

INDICTMENT

The quarterly
Newsletter for
Investigators and
Prosecutors Serious
about Crime

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Corruption is a vast criminal industry that costs developing countries US \$1.26 trillion per year, which is equivalent to the economies of Switzerland, South Africa and Belgium combined. This amount of money could lift the 1.4 billion people in the world living on less than US \$1.25 a day above this threshold for at least six years. (Sources: Global Financial Integrity, [‘Illicit Financial Flows from Developing Countries over the Decade Ending 2009’](#) (2011) pg. i; World Bank, [‘World Bank Indicators Database’](#) (2011); Oxfam, Discussion papers, [‘A safe and just space for humanity’](#) (2012), pg. 5)

If we don’t tackle corruption, social, economic and legal infrastructures can be seriously damaged. Further, corrupt practices can steadily become part of every day culture. Turning a blind-eye maybe easy but it will only allow worse practices to flourish. It has been said that the accomplice to corruption is frequently our own indifference. To maintain integrity there must be a robust approach to

those who undermine the good name of others in order to perpetuate the abuse of rights and privileges.

The recent Transparency International Corruption Perceptions Index placed Barbados 15th and Saint Lucia 22nd. Such results are noteworthy, but equally the region as a whole must ensure that corruption is prevented.

More can always be done!

In this edition we focus on police corruption, with an emphasis on how such abuse of office can be successfully prosecuted.

We also have all our usual features with legal news from the region, “Stop the Press” and good news from Grenada with the second confiscation in the region!

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CORRUPTION IN THE CARIBBEAN

The most recent regional survey on corruption trends was the UNDP (United Nations Development Programme) Caribbean Development Report 2012 -see this extract from pages 78-79:

“The UNDP Citizen Security Survey 2010 suggested that judicial corruption is pervasive. For example, 53 percent of residents in the Caribbean-7 (Antigua and Barbuda, Barbados, Guyana, Jamaica, Saint Lucia, Suriname and Trinidad and Tobago) believe that politically connected criminals go free; about 50 percent believe that the justice system is corrupt; 47.3 percent believe powerful criminals go free; and 37.2 percent believe judges are corrupt.....The crimes and corruptive influence of gangs and organized crime also lead to decreased economic performance. Crime diverts a country’s limited resources towards crime prevention and control initiatives and away from sectors that can fuel economic growth and human development such as education and the maintenance of physical infrastructure. Corruption helps discourage positive corporate investment decisions, foreign investment and private and public loans from abroad. In the Caribbean region, in particular, crime and corruption dampen tourism. Potential tourists are alienated by violence and criminal activities and search for other locations where there is no threat to personal safety. Finally, crime and corruption cause Caribbean citizens to divert substantial resources away from more productive and entrepreneurial uses. Finances are squandered on bribes, compensating for bureaucratic delays, and engagement with organized crime rather than on personal savings and investment and human and social capital development.”



Solutions

The following are some suggestions from Indictment on steps to tackle corruption:

1. Ratification of United Nations Convention Against Corruption: To date, Antigua and Barbuda and Saint Lucia have ratified the United Nations Convention against Corruption. Barbados has signed, but not ratified the convention.
2. Requiring public officials to disclose financial assets. Antigua and Barbuda and Dominica have passed Acts to establish an Integrity Commission. The lower house in Barbados has passed the Prevention of Corruption Act which would require disclosure yet it is still to be passed by the Senate and receive assent before it is law.
3. Police accountability systems are needed to maintain integrity and also enhance human rights. This will improve police credibility and co-operation by the community the police serve. This will require an effective Internal Police Investigative Division, whistleblowing protection and an independent and robust Ombudsman. Also there must be integrity systems in place with regular reviews. There must be a move from acceptance to a zero tolerance attitude to corruption.
4. Where there is a successful prosecution assets must be confiscated or where the legislation has been passed use of civil recovery. If a person convicted of corruption is allowed to keep the spoils of their activities then justice hasn’t been served. The profit must be taken out of corruption.

The Jamaican Response

The National Integrity Action Forum was launched in January 2009 to promote more effective outcomes in combating corruption in Jamaica. Towards this end, it seeks to provide a mutually reinforcing network of public sector anti-corruption champions and to associate these champions with leaders of the private sector and civil society through forums on anti-corruption issues. The forums have achieved an initial purpose by clarifying the impediments to a more effective engagement with corruption and, on this basis, developing an agenda of urgently needed legislative and administrative measures. Several outreach forums have been held to open a dialogue between the anti-corruption champions and opinion shapers in the media, religious leaders, researchers in various anti-corruption agencies, and international experts at the World Bank Institute and Transparency International. The advocacy and

communication activity that has emerged from this effort has significantly influenced the governance reform agenda of the government, helped sustain the attention of the media on corruption issues and contributed to reductions in victimization through corruption in Jamaica.

The National Integrity Action Forum has also commissioned and produced training manuals, including ‘*Best Practices in Prosecuting Anti-Corruption Cases*’ and ‘*Strengthening Jamaica’s Conflict of Interest Regime*’.

The organization’s lobbying and advocacy have contributed to legislative initiatives such as the passage of the Whistle Blower Protection Act.

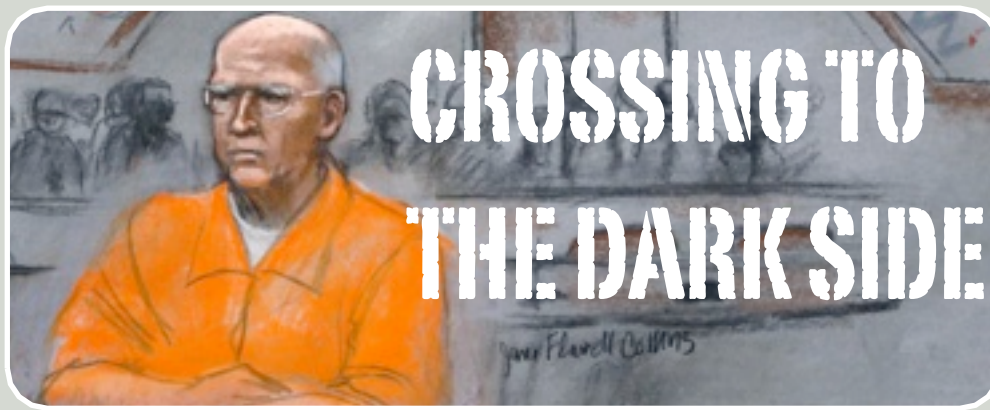
To sustain its network within the highly competitive political environment in Jamaica, the forum has established and maintained its non-partisanship in all areas of its activity. For this reason, because of its ties to the public sector, the forum decided to create a

companion non-profit NGO, National Integrity Action Limited. The purpose of this NGO is to build public awareness of the need to combat corruption in Jamaica. National Integrity Action Limited does this by enhancing the advocacy for effective anti-corruption legislation, by facilitating capacity-building through training aimed primarily at key anti-corruption officials, and by building relationships with civil society. Together, the National Integrity Action Forum and National Integrity Action Limited are challenging political corruption and its impunity in Jamaica’s governance arrangements.

