

Criminal Law News



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Issue 53 March 2013

Facewatch pp 2-3

Body discovered in canal pp 3-4

**United Kingdom's national fraud reporting centre:
Action Fraud** pp 4-5

Avoid fraudulent farming claims p 5

**Government secrecy; police secrecy;
secret court hearings: a step too far?** pp 5-7

OFT refers Clay Mining to Competition Commissioner pp 7-8

Legal notice p 8

- **Chief Editor:** Sally Ramage, Member of the Chartered Institute of Journalists; Society of Editors and Society of Legal Scholars, UK.
- **Consultant Editors:** Anand Doobay, Partner, Peters & Peters Solicitors, London, UK.
Leonard Jason-Lloyd, Visiting Fellow, Midlands Centre for Criminology & Criminal Justice, UK.
Roderick Ramage, Consultant, Mace & Jones Solicitors, Liverpool, UK.
David Selfe, Deputy Director, Law School, Liverpool John Moores University, UK.
Edward S. A. Wheeler, IT Manager, Medway Council, UK.
- **Design:** David. E. Tonkinson, Designer and Online Editor, Poole, UK.

Facewatch

Sally Ramage

The Facewatch business

Facewatch Ltd has been accredited by the Association of Chief Police Officers ('ACPO') Secured by Design body as '*Police Preferred Specification*'. It is an English Registered company (number 3344583) with its registered office at 10 Victoria Street, London SW1H 0NN. Facewatch company secretary is registered at Companies House as Mr Flaherty.

Facewatch is the only fully police approved online crime reporting and image sharing system for low level crime in shops, licensed premises, hotels and other businesses by providing partnerships with easy to maintain websites for communicating between themselves and the police by allowing businesses to upload CCTV footage via a website that the Police also have immediate access to.

Facewatch Ltd was originally a simple way for businesses to report low level crime with CCTV evidence directly to the Police. It began as an initiative operating in London and Cheshire and has evolved into a confidential communications platform leveraging the very latest in internet technology, and helping to create crime free and community focused city areas, save police and businesses time and effort. One of the most difficult and time consuming aspects to the initial investigation of a crime in the retail industry is the retrieval and viewing of any potential CCTV evidence, often resulting in Officers repeatedly attending scenes in order to obtain the CCTV footage from someone who knows how to use the system and only then, sometimes to discover that the quality of the footage is too poor to be of use. Now the Facewatch system eliminates these problems.

Facewatch communicates easily with all the agencies involved and has already become an established solution, used by many police forces in just 2 years since its inception in 2010. It has rapidly modernized the way crime is reported across the country by providing integrated online systems, which save police time. Businesses, such as pubs, can decide to effect a ban on an individual or to report the incident to the police on a case by case basis by posting information and both moving and still images online directly to the police quickly and efficiently. This is accompanied by a suite of statistical facilities with Key Performance Indicators to enables analysis of crime trends at premises, group or multiple-site business level, facilitating better, more targeted use of other security initiatives and police success rates. In cases of volume crime, this can help determine the most appropriate response to that particular incident, saving valuable time and police resources.

Expansion into Australia and the United States of America

Facewatch has been adopted by many UK police forces, including the Metropolitan Police, the British Transport Police, and the Northamptonshire, Surrey and West Midlands Police forces with around 11 more forces committed to joining soon. Facewatch also works in partnership with *Crimestoppers* and is imminently launching in Australia and the USA. Facewatch aims to reduce city centre crime as it enables businesses and city centre CCTV operators to report crime directly to the Police. It consists of a partnership between new Bb (British Bids) Commercial Partner alongside Boots; Jones Lang LaSalle and Santander among others.

'British Bids' main aim is to improve Britain's city centres. It is a business-led partnership focused on improving and enhancing commercial areas including town and city centres, commercial locations and industrial estates. It was launched in 2010 with the 'Victoria BID' and most recently adopted by the 'Waterloo Quarter BID' and uses Facewatch. BIDs in the UK along with a further 6,000 businesses

uses Facewatch, a programme, upgraded to include the very latest social media tools. The upgraded Facewatch system is available free and with full training for the first twelve months of use by any BID. The new social media additions to Facewatch make the system especially useful for the management and control of information by BIDS and Business Crime Reduction Partnerships (BCRP) who are working closely with city centre businesses and the Police. All members are able to confidentially share and alert each other to incidents and highlight individuals that are known offenders in real time using internet tools in a secure, confidential and traceable way, fully compliant with Data Protection rules.

