Cardiff Newsagent Three, for those of you who have not heard of the case before, were convicted for the murder of a newsagent, Philip Saunders. They were convicted primarily on the false confession of one of their co-accused, and evidence manufactured by South Wales Police. The three won their appeals in 1999 after spending 11 years in prison each.

During the 11 years he spent in prison, Mike's wife left him, his daughter died of cot-death, his son grew up without a father, and his own stepfather died of alcoholism. Michael struggled in the first few years of being released. He

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suffered (and still suffers) from PTSD. Michael has now re-married. He assumed a parental role of her three children. They have another child together and they have a second child on the way. He has also, to a large extent, managed to rebuild his relationship with Karl who was one year old when he went to prison.

We often hear of how victims of wrongful imprisonment are still imprisoned in their minds when they are released. For Michael O'Brien, it is quite apparent how this new family life he has, forming stable relationships with his wife and children, genuinely helped him by changing his identity from being just a victim of a wrongful imprisonment to something more, to being a husband, a father with commitments, responsibilities and a future to look forward to. As he said in a newspaper article a couple of years ago:

'I don't look on myself as a victim of a miscarriage of justice but as a survivor...Things are looking really good now. I feel that I'm on the mend and I want to make a success of my life and not always be known as one of the Cardiff Newsagent Three'.

We see Mike and his wife Claire quite regularly. They live in Cardiff and we would drop by their place when we go to Cardiff prison for prison visits. The last time we saw Mike a couple of months ago, we were amazed by how he did not mention his wrongful conviction at all. He talked about all sorts of things – his kids, how they are doing in school, his cars and Kylie Minogue. He used to be consumed by his wrongful conviction, but now his life is filled with and has been enriched by all these different things.

When we talk about re-identification, it is not about forgetting the injustice that has happened. What I'm talking about is not letting the injustice consume your life. Another example is that of Johnny Kamara. Johnny Kamara spent 20 years in prison, out of which 16 years was spent in solitary confinement. In an interview he did last year, he talked about how his life and attitude have changed with having a family. What he said was this:

'What's helped me has been having a stable relationship with someone and the kids...What really used to make me think was when I used to put the kids to bed...I sit there sometimes and think to myself: "Bloody hell- if I didn't win that appeal, they wouldn't be here." It really makes me think about why I was fighting.'

The freedom of those who have been wrongly imprisoned is hard-earned. It took years, sometimes decades to fight for. Don't waste the freedom by being trapped in what has happened. Make something positive out of it. Don't let the past define your present. Don't let the past dictate your future.

Of course, the situations that you are in are very different from Michael O'Brien and Johnny Kamara. Both of them were young men when they were convicted and middle-aged when they are released. A lot of you here today are probably retired when the false allegation was made. But there are similarities too in that all of you have been falsely accused, and falsely accused of very serious crimes – murder, abuse of children, sexual offences. But like Michael O'Brien and Johnny Kamara, you do not have to let the false allegation dictate your identity and who you are.

3) Resistance

Indeed, you could resist the labels that have been unfairly put on you, which brings me to my next ingredient - resistance. Many of you here today have been accused of what is probably one of the most stigmatised crimes – abusing children. The charges against you may have been dropped. You may have been

Can you tell me ?

I drove home in the moonlight

Frost glinting on the cars

I drove home alone I did

For Jim's locked behind bars.

'Twas foggy in small patches

A haze around the moon

The day that I can prove the truth

Will never come too soon.

I'll tell you friend if you let me

I'll tell you one and all

It's an innocent man you've sent to jail

How do you live with it all?

Have you no thread of conscience

A spark of guilt, though brief,

That your own individual prejudice

Has given so much grief.

You saw a man with glasses

Long hair and silver beard

Denim was his outfit

No suit and tie appeared.

Defenceless were the 'victims'

Yes, but so was he

How can one prove one's innocence

Where no crime there may be?

The accuser in court she said

Nothing did I saw

Back to back I sat to him

But the jury's verdict's... LAW

The charges cannot be reversed

Unless with something NEW

How can one prove one's innocence

When NOTHING did he do?

The papers they reported

Only prosecution news

How can their readers be informed

With such slanted views?

Can you tell me society

That you know you are right?

When an innocent man found guilty

Cannot put up a fight.