See the NIAF website at: <https://niajamaica.org/who-we-are/>

And infomercial at: <http://www.youtube.com/watch?v=ig-cwzfb0Fg>

Source: Information from the National Integrity Action Forum, University of the West Indies, Kingston, Jamaica.



On 14th November James J. "Whitey" Bulger (above) was sentenced to two life terms plus five years imprisonment for his part in eleven murders and racketeering as leader of the Winter Hill Gang in Boston.

In her remarks when sentencing Bulger, Judge Denise Casper said, *"The scope, the callousness, the depravity of your crimes, are almost unfathomable ... Your crimes were all the more heinous because they were all about money.....Make no mistake, it takes no business acumen to take money from folks on the other end of the gun."*

Bulger was indicted for racketeering in 1994 and went on the run for more than 15 years resulting in his appearance in the FBI's Most Wanted List. By conspiring with law enforcement agency officers, who also corruptly assisted his reign of terror in the 1980s as the "Boss" of the Winter Hill Gang, he was able to evade arrest.

John J. Connolly, Jr. was a FBI agent who had been Bulger's handler in the early 1980's. Whilst "Boss" of the Winter Hill Gang, Bulger as a "Double Agent" fed intelligence to the FBI about the rival New England Mafia.

In 2005, Connolly was indicted on murder and conspiracy to commit murder charges for the 1982 slaying of John B. Callahan. Callahan was murdered by Bulger associate, John Martorano, who shot Callahan and left his body in the trunk of his car in a parking lot at Miami Airport.

Prosecutors alleged that Callahan was killed on the orders of Whitey Bulger and Stephen "the Rifleman" Flemmi after Connolly told them that the FBI was investigating his ties to the Winter Hill Gang in their ongoing investigation into another murder.

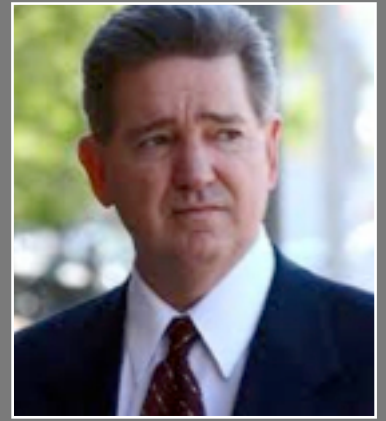
During the trial, Stephen Flemmi and Bulger associate Kevin Weeks and John Martorano testified for the prosecution detailing Connolly's ties to Bulger and Flemmi. Also testifying against Connolly was his former FBI boss, John Morris, who admitted that he accepted \$7,000 in bribes from Bulger and Flemmi. He stated he began leaking information to them after Connolly delivered a case of wine and an envelope stuffed with \$1000 cash from the pair.

Testifying for Connolly was US District Senior Judge Edward F. Harrington who testified that Connolly was a star agent who was credited with using informants to help destroy the Mafia in New England.

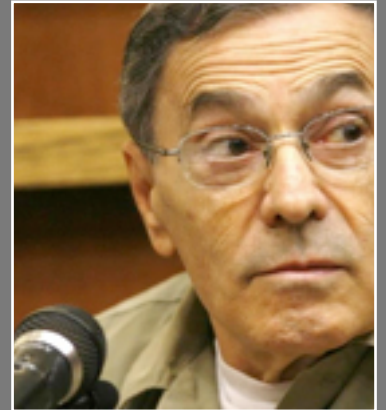
The jury convicted Connolly of second-degree murder and in 2009 when sentencing him the Judge remarked that Connolly had, "**Crossed over to the dark side.**" The Judge accepted prosecutors' argument that Connolly abused his badge and deserved more than the 30-year minimum and sentenced him to 40 years imprisonment.

Connolly was further indicted in 1999 on charges of alerting Bulger and Stephen Flemmi to investigations, falsifying FBI reports to cover their crimes, and accepting bribes. In 2002 he was convicted of the related racketeering charges and sentenced to 10 years (concurrently) in federal prison.

The 2006 crime thriller, "*The Departed*" was loosely based on the corrupt relationship between Whitey Bulger and John Connolly. It is believed that Bulger attended a screening of the film in San Diego that led to a two week manhunt in the area before his eventual arrest in 2011.



Above: Corrupt FBI Officer John Connolly



Above: Stephen Flemmi giving evidence at the trial of John Connolly



Above: Flyer for The Departed



Above: FBI surveillance photograph of Whitey Bulger (right) and Stephen Flemmi (left)



RESOURCES TO FIGHT CORRUPTION

There are an abundant supply of internet sites with toolkits to assist corruption investigations and prosecutions - here we look at some of the best

UNODC has launched a web-based anti-corruption portal known as TRACK (Tools and Resources for Anti-Corruption Knowledge). The portal features the Legal Library on the United Nations Convention against Corruption (UNCAC), providing a unique gateway to an electronic database of legislation and jurisprudence relevant to UNCAC from over 175 States systematized in accordance with the requirements of the Convention. The TRACK portal brings together legal and non-legal knowledge on anti-corruption and asset recovery enabling Member States, the anti-corruption community and the general public to access this information in a central location. An anti-corruption learning platform is also incorporated, providing a common space where analytical tools generated by partner organizations can be searched and accessed by users world-wide. Find TRACK at <http://www.track.unodc.org/Pages/home.aspx>

OAS has an anti-corruption portal developed by the Department of Legal Cooperation of the Secretariat for Legal Affairs, which provides information regarding transparency in public administration and anti-corruption cooperation, including technical cooperation efforts, as well as links to the web pages of the member states' agencies with responsibilities in this area. <http://www.oas.org/juridico/english/FightCur.html> (also checkout the portal on cybercrime and mutual legal assistance)

OECD has a plethora of available resources on its website at: <http://www.oecd.org/corruption/index.xml> These are some of the best resources that may assist investigations and prosecutions:

Typology on Mutual Legal Assistance in Foreign Bribery

Cases: <http://www.oecd.org/daf/anti-bribery/>

Integrity Pacts - from Transparency International (see: http://www.transparency.org/whatwedo/tools/integrity_pacts/4/)

Each year, governments spend huge sums of money on public procurement – funding roads, bridges, schools, housing, water and power supply, other community improvements... But with these vast expenditures, opportunities for corruption are rife. Integrity Pacts are a tool for preventing corruption in public contracting. They are essentially an agreement between the government agency offering a contract and the companies bidding for it that

they will abstain from bribery, collusion and other corrupt practices for the extent of the contract. Integrity Pacts have been around since the 1990s, and have been applied in more than 15 countries and 300 separate situations. They help save taxpayer funds, ensure that infrastructure projects and other public works are delivered efficiently, and stave off avenues for illicit gain.