Public to become part of 'Big Brother'

The system means that the overt use of radio communications (especially in the night-time economy) is reduced and a more discreet range of deterrents using smartphone technology can be used to ensure bad behaviour and petty crime is managed and ultimately reduced. In 2012 Facewatch launched its first mobile phone App ('Facewatch ID') providing the public with a location based search and identification system for police supplied pictures of wanted individuals. This system has already provided the Metropolitan police, Surrey police and Northampton police with over 250 positive identifications. The free download is available for people in the London, Surrey, Northamptonshire and West Midlands areas of England.

This 'App' provides the public with images of people, searchable by postcode, whom the Police would like to speak to. Primarily focused on low level crime, using images from CCTV cameras, the App is available *free to download* on iPhones iPads, BlackBerry, and Android devices. It is of note that the Metropolitan and Cheshire Police have agreed an image sharing protocol with Facewatch Ltd.

A group of businesses can share Facewatch and presumably so can a group in a community and the system will send moving footage online to the police; automated witness statements online and issue instant crime references for victims, with follow up emails on progress.

The total costs for a Crime Partnership website and secure member intranet with unlimited members is £500 for 'Setup', followed by a contractual monthly fee of £75.

Body discovered in canal

Sally Ramage

In 2013, on Saturday, 7 April, South Wales Police released news that the body of a 41-year-old man has been discovered in a canal near Neath in South Wales. The discovery was made at Tonna at about 10:24 on Saturday morning. Surprisingly, South Wales Police told the media that *there are no suspicious circumstances, even though no post-mortem examination has been carried out yet*. The deceased man's next of kin have been informed and inquiries are being carried out into the circumstances of his death. The identity of the man had not been released to the public.

Discarded bodies

Totally unrelated was the report that, in 1990 and in 2001, two female bodies were found in a canal after which post mortems revealed that both had been murdered.¹ John Patrick Sweeney of North London, was charged and convicted, receiving a whole life tariff after being convicted two years ago of the murders of Paula Fields, 31, and 33-year-old Melissa Halstead. Ms Halstead's body was discovered

¹ Editor, 'Plea to trace woman linked to killer John Sweeney', *BBC News Scotland*, 7 February, 2013.

In 2012, the body of Mervyn Ashe, aged 63, from Blackburn, was found in the Leeds and Liverpool canal on 14 November 2012.

in a canal in Rotterdam in 1990, while Ms Fields' body was found in the Regent's Canal in London in 2001, but police suspect that he might have murdered five women.

In the year 2000, a woman's torso was found in the River Thames, which police later identified as Zoe Louise Parker who was 24 years old and who lived in the Feltham and Hounslow area of west London.

In 2001, another woman's body was found in a canal in Coventry on 2 June 2011. She was 27 year old Emma Ewart who had been killed by Mazhar Rashid, aged 43, of Stoney Stanton Road, Coventry. Rashid was charged and tried and convicted for 17 years imprisonment.

In 2012, on New Year's Eve, an Indian student, Souvik Pal was reported missing and his body was later found in a canal. He was a 19-year-old overseas student, studying at Manchester Metropolitan University. Police officers found his body in the Bridgewater Canal, near Manchester United's sports ground. However police said they not believe there were any suspicious circumstances surrounding Souvik Pal's death, and, in usual procedure, a file was submitted to the coroner. The post-mortem examination proved inconclusive.

In 2012, the much-publicised Gemma Macluski murder was recorded when her body parts were found in Regent's Canal near Broadway Market in East London. She was known for being an actress in the Television Series *Eastenders*. She shared a flat with her brother who was a heavy cannabis user. She was murdered after confronting her brother for flooding the bathroom of their flat in Bethnal Green, East London. Prosecutors say he battered his sister over the head before dismembering her body. On 30 January 2013, her brother was convicted of her murder and he was given a life sentence and must serve at least 20 years for his crime.

In 2013, on 18 March, police officers discovered a body in the canal at the Trent and Mersey Canal in Stoke-on-Trent in the West Midlands. However, police are not treating the death as suspicious.