We are grateful to Sue for both of the poems in this edition.

continued on page 10, col 2

The Protection of Freedoms Bill

The Protection of Freedoms Bill is currently going through Parliament. It has already had its second reading and is now at the Committee stage. The Bill is wide ranging in nature and addresses a number of civil liberty issues which have been raised by the public or by the Courts. These include issues to do with the retention of DNA, police stop and search powers, and the scaling back of child protection police checks.

If passed the Bill will also restrict the scope of the 'vetting and barring' scheme for protecting vulnerable groups and make significant changes to the system of criminal records checks.

More controversially it also allows those with convictions for engaging in consensual sexual relations between men aged 16 or over (which have since been decriminalised) to apply to have them disregarded.

Various amendments have already been made to the Bill to ensure that child protection police checks are reduced in scope. The Independent Safeguarding Authority (ISA) will be dissolved and replaced by a new Disclosure and Barring Service.

The Act will however still require potential employers to check whether or not an applicant is barred from working in a regulated activity .

The Bill also modifies Section 117 of the Police Act 1997 and requires an independent monitor to be appointed in order to review information which is believed to be inaccurate.

In future Chief Officers of Police will only be allowed to release information to prospective employers if they *reasonably* believe it to be relevant. Previously they could release information if they thought it might be relevant. Whether this strengthening of the wording has any practical effect remains to be seen. The Bill only applies to England, Wales and Northern Ireland.

continued from page 9

charged but acquitted, you may have been convicted but overturned your conviction, you may not even have been charged at all.

One of the main obstacles for victims of false allegation is the ongoing stigma and permanent stain on your reputations. This stigma has wider implications. It affects the way you are seen by your friends, your community, sometimes even your own family. Many of you here today may have had your careers blighted by a false allegation, and the stigma makes it almost impossible to get a job even though you have done absolutely nothing wrong.

This stigma that victims of false allegations suffer is a form of discrimination – like all discrimination, the prejudice is groundless. You are treated unfairly, unjustly in your community, in your workplace – even though you are actually, factually innocent. Things such as CRB checks further legitimise this discrimination. You can be dismissed from employment, barred from regaining employment solely because somebody has made an unfounded, or malicious allegation against you in the past.

But we are not and do not have to be passive towards such discrimination. On a personal level, we can resist the stigma by not letting the stigma chip away at our self-esteem, our dignity and our self-respect. You have not done anything wrong and you should not be ashamed, you should not be scared. Society is the one who ought to be ashamed for the injustices and harms caused to you and your families, not you.

Collectively, we can all do something to challenge this discrimination. When we think about discriminated groups in society historically – women, blacks, homosexuals and so on. The first step to combating this discrimination is by 'coming out', telling the public about your experience, the injustices that have happened to you.

A good example, for instance, is a recent Channel 4 documentary called 'My Beautiful Friends' which some of you may have seen. This documentary tells the story of a woman called Katie Piper who was severely disfigured following an acid attack. What was inspiring about this documentary and this very remarkable lady, was that she did not simply try to cope with and live with the stigma and embarrassment of the disfigurement. Instead, she tried to combat this stigma by coming out, letting the public know, through this documentary, not only the pain she goes through on a personal level, but how cruel, harsh and ignorant society can be towards people like her.

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A lot of parallels can be made. The permanent disfigurement suffered by individuals like Katie Piper and her friends are physical. But victims of false allegations are permanently disfigured too. You've had your reputations, your livelihoods, your character disfigured through no fault of your own. But like Katie Piper, you should not be ashamed by this disfigurement. This discrimination against victims of false allegation stems in large part from ignorance – society's ignorance about the flaws of the criminal justice system, society's ignorance about how law abiding, upright citizens could so easily have their entire lives destroyed by a malicious allegation. The first step towards overcoming this discrimination is by opening up and educating the public. Society needs to know what has happened to you and the injustices you have suffered.

Just as Katie Piper was looking for ambassadors for her charity to assist victims of disfigurement, you too, can be ambassadors for this very important cause of eradicating society's discrimination against victims of false allegation.

For this reason, this conference today should have been a public conference. If discrimination stems from ignorance, then the public needs to know what is being said here today and be educated about the problem of false allegations and their consequences of those who have been falsely accused.