EXAMPLES OF INTEGRITY PACTS

GERMANY: A pact governing all contracts involved in the construction of Berlin's new international airport – a

€2.4 billion project. This pact was agreed between the company that runs the airport, Flughafen Berlin-Schönefeld GmbH, and the TI chapter in Germany.

MEXICO: Since 2002, the TI chapter in Mexico has implemented pacts in over 100 contracts worth US\$ 30 billion. It has also emphasised the use of independent monitors, dubbed 'social witnesses', and since 2004 the country's Public Administration Authority has made social witnesses mandatory for public contracts above a certain threshold.

[TypologyMLA2012.pdf](#)

Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes: <http://www.oecd.org/ctp/crime/EffectiveInterAgencyCooperationinFightingTaxCrimes.pdf>

Identification and Quantification of the Proceeds of Bribery:

<http://www.oecd.org/daf/anti-bribery/50057547.pdf>

Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors:

http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/bribery-and-corruption-awareness-handbook-for-tax-examiners-and-tax-auditors_9789264205376-en#

Transparency International

best known for their corruption perceptions index, TI have a number of toolkits available on their website at: <http://www.transparency.org/>

The best is the **Corruption Fighters Toolkit: Civil Society**

Experiences and Emerging Strategies: [http://](http://www.transparency.org/whatwedo/pub/corruption_fighters_toolkit_civil_society_experiences_and_emerging_strategi)

www.transparency.org/whatwedo/pub/corruption_fighters_toolkit_civil_society_experiences_and_emerging_strategi

Transparency International is hosting a Caribbean Conference in the Cayman Islands from 19th-21st March for more details see: http://www.transparency.org/news/event/towards_a_corruption_free_caribbean_ethics_values_and_morality

ANONYMOUS REPORTING

HELPING TO REDUCE CRIME IN THE CARIBBEAN

By Crime Stoppers International Director & Development Officer Devrol Dupigny



Crime Stoppers International (CSI) is a global civil society organization that offers the most trusted and respected anonymous and confidential mechanism to the public to report crime and criminal activity. CSI's mission is "to mobilize the world to report crime anonymously". With over 1,200 Crime Stoppers programs operating in 26 countries it is estimated that over 500 million people are served by CSI programmes in various regions around the world. Since the creation of Crime Stoppers in 1976, CSI has become a major intelligence gathering tool for law enforcement agencies across the world as close to one million offenders have been arrested and over US\$10 billion worth of illicit drugs seized as a result of information provided to Crime Stoppers.

Crime Stoppers International has forged strategic relationships with agencies such as the FBI, the RCMP, the Australian Federal Police and the South African Police. Additionally in 2005, Crime Stoppers International was granted Special Consultative Status by the Economic and Social Council of the United Nations and in 2010, CSI established a co-operation agreement with INTERPOL which was signed at the 79th INTERPOL General Assembly in Doha Qatar. Through this agreement with INTERPOL, CSI is able to conduct various global interventions in attempt to stop, prevent and solve crime globally.

Crime Stoppers is a tripartite relationship between the media, law enforcement and the community.

The Civilian Board of each Crime Stoppers programme raises required funds, provides a secure phone number and text address and pays rewards. The Media promotes the number and the successes of the programme and; Law Enforcement Agencies use gathered information to

apprehend criminals, confiscate illegal substances and recover stolen property.

In the Caribbean & Latin America Region, there are active Crime Stoppers programmes in twelve (12) countries, namely: Antigua, Bahamas, Barbados, Belize, Bermuda, Cayman Islands, Dominica, El Salvador, Jamaica, St. Kitts & Nevis, Trinidad & Tobago & Turks and Caicos. The Crime Stoppers programmes in each of these countries are governed by local volunteer boards of directors and each maintain close relationships with their local police forces and media. At the regional level, strategic relationships are maintained with agencies such as CARICOM, the Implementation Agency for Crime and Security (IMPACS), the Association of Caribbean Commissioners of Police (ACCP) and the Regional Security System (RSS) and the Caribbean Media Corporation (CMC) which support and endorse the activities of Crime Stoppers in the region.

NEW AREAS OF FOCUS –

CORRUPTION

All forms of crime can be reported to Crime Stoppers, however, in an attempt to address the issue of corruption in a direct manner, Crime Stoppers has recently implemented an anonymous and confidential service for employees to report criminal activity and acts of wrongdoing taking place at their workplace. This service, known as the Integrity Line is available to both the public and private sectors on a 24/7 basis, 365 days of the year and is delivered by dedicated highly skilled call agents who deal with any matters relating to wrongdoing in the workplace, including Human Resources and Health & Safety.

The following activities can be reported:

- Bribery**
- Fraud**
- Corruption**
- Money laundering**
- Embezzlement & Misappropriation**
- Sexual harassment**
- Theft of company equipment and materials**
- Moonlighting (i.e. use of company equipment for personal gain)**

All calls are answered by the Integrity Line staff located at the Crime Stoppers Call Centre in Canada. Upon receipt of the information, a transcription is generated and sent to a designated official in the local Crime Stoppers programme who will, in strict confidence, forward to the focal point at the company and/or to the Police for the appropriate action to be taken. It is incumbent for the focal point at the company to undertake the action which may be required and report back to Crime Stoppers on the action taken.

Most organizations that have implemented this service have reported a major decrease in incidents of wrong doing at the workplace. For further information on Crime Stoppers or the Integrity Line Service, please contact the Regional Secretariat at 246-435-5917 or send an email to devrol@csiworld.org.

CASES SOLVED: 22,706 Following statistics for Caribbean & Latin America Region over the past 20 years	ACTIONABLE TIPS	DRUGS SEIZED	ARRESTED AND CHARGED	PROPERTY RECOVERED
	55,679	(USD) \$76 million	4,433 persons	(USD) \$8.6 million

NOT A VERY NOBLE CAUSE

We usually associate corruption with personal gain and benefit. However, “Noble Cause Corruption” is an attempt to lockup so believed “bad persons” at any cost.

However there is nothing “noble” about this corruption as it significantly undermines both the credibility of law enforcement agencies and the criminal justice system it seeks to pervert.

The most common modus operandi for noble cause corruption is the planting of evidence. However the use of what can only be described as criminal tactics to ensure convictions has resulted in high profile acquittals and successful appeals. The misconceived good intentions of the few officers involved always undermine the hard work of those police officers who are a credit to their profession.

The investigation and subsequent staying of proceedings against William “Mad Dog” Hickson and John “Chainsaw Woody” Woodruff is a classic example of such corruption. Both had a string of previous convictions for armed robberies and were prosecuted for an alleged robbery of a post office in Manor Park, east London, in 1996.

Flying Squad officers lay in wait for Woodruff and Hickson.

But the pair, both from east London, said at their trial they had been set up by the police. They

said they had been lured there after being told that cash would be given to them across the counter.