In 2011, in this same canal, the body of Sheila Glover, aged 70, of Etruria Road, Basford, was recovered from the canal just days after she was reported missing in December 2011.

On 7 April 2013, it was reported in the media that the remains of a child's body had been discovered in the Grand Union Canal.

Signalling a violent society and a violent government

This common action that murderers take, having committed the most violent of crimes, is an indication, not usually that they suffer from a mental disease such as psychopathy, but that they are simply violent people because psychopaths, like Peter Sutcliffe, the 'Yorkshire ripper', just did not care or bother to hide the bodies of the women he murdered.

Yet some murderers might simply enjoy hurting and killing other people.²

The criminal justice response to violence is yet more violence by way of the policing of violence with covert surveillance on gang members; organised criminals, for example.

United Kingdom's national fraud reporting centre: Action Fraud

Sally Ramage

There is a new organization known as *Action Fraud* which is the UK's national fraud reporting centre where you should report fraud if you have been scammed or defrauded. Action Fraud is the central point of contact for information about fraud and financially motivated internet crime. People are

² Schinkel, W. (2004), 'The will to violence', *Theoretical Criminology*, 8 (1); Pp 5-31.

scammed, ripped off or conned everyday and we want this to stop. We believe that we can beat fraud if we talk about it. The service is run by the *National Fraud Authority* - the government agency that helps to co-ordinate the fight against fraud in the UK. We work with partners in law enforcement - the *National Fraud Intelligence Bureau*, run by the City of London Police to make sure your fraud reports reach the right place. West Midlands, Warwickshire, Staffordshire, and West Mercia police have signed up to *Action Fraud*, a service that enables fraud victims to both report a fraud; find help and support. The service provides help and advice on the telephone. Reports taken from victims who telephone *Action Fraud*, are forwarded to the police who may the victims for further information. *Action Fraud* does not investigate the cases and cannot advise you on the progress of a case.

Avoiding fraud in Farming Claims

Sally Ramage

Superstorms, floods, unusual weather, etc – the past year has seen a surge in catastrophic events in the UK. This in turn has led to unprecedented levels of insured losses, which were recently estimated at over \$28 billion (for the US) xxx for the UK. More than 25,000 sheep and cattle are now believed to have perished in snowdrifts during the coldest March in the United Kingdom for 50 years.³ Farmers are continuing to pull carcasses from snowdrifts expected to reveal more casualties as the weather improves. For sheep and cattle, the higher number of casualties this year is being blamed largely on heavy snow over the past 10 days which has seen livestock buried in drifts up to 20ft deep.

The current statistics also largely exclude losses from the most badly hit regions, as the snow will still be masking dead animals. Consequently these figures are the minimum. The data will be revised upwards as more data is received from collectors. These losses create tremendous operational and financial risk for impacted business, while subsequent response efforts can create a ‘double-dip’ of risk in the form of large intangible losses in management time, effort, and loss of focus on core business activities. It can even lead some to think of an ‘easy way out’ by way of fraud.

Lawyers representing insured businesses with catastrophic losses and carriers responding to subsequent claims need to understand the complexities facing both sides: The following can be help to resolving these often complex insurance claims issues: (i) best practices for policyholders in responding to losses and (ii) how the insurance industry responds to these disasters.

Fraud is associated with economic conditions and fraud will not occur unless there is someone motivated to commit it. And there is the target for fraud.

Government secrecy; police secrecy; court secrecy: a step too far?

Sally Ramage

Lord Leveson: Media must not name suspects

Of all Lord Justice Leveson’s proposals to rein in the freedom of the Press, banning the naming of suspects arrested by police may bring more controversy than hiis other recommendations.⁴ But will it?

³ Johann Tasker, ‘Death toll rising as winter weather kills 25,000 livestock’, *Farmers Weekly*, 3 April 2013.

⁴ My response to the *Daily Mail*. See Editor, ‘Chilling spectre of secret police force’, *Daily Mail*, 10 April, 2013.

<http://www.dailymail.co.uk/debate/article-2307174/Chilling-spectre-secret-police-force.html#ixzz2QCWUiq10>, accessed on 11 April 2013.

The government as a whole is in broad agreement on the principles set out in the Leveson report. They are principles that all sides of the debate have accepted. In the House of Lords, James Younger, 5th Viscount Younger of Leckie, elected hereditary peer who sits on the Conservative benches in the House of Lords⁵ said, in response to Lord Justice Leveson's report:

'At the heart of all this lies our deep conviction that victims must be better protected. Their suffering in the past has been made significantly worse by the unacceptable levels of relentless press intrusion inflicted on them...'

