

## **Retired Inspector Howard Davies' 'spite' was revealed again in the 2002 RCVS Trial**

### **390. Action 1 claim 8.16 re-arrest 9 August 1994 for alleged damage to wing mirror.**

This is on the same day as the preceding incident. The pleaded claim is that Mr Kirk was the subject of unlawful arrest, that he was wrongfully charged with criminal damage and that he was unlawfully detained in custody between 13.00 and 16.00 or thereabouts.

391. It is helpful first of all to set out the factual background. Almost as soon as Mr Kirk was released from custody he went via the police station car park to a security door, and as Inspector Davies opened it to leave the police station Mr Kirk brushed past him and entered the secure area. He was in search of his dog, Molly. In short, Mr Kirk had to be physically forced out of the police station, initially being restrained by Mr Davies who was then assisted by DC Vennors.

392. To put it neutrally, Mr Kirk was consumed by intense physical determination to resist removal, in pursuit of his wish urgently to remove his dog from conditions where he thought her at risk of infection where waif and stray dogs were sometimes kept. I do not relate the detail, from witness statements or oral evidence, because there is in essence no difference in the account of Mr Kirk, Mr Davies, or Mr Vennors as to the physical circumstances; subject to this, that Mr Kirk told me that Mr Davies "was having fun, he was baiting" whereas Mr Davies told me that the situation was all of Mr Kirk's own making. Mr Kirk did not dispute that his re-entry by the security door was some 6 minutes after his release on bail. If, as he says in his witness statement of 15 November 1994, at first he had waited his turn in the foyer to speak to the enquiry clerks about his dog (A1/4.36I) then it is plain that he had not waited very long.

**This is yet another police provoking incident of typical spite mentality with the usual bullying in a vain attempt to cause their victim to either just close the palm of his hand and/or lift an arm, sufficient to guarantee an assault conviction (not jury eligible), while laughingly indicating a deliberate initial delay for the release of his gun dog. Delay only now cut short by the Appellant's unrepentant actions.**

**A not dissimilar tactic to their second 22<sup>nd</sup> June 2009 police airborne unit, with ground troops also heavily armed, to provoke their victim by their surrounding his wife and 10 year old daughter, Genevieve, at their home with admitted intention of taking their daughter into Vale of Glamorgan Council care.**

**The typical 'under belly' tactics of the villains one would expect to see in some 50's black and white 6d ticket Saturday morning Odeon cinema flic stuffed with unruly kids.**

**Kirstie was faced with a police pre prepared MG11 witness statement to sign citing a history of perceived mental abhor rations sufficient to have him legally sectioned to avoid the deliberately delayed machine-gun jury trial for yet another longer incarceration whist their victim was unconvicted.**

**The main police purpose was to further delay this civil trial to allow witnesses to move away or die off, vital documents to go missing and memories for both parties to fade.**

**The initial police Trojan unit, via helicopter and six plus police vehicles (twenty four officers were counted) Barbara Wilding knew was doomed for failure from the very start but provoked by Dolmans solicitors laying false allegations, anything to make money for their planned new premises in the centre of Cardiff.**

**After it was found the police had painted the WWI decommissioned antique, first bolted to his Replica 1916 DH2 biplane, to try and fool the jury he was later further tricked and found guilty and fined £50 for ‘attempting to shoot the Lord Mayor’ with it.**

393. Neither Mr Davies nor Mr Vennors suggested that Mr Kirk physically assaulted either of them, rather that he braced himself rigidly, first trying to hold onto a hand rail against removal. I am satisfied that he was impatient, demanding, intransigent, and difficult. I see no reason to doubt that Mr Davies told Mr Kirk, when he first went in, “You can’t come in this entrance, Mr Kirk” and shortly afterwards, “You can’t go this way. Go back to the front foyer and sort it out there” (Mr Davies witness statement A1/4.57). In evidence before me, the whole demeanour of Mr Kirk was that he was entitled to disregard the police secure custody area arrangements. I consider it likely that Mr Kirk was in a temper when he entered the police station by this door. Conversely, he describes Mr Davies as “angry, very angry”. I suspect he was, and understandably so, faced with the intemperate behaviour of Mr Kirk.

394. Whilst the witness statement of Mr Kirk refers to “assault” by Inspector Davies, and his letter of 10 August 1994 states he wishes to make a complaint of “assault” by Inspector Davies ( A1/4.139), the pleaded allegation is as recited above, that he was unlawfully arrested and the subject of an unlawful charge of criminal damage.