The officers who arrested them were later investigated during a crackdown on corruption.

The BBC's Nine O'Clock News found evidence, on a video tape, supporting their claim that a gun had been planted on them.

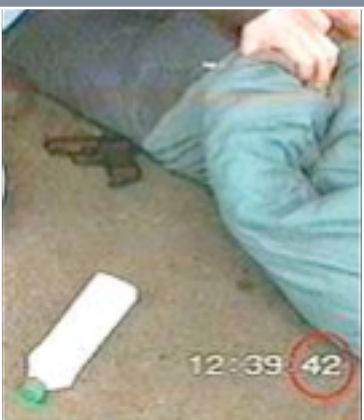
At the arrest, initially there is no gun. However the film shows that the tape appears to have been cut - as the timer jumps - and a gun appears during the gap (see still images on the left)

Mr Woodruff and Mr Hickson appealed, and their convictions for armed robbery were quashed in November 1999.

The case was then referred back to the Old Bailey for a retrial. At the new hearing, Judge Geoffrey Grigson allowed a defence submission that it would be an abuse of process to try the men again. (source BBC News 29th March 2000).

As this example demonstrates a machiavellian approach isn't appropriate in the pursuit of justice. Police officers are recruited to ensure compliance with the law and they must also act within it. To use corrupt measures, albeit with so called “noble intentions,” is detrimental to the very system the police seek to serve.

Such actions can never be justified, as there must be respect for constitutional and human rights. Crime needs to be prevented and controlled, but equally crime mustn't be used to convict criminals. To do so would be to sacrifice the very virtues we all hold important to maintain a just and fair society.



The Evidence of Corruption

Top: Hickson is seen coming out of the Post Office

Middle: The first photo after the arrest at 12.39.27 shows Hickson on the ground

Bottom: The film skips to 12.39.42 and a gun is seen next to Hickson handcuffed

CONFISCATION!



The Gang

Top: Waynesworth Barrett – the “fabricator and packer”

Middle: Jason Gellizeau the “logistics arranger”

Bottom: Pinero Thomas the “courier recruiter”

Right: The unsuccessful mastermind and drug supplier

To demonstrate the impact of taking the profit out of crime Sergeant Raymond Lockiby explains how an investigation by the Grenada FIU led to the second confiscation of criminal assets in the region

In January 2012, a financial institution, in Grenada, filed a Suspicious Activity Report (SAR) on a customer which led to the commencement of an investigation.

Based on information received, a local enforcement agency was included and a search warrant was executed in a building occupied by the subject of the SAR. Both the subject and her boyfriend were found in that house and were questioned. It was discovered that her boyfriend, Waynesworth Barrett, was from Jamaica and was illegally residing in Grenada. A number of mobile phones and paraphernalia were seized. Both subjects were detained for further interview and acknowledged involvement in a drug trafficking enterprise involving exportation of cocaine to North America and Europe, involving “Riley” whose correct name is Shankiell Myland, Pinero Thomas, Jason Gellizeau and a courier of which “Riley” was the mastermind and responsible for bringing Barrett into Grenada to package cocaine for export.

As a result of these revelations, Jason Gellizeau (responsible for logistical arrangements) was detained and under caution also confessed of his involvement in the drug trafficking enterprise. Subsequent search warrants on the premises of the subject of the SAR (identified as main organizer), Shankiell “Riley” Myland (mastermind), Pinero Thomas (courier recruiter) and the courier, revealed

additional items including laptop computers, mobile phones, financial records and other documents which were seized and analyzed.

When questioned under caution, the courier gave a detailed account of the entire operation.

The subject of the SAR, Waynesworth Barrett, Shankiell “Riley” Myland, Pinero Thomas and Jason Gellizeau were charged with drug trafficking and money laundering. A number of Court Orders including; Restraint and Production were obtained during the investigation.

Court proceedings against the subject of the SAR were discontinued and she became a prosecution witness along with the courier. Barrett, Gellizeau, & Pinero pleaded guilty to one count of drug trafficking each and were fined EC \$15,000 to be paid immediately, in default nine months in prison, EC \$15,000 to be paid in eight months, in default nine months in prison and EC \$30,000 to be paid in eight months, in default one year in prison respectively.

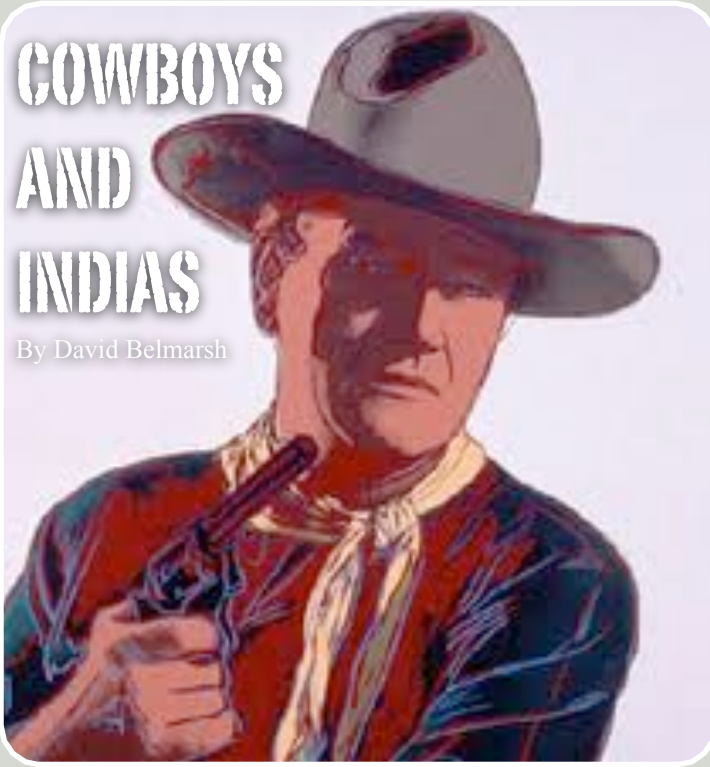
On September 11, 2013, Shankiell “Riley” Myland pled guilty to the charge of Conspiracy to traffic in a controlled drug to wit: cocaine and on November 1, 2013, he was fined EC \$65,000 to be paid in eight months, in default one year in prison. Additionally, a confiscation order in the sum of EC \$24,000 was made against him. That sum is to be paid in four months, in default one year in prison.

The confiscation order is the second of two confiscation orders recorded in the Eastern Caribbean. Grenada also recorded the first confiscation order in the Eastern Caribbean over ten years ago. Additionally, this was the first SAR in the Eastern Caribbean to develop into charges of money laundering conspiracy and drug trafficking.



COWBOYS AND INDIAS

By David Belmarsh



One of life's great maxims is, that if "something seems too good to be true then it is too good to be true."

In the early 1990s John Donald was a Detective Constable in the South East Regional Crime Squad (SERCS) based in Surbiton. Career criminal Kevin Cressey had been the subject of a long term surveillance operation mounted by SERCS and was given a target identification of "INDIA 1".

