

Innocent people

Mark Wrightwick -
HMP Parkhurst

There is much evidence that the percentage of innocent people in prison is at a record high. Every week many prisoners win appeals against their convictions. Every week the problem of withholding evidence by the police or CPS is in the media.

"Why is the government turning a blind eye to the fact that thousands of men and women are rotting in prison whilst innocent?"

In the future people will look back on this period of the British criminal justice system with horror and shame. The ability of the CPS to charge anyone without evidence or proof is absolute madness.

Something needs to happen soon, because people's lives are being trashed and no one seems to care until it affects them or their families.

I call upon the Prime Minister to sort this terrible mess out ASAP.

Adopt the French system

WH Beattie - former prisoner

The current scandal regarding the withholding of evidence which is helpful to the Defence appears to focus mainly on police officers. Of course police officers want convictions, a conviction validates their effort and work. Officers who get convictions in difficult cases will also get promotion.

However, I think the CPS and their predecessors are far more to blame than police officers. All prosecutions of any gravity have pre-trial conferences attended by police and Prosecuting Counsel. Are we to believe that prosecuting barristers don't ever ask 'what evidence is there that can weaken or even destroy our case?'

And, post-trial, when it is finally disclosed that evidence has been withheld, concealed, altered or tampered with, we really see the prosecuting authorities in their true colours.

The CPS won't sanction a prosecution against the police for tampering with evidence because that would invalidate the jury's verdict.

The Court of Appeal simply aren't interested in any complaint regarding misconduct by prosecution or even defence counsel. In this country we have legal dynasties where whole families earn their living in the Courts and even junior barristers are connected to senior figures in the judiciary.

And that old chestnut about Britain having the best legal brains in the world? Well, last year I heard from one young man freed on appeal after a judge gave him 10-years when the maximum sentence for his crime was 6-years. The judge could not even be bothered to look at the sentencing guidelines!

It may well be time to reconsider Michael Mansfield QC's suggestion that we adopt the French system where the trial is an enquiry.

I SAID THIS OVER 20 YEARS AGO

Can offenders travel abroad while on licence?

John O'Connor

The sizzling weather of the past few weeks has been almost tropical. All that was lacking was sight of palm trees and endless sandy beaches. This month especially is peak holiday time and undoubtedly many prisoners wishfully dream of being in sunnier climes rather than stuck in an often-sunless cell. And while there's no chance presently of them getting tanned or even sipping ice-cool margarita's they can at least look forward to making up for lost holiday time the moment they are released.

But just hold on. For before grabbing passports and booking the first cheapo Ryanair holiday flight out of the country, nowadays there are strings attached to release from custody. (They often also apply to non-custodial sentences.) For like it or not, it's not a travel agent but your Offender Manager who has the final say as to whether you can travel abroad. This is because most sentences now come with a period of post-release supervision on licence.

It's a standard condition of the post-release licence which states: "Not to travel outside of the United Kingdom unless otherwise directed

by your supervising officer". That's a crystal-clear condition which provides the legal authority for the National Offender Management Service to impose a blanket ban on overseas travel. And on first appearance this condition appears to make hopes for overseas travel, especially for holidays, a non-goer. Yet close examination of this seemingly insurmountable condition gives grounds for a favourable outcome.

“So, for offenders giving their Offender Manager a hard time. don't be surprised to get a knock-back when seeking permission to travel abroad.”

In fact, the chances of getting the OK from your Offender Manager are quite good if the answer is “no” to five of the following criteria and “yes” to the last:

- Will the benefits to the offender of travelling abroad be realised if the travel is deferred until after the end of the licence period (for determinate sentence offenders) or suspension of the supervision element of the licence (for indeterminate sentence offenders)?

- Are travel or activities carried out abroad connected or potentially connected to the offender's index offence (e.g. importation of drugs, fraud involving companies set up outside of the UK, human trafficking)?

- Will the travel interfere with the sentence plan or increase any risk of re-offending or risk serious harm, including risk of serious harm to prior victims?

- Will the travel interfere with reporting requirements or attendance at offending behaviour programmes or interventions?

- Have there been any concerns regarding lack of compliance or any escalation in risk of reoffending or risk of serious harm in the past 12 months?

- Is the Senior [Offender] Manager satisfied that the offender can be trusted to return and resume the supervisory period?

On the surface most offenders shouldn't have a problem giving the right response to these questions, resulting in a favourable decision. But while appearing to be fact-based, they are open to subjective interpretation. So, for offenders giving their Offender Manager a hard time, don't be surprised to get a knock-back

when seeking permission to travel abroad. And there is no appeal. “It should be made clear to offenders who do not meet the criteria that they can only expect a different result if the circumstances under which they have applied have changed.”

Of course, not all overseas travel is solely for holidays: some offenders need to travel for compassionate reasons (close relatives' ill, etc.) or follow-up job offers. For the latter the Offender Manager must have evidence that the potential employer supports the offender's request to travel abroad and is fully aware of the restrictions placed on the offender by the licence period. These requirements are more difficult to be met by self-employed or freelance offenders seeking to travel overseas on business and so condition 1 of the criteria has particular significance. This condition is also a key determinant for lifers and IPPs wanting to travel abroad.

While the question of an offender's human rights has been recognised, particularly Article 8 of the ECHR (right to a family life), the second paragraph of Article 8 allows interference in the exercise of a person's Article 8 right for particular reasons, including “for the prevention of disorder or crime...or for the protection

of rights and freedoms of others”. In the case of travel abroad on licence, any such travel would be unsupervised and so interference (with Article 8) is required to ensure the protection of the public is upheld.

So, you've jumped all the hurdles and have got the OK to travel abroad. But even then, there are more questions to be answered. They relate to travel arrangements: dates and travel details (e.g. flight numbers, ferry times, etc., when/where the offender will depart from and return to the UK and contact details overseas (address and contact number if possible). All such information must be independently verified wherever possible.

The only time the Border Police are involved is when the offender is a foreign national and “... is of interest to them...” It's a matter of speculation as to whether other law-enforcement agencies are made aware of an offender's criminality. For my part I often feel the immigration officer lingers just that little longer when carefully scrutinising my passport. Guilty conscience or what...?

John O'Connor is a journalist and former resident of HMPPS

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