

Ms Jenny Thomas

Casework Administrator

Criminal Cases Review Commission

5, St. Phillips Place Birmingham

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CC

Mr. Huw Morgan Legal Adviser

Cardiff and the Vale of Glamorgan Magistrates' Court

Fitzalan Place

Cardiff South Wales

CF 24 ORZ

CC GEO Amey

HSQE

Units A & B 69, The Whittle Estate

Cambridge Road Whetstone

Leicester

LE 8 6LH

Monday 6<sup>th</sup> June 2016

Dear Sirs,

**CCRC Ref 0021/2015 GEO AMey Reference 00830 Cardiff & Vale of Glamorgan  
Magistrates' Court Reference 110054864**

I am again writing with reference to Mr. Maurice Kirk.

On the 1<sup>st</sup> December, 2015 my clerk, Miss Louise Davies, obtained the magistrates' court file pertaining to Mr. Kirk's conviction for the alleged harassment of Dr. Tegwyn Mal Williams.

The file was devoid of any Legal Adviser's notes pertaining to the drafting and service of the restraining order. There were no notes pertaining to the evidence.

By his letter to me dated 27<sup>th</sup> January 2016 Mr. Huw Morgan has stated that a photocopied file has been released pursuant to Rule 5.7 (4) of The Criminal Procedure Rules.

The Criminal Cases Review Commission have refused to release these papers. The genesis of the CCRC's stance appears to be the enclosed letter from Mr. Justin Hawkins dated 10<sup>th</sup> August 2015 where he cites section 29 of The Data Protection Act 1998 as a reason for non-disclosure of the magistrates' files in the CCRC's possession.

GEO Amey cite data protection and their own internal policies for refusing Mr. Kirk sight of their records pertaining to the alleged service of the restraining order in question pursuant to the 1.12.2011 magistrates finding.

In fact, it has now been shown that Mr. Kirk's requests have the force of a judicial order.

In appeal A20140005 there is a Mendip-Wordwave Transcript of proceedings at Cardiff Crown Court dated 27<sup>th</sup> March 2014. At page 8 Paragraphs E to G Christopher Smyth, Prosecuting Counsel, states: ***'now previously the court, that is to say the magistrates' court, had taken the view that as the magistrates' court is not a court of record, then those notes were not required to be disclosed. But I know from my dealings over the last couple of weeks, that they are in existence...'***

At page 9 paragraph A His Honour Judge Crowther QC states: ***'Well the prosecution is to obtain those notes and to apply the ordinary disclosure tests to them'...***

The ordinary disclosure tests are ones of **relevance**. Mr. Kirk gave evidence at a trial for breach of the self same restraining order (T2013 1144) wherein he produced a handwritten draft of the restraining order. Legal Adviser Michael Williams and GEO Amey employee Lee Barker both attested to having served Mr. Kirk with a typed perfected copy of the order.

How did Mr. Kirk gain possession of a hand-written draft if he was absent from the final stages of the trial? Nobody accused him of forging that document himself.

Clearly the inference is that that was the document handed to him by Lee Barker and not the perfected typed restraining order.

Mr. Michael Williams gave evidence that he hid in a cell and watched Mr. Barker serve the restraining order. His evidence somewhat conflicted with that of Mr. Barker who claimed he served something marked 'Restraining Order' inside a cell. It is incredible that Lee Barker managed the manoeuvre in full sight of Mr. Williams.



As Mr. Kirk was certified MAPPA 3 there were no less than 4 officers attending to him in total, a fact lost on Mr. Williams who somehow sees through all escorts.

A jury note requested evidence as to how the court file showed Mr. Williams 'presented' Mr. Kirk with the restraining order. That note was never shown to Mr. Kirk. It is enclosed with this letter. How can it be gainsaid that that jury was concerned with 'relevance'?

The GEO Amey records should document Michael Williams coming into the cell complex. They should document service of the restraining order by Mr. Barker.

The magistrates' court papers should document the making of the draft order, the typing of the draft order, the District Judge writing amendments to the draft order and certification of the ultimate service of the typed perfected document on Mr. Maurice Kirk.

It begs the question of whether all this could be achieved before Mr. Kirk was released.

Were court staff working to expedite the typing of the perfected order over their lunch?

What time did GEO Amey record Mr. Kirk leaving the court centre?

Mr. Kirk was on crutches and recollects that Mr. Barker had a document containing fountain pen annotation which was offered for Mr. Kirk to read stating that it had to go back to the prosecutor for perfection. Mr. Kirk did not touch the document which was folded.

Mr. Kirk believes court, CCRC and GEO Amey are in collusion.

I cannot comment but it does not help matters when all three entities are singing from the same erroneous 'song-sheet'.

With regard to CCRC Justin Hawkins the section 29 objection is erroneous. Section 29 creates a data disclosure exemption for reported information about crimes or data processed for the prevention or detection of crime.

In **R (on application of Alan Lord) v Secretary of State for the Home Department (2003) EWHC 2073 (Admin)** it was held that the policy of blanket non-disclosure under section 29 (1) could not be justified and that the exemption required a more selected and targeted approach to non-disclosure based on the circumstances of the particular case. The judge said that:

***"it is for the data controller, if he wishes to rely upon the exemption in section 29 (1), to show that one of the statutory objectives is likely to be prejudiced in the particular case in which the question arises."***

The contents of the magistrates file would not hinder the detection of crime as they purport to concern themselves with the narrative of a lawful process which by its nature is the opposite of criminality.


I therefore challenge the CCRC to identify what prejudice the disclosure of the Legal Adviser's notes would cause.

I ask that GEO Amey  particularise the specifics of their objection.

I respectfully request the magistrates' court to identify the prejudice which they say could be caused by the disclosure of the entire file.

Clearly the entire file satisfies the 'relevance' test, particularly with regard to Mr. Kirk's assertions that the perfected restraining order was not served upon him in the court cell complex.

Yours sincerely,

A handwritten signature in black ink that reads "David Jonathan Leathley". The script is cursive and fluid, with the first name "David" being the most prominent.

David Jonathan Leathley

Barrister At Law