F.A.C.T. has done an amazing job in trying to raise public awareness about the plight of those who have been falsely accused. This booklet here, Presumed Guilty, is a great example of making people aware of the perversion of justice that happens when a false allegation is made – at the investigation stage, those who are accused are presumed guilty. The presumption of guilt pervades the trial stage as well. The burden of proof is reversed and those who have been accused have to seek to disprove the allegation made against them. Yet, when we think about the ongoing stigma and permanent stain to reputation that victims of false allegation experience, they are still presumed guilty even after the charges have been dropped or the conviction has been overturned.

This discrimination, this presumption of guilt has to be resisted. Discrimination succeeds when people don't challenge it, when people let it consume them, when people hide away. Don't be ashamed of it, resist it, challenge it and defeat it.

In thanking Gabe for her talk the Chairman praised her for her unique contribution to the Issue of false allegations. It was, he said, clear from the way in which every word spoken was listened to and absorbed that she had touched on a much neglected, important and sensitive area.

Later Gabe answered questions from the floor.

Keith Sutton

It is with much sadness that we announce the death of Keith Sutton. Keith attended our recent conference where he was in good form and appeared his usual self. A few days later however he collapsed whilst playing bowls and died. Keith was one of the early victims of false allegations and a member of F.A.C.T. right from the outset. He was a man of great integrity and those who knew him were convinced of his innocence. Keith was always supportive of what we do and is one of a growing number of F.A.C.T. members who have suffered premature death - an issue which, ironically, was raised at our conference. Well over 400, possibly 500 people attended his funeral held in Formby on 10th June, including Claire Curtis Thomas and many F.A.C.T. members. We offer thanks to Keith for all that he did to support us, and our deep condolences to his wife June, all his family, and all who knew him.

Nick Greene

As many of you will know Nick Greene was unable to be at our Spring Conference.

Having travelled from France, where he lives, to be at the conference in good time, Mr Green was told that his father had died very suddenly.

Unfortunately Mr Greene was not able to contact the Conference organisers as they had all left home to be at the conference so he could not alert anyone to his changed circumstances.

Mr Green has asked us to pass on his apologies to all those who attended and expected him to be there.

We look forward to hearing from Mr Greene at a later date and offer our heartfelt condolences to him, his mother and wider family.

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Experienced teacher sacked after an altercation with rowdy pupil

A teacher with 30 years experience recently told an Employment Tribunal how he was sacked after a rowdy pupil claimed he grabbed his arm and left four small scratch marks.

Ronnie Lane, 56, admitted confronting the unruly 15-year-old boy, who had special educational needs, after he had repeatedly wandered the classroom 'scrunching up' other boys' GCSE art coursework.

He agreed that during the lesson in July 2009 he did touch the boy's arm while asking him to release another pupil's painting, to stop it being damaged.

The Tribunal was told that two days later, Mr Lane was suspended and after several hearings, including an unsuccessful appeal, he was sacked for gross misconduct. The tribunal heard how 'minutes' after leaving the room to find a colleague, the boy claimed Mr Lane had grabbed his right forearm so hard it left nail marks.

Despite a retired senior police officer saying the injuries could have been self-inflicted, Mr Lane was sacked from West Derby School – even though the boy later refused to assist investigators.

Vice chairman of governors Jonathan Jones told the hearing that a disciplinary panel had reached the opinion Mr Lane had 'failed to control a challenging class' and his conduct in grabbing the teenager 'was not acceptable'.

Mr Jones admitted that despite requests by Mr Lane's union representative for all the boys in the class to make witness statements, it was never done.

Instead only a handful of students' statements were considered. Student JP wrote that Mr Lane merely 'touched' the pupil and claimed Student J 'embellished the story'.
The tribunal adjourned pending its decision.

USA research into the prevalence of false allegations

A national survey of 10,000 Americans has recently revealed that 11% of teachers report they have been falsely accused of abuse.

The first-ever survey of its type probed persons' first-hand experiences with false allegations of child abuse, domestic violence, and sexual abuse. The study was commissioned by *Stop Abusive and Violent Environments*, (S.A.V.E.) a victim advocacy organization.

The survey results headlined a False Allegations Summit, held at the Fairfax Hotel in Washington, DC.

The survey was conducted between May 2-4, 2011 and found that 15% of respondents personally knew someone who has been falsely accused of abuse.