On 1 September 1992 Cressey was observed meeting a man named David Fraser outside a flat in Streatham, South London. They were seen examining a box which was in the boot of Fraser's Saab vehicle. Multi-coloured laundry bags were also noticed in the boot. The box was carried into a nearby flat then soon after returned to the car boot. Fraser then left the flat and was seen removing a briefcase from the boot of Cressey's car and carrying that into the flat. Shortly after that the men were sighted carrying three laundry bags into the flat.

Police swooped soon after and Fraser was detained in the doorway of the flat with a laundry bag containing 50 slabs of cannabis resin. He also had a firearm which contained seven rounds of ammunition. A search of the flat revealed a second laundry bag containing 58 slabs of cannabis resin and a third bag which was empty together with over

£1,000 in cash. The total weight of the drugs was later established as being 55.2 kilograms. A number of Officers including Donald also arrested Cressey in a vehicle at the scene and following that a scanner was found under the driver's seat which was programmed to the frequency of no fewer than 12 Police radio channels. Cressey's briefcase containing his filofax was later recovered from the flat.

Fraser who had recently been released from a 15 year prison sentence was taken to a nearby Police Station. He was remanded in custody. Despite his previous form, the large quantity of drugs involved and the fact that he was found in possession of a loaded handgun on arrest he was later granted conditional bail by a judge and, not looking a gift horse in the mouth, promptly fled to Spain.

On arrest it is said that Cressey immediately started volunteering information about certain criminals in whom SERCS were interested. He is also said to have claimed that the drugs belonged to "Mad" Frankie Fraser, the father of his co-arrestee and to have given information about a pilot who was flying drugs into Biggin Hill Aerodrome.

Despite the certainty of a lengthy custodial sentence coming his way a decision was taken to allow Cressey police bail and to register him as an informant. Donald was said to have been amongst those who argued that Cressey should be bailed despite the obvious risks. As the rules stipulated that a police handler should never meet a registered informant alone two officers were designated as his handlers – Donald being one of the two.

When both handlers were present his co-handler said that Cressey continued to provide information over a period which was said to have resulted in arrests.

However, there were occasions when his co-handler was unavailable in which Donald, in flagrant breach of the rules, met Cressey alone and on those occasions he falsified police records to state that his colleague was present.

During the course of these meetings a corrupt relationship developed between Donald and Cressey which both men utilised for their own purposes - Donald to obtain money; Cressey to ensure that he remained on bail to obtain useful

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COWBOYS AND INDIAS

police information on himself and others. His ultimate aim was to ensure that the evidence against him was destroyed. To these ends Cressey gave Donald £18,000 to ensure that he remained on bail; He paid £1,000 to Donald for a copy of his collator's card which was a document containing secret and sensitive information about Cressey's criminal activities and his known associates; Cressey also received from Donald sensitive police information on a major target criminal associate of his in exchange for money (£500) and he also agreed to pay £40,000 to Donald for the removal and destruction of the incriminating police surveillance log in the drugs case.

On 8 October 1992 following the analysis of the drugs Cressey appeared at Camberwell Magistrates' Court and, in the absence of any police opposition, he was granted bail by the court.

Meanwhile back at the Surbiton office another squad officer senior in rank to Donald who was later believed to be in league with him asked the Exhibits Officer for the case papers. When he returned them a few days later the Exhibits Officer noticed that the surveillance log was missing. A search for the missing log was initiated and in due course the log was discovered on the Exhibits Officers desk? Although he was totally unaware of the corrupt relationship which was now in existence he suspected that something suspicious was going on which may or may not have been a practical joke at his expense. He then decided to take the case papers home for 'safe keeping.' He was later to be accused by his colleagues of being paranoid but his instincts were 100% correct for it appears that the

The only picture available of corrupt officer John Donald



stunt must have been enacted solely to test his reaction.

At the committal proceedings on 17 December 1992 Cressey's solicitors made an application to discharge the case against Cressey and Fraser because of the failure of the Prosecution to disclose the relevant log. The Magistrate agreed with their submission and the case against the two men was duly dismissed.

Dismayed with this decision the DCI in charge of the squad ordered that from then on all contact with Cressey was to cease, save for telephone contact. He was determined to re-instate the court proceedings and in due course a decision was made by Police and the CPS to disclose the log rather than allow the prosecution to fail.

Donald flagrantly disobeyed this direct order and continued to meet Cressey unbeknown to his co-handler or his superiors.

The last official meet took place on 16 December 1992 at Mottingham Railway Station.

On 5 February 1993 the CPS wrote to the police advising them that they were ready to proceed and advising that Cressey should be re-charged with the drugs offence in order to commence the proceedings afresh. When Cressey learned of this it must have been clear to him that his plan had failed. It was then that he decided to start secretly taping his conversations with Donald in a bold attempt to paint the prosecution into a corner.

On 1st March, 1993 Cressey attended Gypsy Hill Police Station by appointment and was re-charged with the offence of possessing cannabis with intent to supply and bailed.

In a last ditch attempt to avoid conviction Cressey decided to go public and later that month he met members of the BBC Panorama team and revealed to them details of his relationship with Donald. He thought that his exposure of his corrupt relationship with Donald would result in Donald being prosecuted rather than himself. He had conveniently forgotten that it takes two to tango.

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COWBOYS AND INDIAS

Cressey told Panorama that he was annoyed with Donald for failing to tip him off in advance that he was going to be re-charged with the drugs offence. Cressey was asked about his relationship with Donald. He said that he regarded having someone on his side as being very important because it meant that he could expect to be told information he would not normally know such as whether he was a target criminal; whether he was under observation; the registration numbers of vehicles keeping observation on him; the names of the officers engaged in surveillance and details of information police had about him. Cressey claimed that from the outset he had made it clear to Donald that he was not willing to give information to police.

Cressey was to work with the BBC for the next six months all the time pretending to Donald that their corrupt relationship was still ongoing. He handed over tape recordings of various telephone conversations with Donald and assisted the BBC in secret filming of various meetings. In all there were seventeen clandestine tapes in existence covering the period 15 February 1993 – 3 September 1993.

Harking back to the original plan to remove and destroy the crucial observation log Donald is heard on one tape saying that he has a plan to stage a "moody" break-in at the Police Station. Cressey says he thinks if that took place then suspicion was bound to fall on him. Donald reassures him that he



Following Donald's conviction then Metropolitan Police Commissioner, Sir Paul Condon, introduced integrity and drug tests. Outlining his Corruption and Dishonesty Prevention Strategy, he said he wanted to "break the cycle of corruption forever", comparing cycles of police corruption to economic cycles. (Source BBC News 15th December 1998)

would be given sufficient warning so that he could arrange an alibi. The officer who was involved previously in the case paper caper with the Exhibits Officer is also said to be a party to the break-in plan.