395. The pleaded allegation is that “As the Plaintiff left the police station and went to his car on the 9<sup>th</sup> August 1994 he was stopped and pushed by one of the Defendant’s police officers”. This is plainly incorrect. However this is a pleading drafted by solicitors, and it is not what Mr Kirk set out in his statement of 15 November 1994 (or in his witness statement of 19 June 2009 which deals with this in the two paragraphs 581-582 at A1/4.36C). The Particulars of Claim allege that after he was pushed by one of the Defendant’s police officers, “he was immediately re-arrested upon an unlawful charge of criminal damage at 1:00pm. He was released at 4:00pm. The charge of criminal damage was subsequently withdrawn”.

396. In more detail it is pleaded that Mr Kirk “was manhandled by one Inspector Davies and pushed or dragged onto the door of the coroner’s officer car coming into contact with the door mirror” and that “he was unlawfully detained in custody between 13:00 and 16:00 hours or thereabouts”. He was in fact in detention for broadly that period: the custody record shows that he was arrested at 13:02 hours; that at 13:20 the custody sergeant noted the earlier record of Dr Baig suggesting he be x-rayed; that at 15:20 Mr Kirk was taken to Barry Accident Unit for x-ray returned at 16:07; and that he was released at 16:10 hours (A1/4.129 to 131).

397. The Defence pleads the factual detail of trying to remove Mr Kirk from the police station and then asserts that “eventually the officers were able to take the Plaintiff out of the building. The Plaintiff continued to struggle violently. He then struck the wing mirror

of the motor vehicle belonging to the coroner. The wing mirror fell to the floor in several pieces. Chief Inspector Davies then arrested the Plaintiff for criminal damage. Subsequently the wing mirror was put back together, whereupon the Plaintiff was released having been informed that no further action would be taken. At all material times the police officer had reasonable cause to suspect that the Plaintiff had committed an arrestable offence”.

398. In his witness statement of November 1994 Mr Kirk states that “clearly the 2 policemen had lost their tempers... I was dragged out... when we got to the custody suite Inspector Davies said “Book him for criminal damage and lock him up”. The Inspector refused to give further details saying that it could be dealt with by the next shift at 2 o’clock. It was still only about 1 o’clock”. In oral evidence, Mr Kirk told me that Mr Davies lost his temper and “he caused the minor damage to the car by his actions not mine”; it was Mr Davies who was the belligerent officer. He stressed the words “lock him up”. In cross examination, he said that he was deliberately pushed against the car, by Mr Davies, not by the other officer. “He pushed me, not threw me, he pushed me violently”. As to the mirror of the car, he told me that he never saw it, that it was one of those folding types, but “I can’t say yes or no” to whether the mirror on the car was broken.

**The Appellant had stated the blindingly obvious facts on the day, to the bullies, immediately understood by any dog owner even if they had never witnessed, unlike the Appellant in his veterinary hospital, several a day sometimes, the painful deaths resulting from Parvo or Distemper infections due to non vaccination as a puppy.**

**How many other infectious deceases are brought into the Barry police cell, in which the Appellant’s gun dog was so unnecessarily incarcerated? What was so amusing for Inspector Howard Davies laughing from behind his protected re enforced glass in the foyer?**

**Abandoned dogs, dying of parvo disease and RTAs were just one of many animal reasons the Appellant was a routine visitor, 24/7, to Barry police station to be the subject common gossip from within when also coupled with the repeated but fabricated arrests and lengthy terms of custody ordered by senior management.**

399. As to matters once Mr Kirk was removed outside the police station door, the account of Mr Davies is that “at this stage Kirk was walking backwards but still leaning forwards pushing and struggling against myself and my colleague. I still had hold of one arm and DC Vennors had hold of the other arm. As we passed the coroner’s vehicle Kirk was still struggling violently and tumbled against the coroner’s vehicle hitting the wing mirror, which then fell to the floor in several pieces” (witness statement A1/4.108 paragraph 9). He arrested Mr Kirk for criminal damage, cautioned him and escorted him up the stairs to the custody suite, Mr Kirk at one point stopping and appearing to deliberately fall backwards. [Mr Kirk dissented from ‘deliberately falling’ but did remember clenching his fists and saying “that’s all you people understand”]. Mr Davies says that he returned via the car park and noted “that the wing mirror appeared to be *badly damaged lying in pieces on the ground*” (emphasis supplied). At about 4.00pm he met in the car park with PS Kendall, PC Crabtree and PC Ruth Wells “who were attempting to repair the broken wing mirror. After several minutes of trying to place the pieces back together to see precisely

what was broken and or missing it suddenly sprang back into place” (paragraph 12). He then instructed Sergeant Kendall to release Mr Kirk with no further action to be taken.