In 81% of the cases the falsely accused person was a male, in 70% of cases the person making the allegations was female, 26% of the wrongful accusations were made in the context of a child custody dispute.

"What the survey demonstrated was that tens of millions of Americans have been falsely accused of abuse," explains SAVE spokesperson Natasha Spivack.

"These persons were stamped with the scarlet Abuser label, leaving them to wonder whatever happened to the notion of 'innocent until proven guilty.'"

The Summit featured statements by leading stakeholder organizations, including the National Association of Criminal Defense Lawyers, Home School Legal Defense Association, American Coalition for Fathers and Children, National Coalition for Men, and Encounters International.

The National Association of Criminal Defense Lawyers statement spotlighted the "immense, often irreparable harm caused to our clients by false allegations, not only to reputation and personal relationships, but often to the accused individual's livelihood and even health."

The Summit also included the emotion-wrought testimonies by four victims of false allegations of abuse.

The False Allegations Summit was held in the wake of a recent *Washington Post* front-page article about Sean Lanigan, a local school teacher who was falsely accused of sexual molestation by a 12-year-old student. The article triggered editorial commentaries and citizens' expressions of disbelief and outrage.

The full survey results can be viewed on-line at

<http://www.saveservices.org/false-allegations-awareness-month/survey-results/>

The False Allegations Summit is the kick-off to False Allegations Awareness Month in June. More information on the observance can be found at:

<http://www.saveservices.org/false-allegations-awareness-month/>

The S.A.V.E. website also features some useful research on false allegations including research on alleged domestic violence and rape.

Although the organisation is primarily concerned with false allegations made in the context of domestic relationships it also refers to leading research in America and throughout the English speaking world.

Stop Abusive and Violent Environments is a victim advocacy organization working for evidence-based solutions to partner abuse: www.saveservices.org

Human Rights On-line TV Channel

Human Rights is an online web television channel devoted to Human Rights with the aim of “empowering the voice seldom heard”.

The channel covers a wide range of human rights issues and is particularly keen to articulate the stories and experiences of those who have suffered human rights abuse.

“We recognise that those who have suffered abuse often suffer further indignity by remaining unheard. In making the individual story, told by the individual in their own words and their own way, visible, accessible and freely available we can offer some support to those who need it most.”

“The service we provide is free to individuals, free at the point of entry, free at the point of viewing. We do not believe that those who have suffered should have to pay to be heard.”

“We strongly believe that Human Rights TV should maintain a sacred space on the web where all who are present share the values enshrined in the Human Rights Declaration at the United Nations in 1948 and the subsequent developments in the ideal of human rights. We also promise to protect this space from inappropriate activities, marketing or promotions.”

Human Rights TV claims not to support, represent or promote any political or religious stance but act purely as a video resource cataloguing the history of the progression and activity of human rights in the 21st century.

They do not however guarantee the authenticity or veracity of any of the content they archive but offer it as prime source material that gives the viewer the chance to make their own judgment.

The project has been in existence for well over two and a half years and in that time has grown and developed considerably and prides itself on the fact that it is watched by a specific and highly relevant audience, including universities, government departments, civil authorities and individuals searching for specific information.

This is a rather unique project and well worth dipping into and supporting.

Impossible !

“Impossible is just a big word thrown around by small men who find it easier to live in the world they've been given than to explore the power they have to change it.

Impossible is not a fact. It's an opinion.

Impossible is not a declaration. It's a dare.

Impossible is potential. Impossible is temporary. Impossible is nothing.”

Muhammad Ali

For those who mourn

He has achieved success who has lived well, laughed often and loved much;

Who has gained the respect of intelligent men and the love of children;

Who has filled his niche and accomplished his task;

Who has left the world better than he found it;

Who has looked for the best in others and given the best he had;

Whose life was an inspiration

Whose memory is a benediction

Robert Louis Stevenson

ACPO to be Reformed

The Home Affairs Select Committee (HASC) has been told that the new professional policing body will not be a “revamped” Association of Chief Police Officers (ACPO) as the current process contains “deep flaws”.

Peter Neyroud, who led the review into police leadership and training, told the Committee (April 26) that the recommendation to establish a professional body into which ACPO should merge will not lead to a revamped version of ACPO.

When pressed by HASC members to clarify whether a new body will simply be another version of ACPO, he emphasised that the current system has “flaws” and that a new body will deliver greater benefits both in the short and long terms.