In a later telephone tape Donald reports that he and the fellow officer are all set up so far as the logs are concerned. Cressey says that the price is too high and will pay only £10,000 for the destruction of the logs. Donald says he will talk to his fellow officer.

On 27 September 1993 Panorama broadcast a programme entitled "The case of India 1" on BBC TV which told the whole sordid story. They handed the evidence they had collected over to the Metropolitan Police Complaints Investigation Branch.

The day after the broadcast Donald was arrested for corruption and subsequently charged. A search of his home address revealed a copy of various informant reports relating to Cressey together with a copy of Cressey's collator's card.

Cressey was interviewed by police but denied that he had given any information to Donald.

On 23 February 1994 Cressey was arrested for attempting to pervert the course of justice and taken to Belgravia Police Station. He was informed that his arrest was in relation to his dealings with Donald prior to the involvement of Panorama and in particular in relation to payments to Donald of £18,000, £1,000 and £500. He also faced trial for the original drugs offence.

In due course both stood trial at the Old Bailey. At the very end of the prosecution case following weeks of evidence the corrupt policeman John Donald dramatically changed his plea to guilty. Cressey was convicted after a jury trial of both corruption and perverting the course of justice.

In 1996 almost four years after the original drugs bust Donald was sentenced to 11 years imprisonment with Cressey being handed a 7 year custodial sentence. Not surprisingly Donald's conviction resulted in significant changes to the informant handling system.

Saint Vincent and the Grenadines

Joint operations involving several units of the local Police Force seized some 34 kilogrammes of cocaine on 26th November. Prime Minister Dr. Ralph Gonsalves told Parliament that at 6:30 a.m. Drug Squad officers, acting on information received of a cocaine shipment at seas in the waters of St. Vincent and the Grenadines between local and Venezuelan drug runner, initiated a joint operation between the Coastguard, the Rapid Response Unit and the Special Services Unit. He said that a local speedboat collected the drug and landed it at Questelles beach on the southwestern coast of St. Vincent. He said it is alleged that a Venezuelan came ashore with the drug, and police searched the shore and bushes at Questelles and recovered a nylon sack containing 34 cocaine bricks, each weighing 1 kilogramme.

Gonsalves said that, "Though no one has been arrested as yet, clearly, the person who had this shipment coming to him or her will have a lot of question to answer to their bosses," Gonsalves said, adding, "This is a lot of money."

He added "This is, again, the efforts of the government and people of St. Vincent and the Grenadines to put a stop to the trafficking of cocaine or at least to restrict its spread," he said.

(Read more at I-Witness News: <http://www.iwnsvg.com/2013/11/28/34kgs-of-cocaine-nabbed-in-st-vincent/>)

Trinidad and Tobago

Authorities in Trinidad and Tobago on 29th October seized TT\$5 million dollars (approx. US \$833,000) worth of cocaine aboard a ship bound for St. Vincent and the Grenadines and then Europe. Media reports out of Trinidad say the drug was found in 13 boxes of cornflakes on board the vessel The Elitta. Reports say that sometime before 1 p.m., Customs officials in Trinidad responded to a tip-off that several boxes, wrapped in a black plastic bag, had been delivered to a vessel docked along Queen's Wharf, Port-of-Spain. The captain and crew are said to have told the officers that the cargo was recently delivered to the ship and allowed the lawmen to search them. According to Newsday, a newspaper in Trinidad, the vessel had come from South America and its final destination was Europe (Read more at I-Witness News: <http://www.iwnsvg.com/2013/10/31/13-kilos-of-cocaine-found-on-vessel-bound-for-st-vincent/>)

Saint Vincent and the Grenadines/UK

Five people have been arrested after the death of a man who accidentally drank pear juice laced with cocaine. Joromie Lewis, 33, of St Vincent and the Grenadines, died on 5 December shortly after drinking the Caribbean-made juice at a Southampton warehouse where he was working. Two men and a woman from Southampton and two London men have been arrested and bailed on drugs offences. A funeral service for Mr Lewis, who police described as "wholly innocent", has been held in Gosport. Laboratory analysis showed the bottle of Cold Cole Pear-D contained a lethal amount of cocaine. Officers previously said the bottle was part of a consignment manufactured in the Caribbean and brought into the country by the import-export company that Mr Lewis was working for. They described it as a known method drug-smugglers used to bypass border checks. (Read more at BBC News: <http://www.bbc.co.uk/news/uk-england-hampshire-25548952>)

Barbados

33-year-old Charlen Ulanda Ferguson was arrested and charged with possession of 1.74 kilograms of cocaine, possession with intent to supply, trafficking and importation. She reportedly arrived in Barbados from Trinidad and was interviewed by personnel from the Drug Squad after clearing immigration. She was searched by Customs personnel, but nothing was found. Reports say she was taken to a police station and a more detailed search of her luggage was done and the liquid cocaine was discovered in a box of cosmetics. (See the Jamaican Gleaner at: <http://jamaica-gleaner.com/latest/article.php?id=49644>)

Saint Lucia

A Dominican and a Venezuelan have been arrested by the St Lucia police following a drug bust in that island's territorial waters. According to the police in St. Lucia, officers attached to the Marine Unit intercepted a vessel three nautical miles off Pigeon Island, Gros Islet, at about 2:25 pm on Wednesday. The vessel, named Mari Posa, was boarded and searched and 75 kilos of cocaine were discovered in a hidden compartment. (Read more at Dominica News Online: <http://dominicanewsonline.com/news/homepage/news/crime-court-law/dominican-venezuelan-arrested-st-lucia-cocaine-bust/>)

Barbados

Gun smugglers are finding creative ways to get heavy artillery into the island. In October police seized two assault rifles and three magazines. They were concealed in a 40-inch flat-screen television. The inside of the fake television had been removed to accommodate the deadly weapons. (See the Nation at: <http://www.nationnews.com/articles/view/police-seize-assault-rifles-stashed-in-flat-screen-tv/>)

LEGAL NEWS FROM THE REGION - NEW LAWS

It was back to business as usual with two important Acts passed before the Christmas break in Saint Vincent and the Grenadines and Amendments in Saint Lucia

Saint Vincent and the Grenadines

The Witness (Special Measures) Act

This Act similar in content to the Dominica Protection of Witnesses Act 2013 includes the following new provisions:

Witness Anonymity:

An application to the Magistrates or High Court for anonymity (section 6) must satisfy conditions stipulated in section 7. These include that an order is necessary to protect the safety of the witness, another person or serious damage to property (section 7(1)(a)(i)) or to prevent real harm to the public interest (section 7(1)(a)(ii)). When considering the safety of the witness or another person, the court will have regard to any reasonable fear on the part of the witness that they will suffer death or injury or there would be serious damage to property if the witness was identified (section 7(2)). This of course must be balanced with the right of the defendant to have a fair trial (section 7(1)(b)) and the court must consider the credibility of the witness. This last point is to be distinguished from reliability and a useful commentary on the distinction can be found in **Donovan and Kafunda v R** [2012] EWCA Crim 2749 see: <http://www.bailii.org/ew/cases/EWCA/Crim/2012/2749.html>

Also see the Guide to Investigation and Prosecution of Serious Organised Crime Part 1 from 5.5 for more detailed analysis and preparation for applications (see form 1 in the Schedule of the Act for the application

form).