400. I have no statement from PCs Crabtree or Ruth Wells. In his statement, Mr Vennors says “as we got Mr Kirk outside into the car park and moved him a short distance from the door, part of Mr Kirk’s body, the middle part, struck a wing mirror on a car door. At this time we still had hold of him trying to restrain him but he still continued to struggle and resist. I can’t remember much about the mirror, I can’t remember if it fell to the floor but all I remember is hearing a cracking sound. At this point Inspector Davies told Mr Kirk that he was arresting him for causing criminal damage”. In oral evidence, Mr Vennors did not dissent from the proposition that the wing mirror was pushed backwards: it was Mr Kirk’s actions which caused that by struggling with himself and Mr Davies, but he would say that Mr Kirk did not do it intentionally: if he had thought that he would have noted it in his notebook.

401. Mr Davies spoke of Mr Kirk being known to him. Of some interest, Mr Vennors, asked about the general view in the police station of Mr Kirk, said he had heard as a passing remark, “Not to be disrespectful, but he was a bit of a pain in the arse – of a difficult nature” and he thought he was made aware of “many many” incidents of contact between Mr Kirk and the police.

#### **“Many, many incidents”**

402. Police Sergeant Kendall, the Custody Sergeant from 2:00pm, noted in the custody record “Maurice Kirk arrested at 13:02 hours by A/C Insp Davies for an offence of criminal damage caused after Kirk was seen in the station yard and having refused to leave *fell* against a motor vehicle parked in the station causing damage to a wing mirror [emphasis supplied] .... 13:10 notification rights no reply personal details refused – Mr Kirk refuses to speak at this time; and at 16:10, “while examining the damage – vehicle subject of this event the mirror was able to be replaced and *no apparent damage had been caused* [emphasis supplied]. These window [illegible word] have a design feature enabling them to be pushed back. Accused informed of this and released NFA”. Mr Kendall told me in oral evidence that the information in the entry at 16:10 would have been given to him by another officer; but he told me that it became apparent to him that there was no damage on the vehicle, no glass was broken and the mirror could be put back.

403. It will be seen that Mr Davies says that the mirror had fallen to the floor in several pieces. (i) If Mr Davies’ account is correct that the wing mirror fell to the floor in several pieces it is at least odd that the mirror “suddenly sprang back into place”. (ii) If it had fallen to the floor in pieces, in my view it is strongly probable view that Mr Vennors would have noticed that; but he did not, and he does not suggest that it was broken in pieces. (iii) Mr Davies says that PS Kendall was present with PC Crabtree and PC Ruth Wells (from whom I have no statements) when the mirror sprang back into place: Mr Kendall gives, and gave, no account of re-assembling parts which had fallen from the wing mirror, or of the mirror springing back into place, and he told me that it became apparent to him that there was no damage – not that there had been damage but damage which it proved possible to repair. (iv) The entry in the custody record (“have a design feature enabling them to be pushed back”) suggests that it was straightforward to push the mirror back. (v) I note that when Mr Kirk was making formal complaint, in November

1994, he stated that the wing mirror clicked outwards but did not come off the car and that he could see the mirror and its mounting was not damaged. (vi) It would be odd, if there were a complete answer to this in the efforts of PC Crabtree and PC Ruth Wells, that there was and is no note, or witness statement, or explanation of difficulty in tracing them.

**The classic example of a pragmatic busy custody police sergeant, PS Kendall, ‘taking it in the neck’ ever since for acting responsibly contrary to an irate inspector in charge of Barry police station following the collapse of yet more motoring prosecutions. Davies was intent on further promotion for his fast approaching retirement pension.**

**PS Kendall 3719, then a PC, was with now Inspector Andrew Rice, PCs 1581,3221 and possibly 3719 when all barged into the Stipendiary’s magistrates hearing to witness an almost dangling CPS piece of shit, Stofa, when held by the scruff of his neck. see**

**The appellant had already called the usher to call Rice, to have the lawyer locked up and to seize the CPS file for His Honour Judge Seys Llewellyn QC’s eventual hearing. (See police redacted bundle 15 p 12 and p15 of Appellant’s contemporaneous notes, overlooked by Dolmans during the photocopying of some 60 odd arch leaver files that had been stored abroad for obvious reasons.**

**Part of the contemporaneous notes (collar numbers of police present) were written whilst hanging on with one hand a minor cog in the wheel of the engine run by the ring leaders in police senior management and protected CPS described, at the time, as my official complaint, “as a bunch of inherently dishonest individuals intent on promotion for cash by the only way they knew how”.**

404. Mr Davies’ demeanour in giving evidence as a witness was extremely wary. I am careful not to attach undue importance to the demeanour of a witness. Equally I take no account of Mr Kirk’s complaint that he was assaulted by Mr Davies in an incident at the Vale of Glamorgan Show some years later, because the claim in respect of that incident has been struck out. Nonetheless, in the light of the evidence and observations set out above, I find Mr Davies’ account of the mirror failing to pieces improbable. In oral evidence, Mr Davies said that the decision to detain Mr Kirk was that of the custody sergeant, but he also said that he did not remember whether he did or did not say “lock him up”. I am satisfied that he did say that, and that he did so in anger and temper, outraged by the intemperate stance of Mr Kirk at and within the secure door of the police station.