He explained that he had been very careful to try and set out an organisation which encompasses the whole of the service.

“We looked at a whole series of professional bodies across public life and sought to construct a professional body for policing and pick up the best of those, rather than try and take away existing organisations and reconstitute. We didn't try and do that.”

Mr Neyroud said that what he has described is a set of functions which are quite different from ACPO; the structure being quite different. The new body placing a greater onus on individuals to be professionally developed and on ensuring senior managers are properly and continuously developed and qualified in their positions, including detectives. The recommendations focus on developing evidence based practice “looking back making sure lessons are learnt and research is done”.

Pro Bono

Legal charities are missing out on funding because the majority of lawyers are unaware of the existence of 'pro bono costs' orders, research has suggested.

Where a civil case is won by a lawyer providing free legal representation, under Section 194 of the Legal Services Act 2007 pro bono costs can be awarded by the court or included in settlements.

The costs are paid by the losing party to the Access to Justice Foundation, which distributes the funds to legal charities.

But an online survey of barristers, solicitors and legal executives revealed that 72% did not know that they could obtain pro bono costs on winning a civil case. Of the 312 respondents, 86% did not know such costs could be included in a settlement and 88% were unaware of how to obtain pro bono costs in a case.

Former Attorney General Lord Goldsmith QC, who chairs the Foundation, said that the sums from the scheme have increased, with one case producing £41,000 costs, but that it has not yet reached its full potential. 'If lawyers don't know about pro bono costs, they can't obtain them – and too many lawyers still don't know about them,' he said.

Goldsmith said it is not just lawyers acting for free who need to be aware of pro bono costs, but all lawyers who may be faced with an opponent acting pro bono, as their client may face the risk of adverse costs if they lose.

Previously a party losing to a pro bono litigant avoided paying legal costs. Lord Goldsmith said: 'Pro bono costs have an important role in helping level the playing field, as now both sides have a costs risk to consider, thereby assisting settlement.'

The Master of the Rolls Lord Neuberger said: 'It is very important that everyone is aware, whether judge or advocate, that costs can now be awarded when lawyers act pro bono'.

Teacher wins unlawful arrest case

In early December 2009 a teacher was told by police that an allegation had been made against him that he had assaulted a pupil at the school where he was a teacher. He contacted his union who put him in touch with a solicitor.

Prior to this the teacher had given a contemporaneous account to the school of the incident which gave rise to the allegation. He said that when standing in a doorway directing students "someone kicked the door hitting me in the back. I turned around and put my arm up to protect myself from a repeated blow by the door. [X] walked forward into my outstretched arm and hand which connected with him at neck height."

No marks were seen on the boy.

The teacher was suspended from the school. The school obtained accounts from the boy, other pupils and the teacher.

Police interviewed the boy and his family but the boy's parents did not want to pursue a complaint with the police. The school were going to take the allegation through their disciplinary process and the governors were to meet to consider it.

A witness investigation log compiled by the officer in charge of the case, PC Downie, recorded that on 4th December 2009 she spoke to the teacher on the telephone and informed him about the possibility of a 'local resolution' between him and the pupil. After further exchanges of telephone calls, the teacher's solicitor telephoned PC Downie to inform her that the teacher would not accept a local resolution. An appointment was made with PC Downie for the solicitor and the teacher to attend Bloxwich police station.

On 16th December 2009 the teacher and his solicitor attended Bloxwich police station by appointment.

If he accepted a 'local resolution' the teacher would have had to accept that he had assaulted the pupil. He did not accept that he had assaulted the pupil and therefore refused a 'local resolution'. PC Downie informed the teacher that if he did not accept a local resolution he would have to be arrested and interviewed. His solicitor protested that an arrest was unnecessary and that he was prepared to have a voluntary interview.

The solicitor asked to speak to a sergeant who confirmed that the teacher would be arrested. He was then arrested and cautioned.

The teacher claimed that he had been unlawfully arrested.

The Judge ruled that before a police officer made an arrest, pursuant to section 24 of the Police and Criminal Evidence Act 1984, he had to consider, in accordance with the requirements of section 24(4), whether arrest was necessary or whether voluntary attendance at a police station would achieve the objective that he wished to secure.

The judge agreed that it was unnecessary to arrest the teacher as he co-operated fully and was agreeable to being interviewed voluntarily.