The protection of suspects from media glare is their human rights because they are deemed innocent until proved guilty: innocent people, mistakenly arrested, interrogated and released without charge. It is a fact that the British Press needs reining in: oftentimes, UK newspaper headlines cause one to wonder who is running the country, the Press or the Government? Most judges would endorse such a recommendation. Only in 'exceptional' cases should the identities of those arrested be released. Meanwhile, they suggest changing the law to impose penalties on anyone who publishes a suspect's name, in breach of his Article 8 right to respect for private life.

Secret court hearings

As the Justice and Security Bill 2013 is being debated on its way through Parliament, the media is becoming very irate. It is very necessary for there to be some secret court hearings in cases where protected material is part of the evidence. The issue of secret court hearings is not new. A Bill to legislate for fraud trials without a jury was unsuccessful some five years ago. We need to tread carefully as far as secret court hearings go.⁶ There have been no studies of judges in the UK but scholars in the United States have far advanced their empirical and other research on the subject. Such empirical studies by social scientists help to reveal how difficult it is to study judges' behaviour in bench trials and to replace unsubstantiated myths with empirically validating conclusions.

The Iowa study

One important study in Iowa, United States, exposed the reason why judges can really be trusted in secret court hearings. The fundamental premise in the idea of impartial judges and rules of law is that certain kinds of decision-making, for example, by judges, can, by institutional arrangements and role discipline, be made to show less variance and less correlation to personal factors than other kinds of decision-making. The findings support the view that many forces, independently and in combination, contribute to judges' decision-making and sentencing.⁷ This last rational statement is upheld by Lord Devlin in 1969, when he wrote in *The enforcement of morals* that:

'The criminal law cannot justify any of its provisions by reference to the moral law. It cannot say, for example, that murder and theft are prohibited because they are moral and sinful. The State must justify in some other way the punishments which it imposes on wrong-doers and a function of the criminal law independent of morals must be found. This is not difficult to do. The smooth functioning of society and the preservation of order require that a number of activities should be regulated...'

Government secrecy

In reports that the UK government has taken legal action in order to keep secret a blacklist of 44 countries with the worst immigration record, the UK Foreign Office warned in a Press release that some of the countries will be highly offended if such a list were published. They claim that retaliatory action could include restricting visas for British travellers, for example, and so the Home Office launched a two-day appeal hearing starting on Thursday, 11 April 2013, against a ruling by the UK Information Commissioner for a partial disclosure of the list. After a secret country-by-country

⁵ On 9 January, 2013, the Prime Minister had appointed Viscount Younger as Parliamentary Under Secretary of State at the Department for Business Innovation and Skills.

⁶ Devlin, P. (1969) *The enforcement of morals*, Oxford: Oxford University Press.

⁷ Sally Ramage (2008) 'In support of fraud trials without a jury', *Social Science Research Network*, 22.05.2008.

assessment by the FCO, he said that publication would not damage relations in every case.⁸ It might be argued that the government has this 'right to secrecy' because States are legal persons and they also have rights. Since states are creatures of law, their rights are legal rights. Among legal rights are those created by law and also those rights recognized by law. Yet, more than four decades on, English court decisions abound with orbiter from judges⁹ who tell Defendants that they are 'evil'¹⁰ The government must be seen to act out of principle, not expedience.

UK Office of Fair Trading has referred the merger of china clay mining businesses to the Competition Commission

Sally Ramage

The Enterprise Act 2002 has brought widespread changes to competition regulation in the UK. The UK's Enterprise Act 2002 gives the Office of Fair Trading and the Serious Fraud Office ('SFO') enforcement regimes similar to those of the United States. Section 188 of the Enterprise Act 2002 creates a specific criminal offence, when an individual dishonestly agrees with one or more persons that two or more businesses will engage in certain prohibited cartel arrangements.