Special Measures

Part III of the Act provides for the use of special measures for vulnerable witnesses. To determine if a witness is eligible, section 12 details the considerations for the Magistrates or High Court. Special measures will include a live link (video-link) to give evidence (section 16); giving evidence in private (section 17); and video recorded evidence in chief (section 18) or pre-recorded cross examination (section 19).

The Schedule to the Act provides a form (4) for making an application for special measures.

Witness out of State:

Section 24 provides for witnesses out of State, who may not be vulnerable, to apply for use of the live link.

Media Coverage:

The passing of this Act was extensively covered in the local and regional media see:

Winn FM in St Kitts and Nevis: <http://www.winnfm.com/news/regional/6474-witness-protection-law-passed-in-st-vincent>

Jamaican Observer: http://www.jamaicaobserver.com/news/St-Vincent-to-allow-remote-testimony-by-witnesses_15566220

Caribbean News Now: <http://www.caribbeannewsnow.com/topstory-Witness-protection-law-passed-in-St-Vincent-18922.html>

The Proceeds of Crime Act 2013

This new Act repeals the Proceeds of Crime and Money Laundering (Prevention) Act 2001. The Act will allow for confiscation in the Magistrates Court (subject to regulations being issued), pre charge restraint and in a first for the region,

disposal of restrained assets.

Significantly the Act allows for the recovery of the proceeds of crime through the civil courts. This again follows the passage of similar legislation in Dominica and marks a positive reform to take the profit out of crime.

Saint Lucia

The Proceeds of Crime (Amendment) Act No. 14 of 2013

This amendment now allows a financial investigator to both seize cash, apply for continued detention and forfeiture. Further the period of seizure before any application for continued is made is now seventy two hours rather than forty eight.

Significantly a new section 62 is added that now makes the standard of proof for any confiscation application, forfeiture order on conviction and forfeiture of cash, the civil standard.

The Money Laundering (Prevention) (Amendment) Act No. 13 of 2013

This Act amends the offence of money laundering so an offence of coverting or transferring property must be directly or indirectly the proceeds of **his or her** criminal conduct **or** (in subsection (2)) represents directly or indirectly proceeds of criminal conduct. Further an offence is added of bringing or removing any property from Saint Lucia that is directly or indirectly the proceeds of **his or her** criminal conduct **or** (in subsection (2)) represents directly or indirectly proceeds of criminal conduct. Also an offence is included of concealing or disguising any property that represents directly or indirectly proceeds of criminal conduct (to add to that of concealing or disguising property that represents directly or indirectly the proceeds of **his or her** criminal conduct).

LEGAL NEWS FROM THE REGION

Breach of Prosecutorial Role

Kevil Nelson v The Queen Court of Appeal Antigua and Barbuda ANUHCRA2009/015

- This judgment follows well established principles in relation to directions on self-defence and manslaughter. The appeal was successful on the basis of the failure by the trial Judge to fully direct the jury on provocation. This error being a grave omission resulting in the conviction for murder being substituted with that of manslaughter.

However the judgment is interesting in relation to the discussion on the role of the Prosecutor. It was held that whilst some of the language and comments by the DPP were “high spirited, unnecessary and inelegant” they didn’t compromise the fairness of the trial (**Randall (Barry Victor) v The Queen** [2002] 1 WLR 2237 applied; **Alexander Benedetto and William Labrador v R** [2003] 1 WLR 1545 applied; **Arnold Huggins et al v The State** [2008] UKPC 32 applied).

Also the facts of the case are in keeping with the theme of this edition of Indictment, with clear similarities to “noble cause corruption” cases (see page 7 above). The appellant, a police officer, had attended the deceased’s property to collect some baby accessories for the deceased’s partner, Nasha. Another police officer accompanying the appellant and Nasha, gave conflicting eye witness evidence. The appellant and his police officer colleague maintained the deceased charged them with scissors, causing the appellant to shoot the deceased in self-defence. Nasha testified that whilst there was an altercation, no scissors were used. Furthermore there were no such scissors in the house. Interestingly photographs taken after the shooting showed the deceased with scissor in his hand and in others they didn’t appear.

Bail

Itesha Huggins v The Commissioner of Police and the DPP St Kitts and Nevis High Court SKBHCV2013/0239 –Whilst this decision is specific to Saint Kitts and Nevis

and the application of the Bail Act 2012, it sets out some important areas for practitioners.

Firstly where the offence does not fall within the schedule, there must be substantial grounds for believing that one of the statutory exceptions to bail under the Act is applicable.

Secondly where the exception is either committing offences whilst on bail or pervert the course of justice, greater scrutiny will be required applying sections 5 (4) and 10 of the Constitution and the presumption of innocence.

Lastly the facts of this case were that the applicant had two previous convictions for a similar offence (albeit from one transaction) and she couldn’t be found after the offence was committed and was deemed a flight risk. This part of the judgment must be read on the particular circumstances and it was held that these would not be sufficient in maintaining substantial grounds to believe that the applicant would commit offences whilst on bail or abscond.

It is also noteworthy and highlighted in the reasons at paragraph 54 that, “is not essential that sworn evidence is presented to the magistrate” (**R v Guest ex parte Metropolitan Police Commissioner** [1961] 3 All ER 1118). This is often forgotten in practice, but it is important that those prosecuting are aware they can present the grounds of objection and the information to support it. Of course sworn evidence can be taken and the defence must have an opportunity to cross-examine. Further where the prosecution do intend to object to bail and the strength of evidence will be relied upon “in a significant way” disclosure of the case should be provided to the defendant relevant to this issue (**R v DPP ex parte Lee** [1999] 2 Cr App. R. 304 (CA)).

Recent Complaint

DPP v Ernell Nisbett St Kitts and Nevis High Court (Criminal) SKBHCR2013/0035 – This is a useful judgment setting out the basis for admitting evidence of a recent complaint.

Objection was made that a text message sent to a friend by the complainant was hearsay and didn’t fall within the known exceptions. A recent complaint isn’t an exception to the hearsay rule [Para 11 footnote 1]. Very often evidence of a recent complaint is erroneously considered to be an exception to the rule against hearsay – see the judgment of **De la Bastide in Julien (Dion) v The State** [1996] 50 WIR 481 at 483.

However evidence of a recent complaint is an exception to the rule against self-serving statements. The recent complaint is admitted to show consistency (**R v Lillyman** [1896] 2QB 167) rather than the truth of the contents.