He made a declaration that the arrest was unlawful and that his claim for false imprisonment consequent upon the unlawful arrest succeeds and awarded him £1000.

Richardson v Chief Constable of West Midlands Police [2011] EWHC 773 (QB); [2011] WLR (D) 116xt

Judgement handed down in the High Court of Justice, Queens Bench Division in Birmingham on the 29th March

Pressing the Point

In the last issue of FACTion I commented on the tragic case of Jo Yeates, the Bristol-based landscape gardener, whose murdered body was discovered on Christmas day last. At the time I wrote Chris Jefferies, a retired school teacher and Jo's landlord, had been arrested and was being interviewed by the police. The media were, as so often is the case, confusing "arrest" with "charge".

Hooray! At the beginning of March the police declared Mr Jefferies was no longer a suspect; Vincent Tabak, Ms Yeates next door neighbour, had been arrested and has since been charged with her murder. Have the police got it right now?

Late in April It was announced that Mr Jefferies is to sue various newspapers including the Sun, Daily Mirror, Daily Mail, Daily Express and Daily Star. Good for him. His lawyer Louis Charalambous said that Mr Jefferies is "seeking vindication of his reputation for the terrible treatment he received" at the hands of the press.

The BBC (not always with clean hands themselves) reported that "in 2008, Mr Charalambous represented British expatriate Robert Murat, who received a record settlement in 2008 of £600,000 and an apology over 'seriously defamatory' allegations in nearly 100 newspaper articles concerning the disappearance of Madeleine McCann.

In Mr Murat's case, the settlement was reached with the Sun, Daily Express, Sunday Express, Daily Star, Daily Mail, London Evening Standard, Metro, Daily Mirror, Sunday Mirror, News of the World and the Scotsman."

Time will tell whether Mr Jefferies has the same success as Mr Murat; I do hope so.

Of course there are carers and teachers whose "presumed guilt" was plastered over the media before they even came to trial.

Is a fair trial possible under such circumstances?

Is it not time our elected MPs looked at the law. They cannot keep hiding behind the law- "it's not me guv!" - after all they are the law makers and if the Mother of Parliaments has not got it right its members need to face up to their responsibilities and revisit the appropriate statutes.

Protecting the accused (at least until proved guilty beyond all reasonable doubt) is their responsibility and even if such legislation may not be popular with some parts of the media, especially when it involves "pædophiles" (the tabloids favourite word), they know what they ought to do, don't they?

S.E.Ems

Since receiving this article the Attorney General, Dominic Grieve, has announced that he will begin court action against two tabloid newspapers over the way they covered the hunt for the killer of Joanna Yeates, the landscape architect whose body was found dumped on Christmas Day in a country lane near Bristol.

Grieve has instructed his team to launch contempt of court proceedings against the publishers of the Daily Mirror and the Sun because of the way they reported the circumstances surrounding the arrest of Chris Jefferies, Yeates's landlord, before the arrest of Vincent Tabak, who later admitted manslaughter but denies murder.

Twitter Away

Twitter has been much in the news lately over the disclosure of names of celebrities whose identity has been protected by Court injunctions. In a little publicised case Twitter has been forced to hand over the personal details of a British website user in a landmark court ruling, which could have major implications for freedom of speech on the internet.

South Tyneside Council in South Shields has successfully pursued legal action against a blogger known as Mr Monkey, who has, allegedly, levelled a stream of false accusations against its councillors and staff.

The local authority went to court in California, where the social network website is based, to get the blogger's personal details revealed.

It is thought the move could have implications for the new world of online social media and for celebrities wishing to track down Twitter users who have broken privacy injunctions.

Wouldn't it be nice if local authorities followed suit and took action against dozens of pupils who malign or otherwise defame their teachers on social media sites such as facebook and twitter?

Wouldn't it be nice if Government bodies adopted the same tactics and took action against all those parents who make false allegations against teachers?

Wouldn't it be nice if Councillors endorsed the taking of Court action against anyone who falsely accused employees of their Councils?

T'wit, T'woo !

Maths Error

Due to a miscalculation one of our members has been told he will have to spend several more months in prison than he expected. Instead of coming home this Autumn he will now have to serve another 15 months. Our thoughts are with Peter, Liz and family as they come to terms with this setback.