The Enterprise Act gives the Office of Fair Trading powers to investigate individuals suspected of having committed the criminal cartel offence. These powers include the power to require persons to answer questions, provide information and produce documents and to enter and search premises under a warrant. Where documents are produced, the OFT may take copies or extracts from them and require the person producing the documents to provide an explanation of any of them. Where documents are not produced, the OFT may require the person who was required to produce them to state, to the best of his knowledge or belief, where they are. The Enterprise Act also gives the OFT the power of intrusive surveillance along with the related power to interfere with property. A warrant issued by a High Court judge will permit the OFT to enter the premises using such force as is necessary and to search and take possession of documents which appear to be of the kind in respect of which the warrant was granted, including original documents and information held electronically and accessible from the premises. The OFT can also seize material where it is not reasonably practicable, to determine the extent to which it may be seized or for the seizable material to be separated from the non-seizable material in which it is comprised.

On 3 April 2013, the Office of Fair Trading ('OFT') reported that it has referred to the Competition Commissioner, the merger of Imerys Minerals Limited ('Imerys') and Goonvean Limited ('Goonvean'), which was completed on 1 November 2012. Even though this merger was not valued at more than £15 million, it qualified as a relevant merger under the Enterprise Act 2002 whereby a relevant merger situation is created if two or more enterprises have ceased to be distinct enterprises; and as a result of the transaction, in relation to the supply of goods or services of any description, a 25 % share of supply in the UK (or a substantial part of it) is created or enhanced.

Kaolin, colloquially known as 'china clay', is a mineral used in the manufacture of a range of end products, for example, sanitaryware (bathroom fixtures like sinks, baths and toilets), tableware, paper products and products like paints and adhesives.

⁸ Alan Travis, 'Government defends secrecy over 'high-risk' immigration blacklist', *Guardian*, 26 September 2012.

⁹ See the following cases: *K Ltd v National Westminster Bank Plc* (2006) EWCA Civ 1039; (2007) Bus LR 26 (CA (Civ Div)); *R. v O'Brien (Karl)* (2006) EWCA Crim 1741; (2007) 1 WLR 833 (CA (Crim Div)); *R. v Dica (Mohammed)* (2004) EWCA Crim 1103; (2004) QB 1257 (CA (Crim Div)); *R. v Cooksley (Robert Charles)* (2003) EWCA Crim 996; (2003) 3 All ER 40 (CA (Crim Div)); *Farah v Commissioner of Police of the Metropolis* (1998) QB 65 (CA (Civ Div)); *R. v Brown (Anthony Joseph)* (1994) 1 AC 212 (HL); *Ledwith v Roberts* (1937) 1 KB 232 (CA).

¹⁰ Sally Ramage, 'Witchcraft, Lollardy, and the meaning of "evil"', *The Criminal Lawyer*, Issue 187, pp 9-1; 1 Nov.2008. Discusses the use of the word 'evil' in a variety of case reports and the different meanings that it has been given. Suggests that judges should not use the word 'evil', even orbiter.

Pre-merger, the parties were both active in the extraction, processing and supply of kaolin products from deposits and production facilities located in Cornwall. The OFT found that the merger created a near-monopoly in the supply of kaolin for paper filler and tableware products to UK customers and reduced the number of companies supplying kaolin for specialty applications (paints and adhesives) in the United Kingdom, from three to two. There does not appear to be alternative minerals or chemicals to kaolin for use in most applications. The investigation concluded that that overseas suppliers would provide a sufficient constraint on the parties post-merger and that this merger will result in less competition in the supply to kaolin in the UK and therefore referred the merger for further investigation by the Competition Commissioner, Goonvean being the only competitor to Imerys in the UK in the supply of kaolin.

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Still vigilant, the OFT had reported in 2007 that it has opened over twenty new cases involving possible cartel activity and launched formal investigations in relation to seven cases, where it had reasonable grounds to suspect a cartel infringement had occurred. In the year 2006, the OFT had conducted ninety on-site inspections, some of which were carried out using its criminal enforcement powers, in conjunction with the Serious Fraud Office. In 2006, the OFT also entered into 22 conditional leniency agreements.

The UK's Serious Fraud Office ('SFO') has separate powers to prosecute individuals and in April 2006 the SFO launched criminal proceedings against nine individuals and five companies for allegedly conspiring to defraud the National Health Service in relation to a fraud that involved restricting the supply of certain drugs between January 1996 and December 2000. One wonders why there have not been many other cartel cases in the UK since the Enterprise Act came into force. Is it a signal that the UK is more or less cartel-free?

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