The self-serving statement must then be made as speedily as reasonably be expected (**Valentine v R** [1996] 2 Cr App) and be voluntary (**Osborne v R** [1905] 1 K.B. 551). In relation to the latter the defence objected on the basis the recent complaint was induced [paragraph 21]. However there was no suggestion of suggestibility, both the complainant and witness being police officers, and secondly a question being asked to find out what was wrong with the complainant after receiving crying faces via text was appropriate in the circumstances.

The defence objected that the recent complaint was made by text and was inadmissible where there was no printout. The Judgment refers to the fact that there is nothing to say that a recent complaint cannot be by text [paragraph 18]. The Judge then uses a helpful analogy, “No one could be heard to say that a victim cannot make a complaint by a simple telephone call; that’s what 911 calls are all about. It must have been simply logical for the court to allow complaints by telephones to be admitted into evidence that this technology became available in the world. The law is about life and logic, and the courts have to apply common sense and keep pace with technology. There should be no reason why both the alleged victim and the receiver of the complaint should not be allowed to speak to the text messages which was the medium of the complaint.”

LEGAL NEWS FROM AROUND THE WORLD

Circumstantial Evidence

Premanathan v Crown Prosecution Service [2013] EWHC 3419 (Admin)-

This Judgement from Mrs Justice Cox is a useful reminder of the applicable law when considering circumstantial evidence and a submission of no case to answer:

15. Questions of credibility and reliability and of the weight to be attached to evidence are fundamentally questions for the court of trial to determine having regard to the whole of the evidence. In the case of **Paul Oladimeji v Director of Public Prosecutions** [2006] EWHC 1199 (Admin) the Divisional Court said as follows at paragraph 21:

16. "Credibility is par excellence a matter for the trial court. It will be very rare for this court which has not seen or heard what a witness says to interfere with such a finding by a court which has done so." 16. In regard to circumstantial evidence, as juries up and down the land are daily reminded by judges in summing up, such evidence can be powerful evidence. It is the whole picture that is important, the combination of all the different strands of the evidence that is accepted, and upon which the ultimate question is whether the facts as they are found to be lead the court to the sure and inescapable conclusion that a defendant is guilty.

17. The principles governing submissions of no case to answer were recently restated by the Court of Appeal Criminal Division in the case of **R v G and F** [2012] EWCA Crim 1756.

18. In that case, Aikens LJ giving the judgment of the court summarised the principles as follows:

"First, that in all cases where a judge is asked to consider a submission of no case to answer, he should apply the classic or traditional test set out by Lane LCJ in **R v Galbraith** [1981] 1 WLR 1039.

"Second, that where a key issue in a submission of no case is whether there is sufficient evidence on which a reasonable jury could properly draw an adverse inference against the defendant from a combination of factual circumstances based upon evidence adduced by the prosecution, the exercise of deciding that there is a case to answer involves the rejection of all realistic possibilities consistent with innocence."

"Third, the question is whether a reasonable jury could, not whether all reasonable juries would, on one possible view of the evidence properly draw that adverse inference. If a judge concludes that a reasonable jury could do so, putting the prosecution case at its highest, the case must continue. If not, it must be withdrawn from the jury." See more at: <http://www.crimeline.info/case/premanathan-v-crown-prosecution-service>

Cash Seizure - Innocent Finder

Fletcher v Chief Constable of Leicester [2013] EWHC 3357 (Admin) – Where there had been an innocent finder of cash but it was established that the cash was the proceeds of crime, the forfeiture was lawful See more at - <http://www.bailii.org/ew/cases/EWHC/Admin/2013/3357.html>

Confiscation

R v Fields and others [[2013] EWCA Crim 2042 – **R v Waya** (see Indictment 6 page 16) did not necessarily imply that there had to be an apportionment of benefit or recoverable amount in cases of co-principal conspirators. - See more at: <http://www.bailii.org/ew/cases/EWCA/Crim/2013/2042.html>

Confiscation

R v Padda [2013] EWCA Crim 2330 – This decision refers to the Proceeds of Crime legislation in England and Wales but maybe relevant to consider the court's use of the discretion to make an order that is just. The court when applying this discretion will consider all relevant circumstances. Further the court must also take into account the legislative policy in favour of maximising the recovery of the proceeds of crime, even from legitimately acquired assets. See more at: <http://www.bailii.org/ew/cases/EWCA/Crim/2013/2330.html>

Evidence by Telephone

R v Hampson [2012] EWCA Crim 1807 Although this is a judgment that refers to the relevant statute in England and Wales it will have some relevance to those jurisdictions (Saint Kitts and Nevis section 28(3) Evidence Act, Dominica section 27 Protection of Witness Act and Saint Vincent and the Grenadines section 24 Witness (Special Measures) Act) that provide for the use of the live-link out of State. The statutory provisions made it clear that evidence could only be given by a witness outside the United Kingdom to a court in the United Kingdom by video conference. The court therefore held that there was no power in the court to give evidence over the telephone (Applying **R v Diane** 2009).

ARISE SIR STARMER!

Former DPP of England and Wales, Keir Starmer Q.C., was awarded a Knighthood in the UK Prime Minister's New Years Honours List. Mr Starmer, who was well known before becoming DPP for his human rights work in the region, was the keynote speaker at the Caribbean DPP's Conference in 2011 and at the launch of the National Prosecution Service in Dominica (see Indictment 2 from page 3)



HERO POLICE COMMISSIONER

David Baines, Commissioner of Police in the Cayman Islands turned to hero on 1st January as he thwarted an armed robbery. The Commissioner said, "As I arrived, I saw a security guy running out of DI, looking concerned, under stress, and as I looked into the shop, I could see at least two masked men."

Spinning his Chevrolet Trailblazer SUV around, he saw three men running from the store, heading "into the car-park to the left of the door" of the Diamonds International shop, where they got into a vehicle.

"I ran the car to try and block them," Mr. Baines said, cutting off egress from the parking area. "I was partially successful. They climbed out of the car and started running towards the Legislative Assembly building, so I went after them and hit two of the guys up against the fence."

As well as his turn at being Starsky and Hutch, it also proved to be a good start to 2014 as the Commissioner was awarded an OBE in the New Years Honours list!

Read more at: <http://www.compasscayman.com/mobile/story.aspx?id=133700>

RSS AWARDS

The annual staff and command course officers graduated in November 2013 with Inspector Ferrol of Dominica winner of the most outstanding student - Congrats!

AND FINALLY

Have a look at this video of a drug tunnel just proving the lengths the cartels will go to: <http://www.channel4.com/news/drugs-tunnel-mexico-san-diego-smuggling-cocaine-video>



**As we are
liberated from our
own fear, our presence
automatically
liberates others.
Nelson Mandela**

INDICTMENT

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We are always looking for interesting news to share and experiences to demonstrate good practice to others in the region.

If you have had any great results or would like the region to know about what you are doing in the efforts against organised crime then please contact me at:

dansuter1975@yahoo.com or <https://twitter.com/IndictmentEC>