**Vale Show incident struck out? With Inspector Andrew Rice in the thick of the Vale Show/Inspector Howard Davies ‘assault on the appellant conspiracy (see Bridgend clerk of the court’s contemporaneous notes for something nearer the truth) to switch ‘Breach of the Peace’ papers in the Barry police station to allow extended detention and again before the then Recorder of Cardiff, just minutes before PC Osborne was dispatched right outside the Cardiff Crown Court building to smash his way into the Appellant’s borrowed car lying the Appellant was trying to escape! [see Action 2 Paragraph 11 stop at junction of Newport Road and Albany Road Cardiff 5 April 2000 & RCVS transcript of Osborn’s different version under cross examination.**

Prosecuting barrister at the 2002 RCVS hearing, to obtain the Appellant's name being removed from the veterinary register for life, wrote to the court stating Howard Davies had 'struck the first blow' before Mr Kirk was still successfully convicted, for life, for simply brushing the arm off his shoulder of a huge security guard who had then been called to run down the slope to knock the appellant, from behind, to the ground.

*To the web site reader let there be no misunderstanding this sort of court conduct in South Wales is common place as no one appears to be independent of the will of the police.*

*In the Vale Show sham hearing, for example, the clerk of the court's contemporaneous notes and those of the CPS, clearly record Howard Davies struck the Appellant first and then the security guard came charging down the hill, much bigger than his target and knocked the Appellant to the ground from behind.*

*As the Appellant tried to recover himself and rescue his ten year old son's goldfish in a bag, in the mele, the mindless guard then repeatedly assaulted the Appellant, again and again, admitted even before the presiding appeal court judge so with the CPS barrister, after seeing the whole CPS brief, previously deliberately withheld, announced to the Royal College of Veterinary Surgeons, in writing, that would never of opposed the busy veterinary surgeons appeal had he known the evidence before the hearing.*

*Inspectors Rice and Davies, in both Barry and Bridgend magistrates and later, in the Appellant's interlocutory hearing, to 'strike out' the alleged process of 'common law' arrest being switched to a fabricated new charge, many month later, caused another assault by Howard Davies, this time in the police witness waiting room in front of witnesses, all policemen. The Appellant's written complaint was ignored again and highlighting more nefarious HMC&TS conduct throughout (see clerk's notes in both magistrate hearings).*

*The Appellant, incidentally, during the hearing, pointed out to his secretary that the police kept adding new evidence not referred to in magistrates, so there was no time to challenge it, the evidence, no doubt the prosecuting barrister, M r Iaen Rees was referring about, while he struggled to recover himself and young son left grasping his goldfish*

The outcome of any summary prosecution of 'common assault' in Bridgend or Cardiff magistrates had the notoriety of favouring the South Wales Police and in this case both CPS and police custody records needed to be changed by then custody officer, the recurrent Sgt Rice in these three Actions, from a 'Breach of the Peace' type arrest.

In that initial hearing, before the Appellant's un noticed secretary, owing to the forged 'information laid the appellant was denied the opportunity to plead guilty to a BOP allegation as the CPS file was withheld from the Their Worships.

405. Mr Kirk can have no complaint about being forcibly removed from the secure area of the police station. He was acting with lordly contempt, oblivious of what any reasonable member of the public would and should have done. I am not entirely without sympathy for Mr Davies' anger. However I find on the strong balance of probability that in fact all that had happened was Mr Kirk fell against the wing mirror and it was pushed back, it had not fallen to the floor in pieces, and the absence of real damage could and should have been established by Mr Davies or other officers almost immediately afterwards. I am not

in a position safely to conclude on the balance of probability that he did in fact establish that immediately afterwards; but in my judgment, even allowing for the margin of appreciation to be allowed to a police officer, Mr Davies did not have reasonable cause to suspect that Mr Kirk had committed an arrestable offence proper and the decision to arrest was not one which was within the wide ambit of permissible discretion in the *Wednesbury* sense. It follows that the Defendant has not shown that his detention from 13.02 to 16.10 was lawful and that there was unlawful arrest.

406. Mr Kirk was not ever charged with malicious damage, and so the claim for malicious prosecution fails.

407. This is not an occasion which arose out of police conspiracy. It arose out of Mr Kirk's own intemperate actions, and his patrician contempt for the ordinary and reasonable restriction of the public from entering certain parts of the police station.

**So, if that was your new born baby, locked in an Ebola riddled cell, what would you do?**