

### **219.9 *Embarrassing material/behaviour***

*R v Jason* 2014 EWCA Crim 1936 D pleaded (during his trial) to blackmail. D's father and V were friends and he knew D since he was young. V cared for his mother, who had cancer and had been targeted by local youths. D, having been thrown out by his father and with no benefits, begged and harassed V for money over 12 months or so. D received £10-30 a time and over £1,000 in total. He was encouraged by his sister, with whom he now lived, to beg for both of them. On one occasion V threatened to call the police and D replied that he would, "tell them what you done when I was 16 then, when I come into your room." D referred to when V told D that he, V, had put a sexual video of himself on the Internet. D was aged 18 on appeal and with only a caution for theft. He had committed the offence out of desperation for money. D had an unhappy childhood, was allegedly sexually abused and had sought counselling for his mental health issues. He self-harmed to relieve his depression and was palpably anxious about custody. Held. This is the kind of offence that often called for a deterrent sentence, irrespective of the strength of any person mitigation and the need for the offender to receive some kind of help and support in the community. However, D was sentenced on a somewhat wider basis than his agreed basis and insufficient weight was given to the fact that this was a first offence committed by someone of immaturity and emotional vulnerability. **6 months' YOI detention**, not 12.

### **219.10 *Kidnap, Threats to***

*R v Singh* 2014 EWCA Crim 1233 D pleaded to blackmail. He made calls to V, a lady in India, in which he demanded £5,000 from her brother L, who lived in the UK. Threats were made that L's 3-year-old son would be kidnapped. Further calls were made to L using a different phone that was traced to D. D, aged 46, had no convictions and had been in the UK illegally for nine years. Held. Blackmail is an offence that strikes terror into the hearts of its victims, aggravated in this case by the nature of the threat against a child. Starting at 5 years not 6, with 20% credit, **4 years** not 5.

### **219.11 *Kidnapping individuals for ransom/Debt-collector***

*Att-Gen's Ref Nos 54-55 of 2013* 2013 EWCA Crim 2067 R, S, L, W and K pleaded to false imprisonment and blackmail. V, aged 18, was telephoned and asked, and agreed, to meet W nearby. He walked there with a friend. W was there and they were asked to get into the rear of a car, which they did. R, who was sat in the front passenger seat, rammed his seat backwards trapping V. V was told that they wanted money from V's brother and that he would be held until they received it. S got into the rear of the car and V tried to escape. R punched V in the face. V contacted his brother and V told R and another that his brother was trying to obtain the money. Shortly afterwards, V's brother contacted the police. The car was driven to an address and W obtained two knives. They told V that if his brother tried anything, they would 'be ready for him'. V was taken from the car and placed into the boot. The friend was released. The car was driven to another location and V taken from the boot to the rear of the car. The 'child locks' on the doors were activated. The group spoke to V's brother again, threatening to cut off one of V's fingers. By that time, the phone calls were being recorded by the police. The group demanded £20,000 for V's return. V was taken by W to a flat belonging to L. S guarded V. R did not enter the flat but remained in telephone contact. He later apologised to the group for not coming into the flat. V was detained for 7 hours in the car and 14 hours in the house. In the early hours, V's brother was told V's body would be dumped in the river. S called V's brother and L was instructed to fetch a hot iron to torture V. V's brother was told he was about to hear V scream whilst a hot iron was placed on him. L returned with pliers, an iron and curling tongs. W, L, K and S were present. V was then tortured with the iron and tongs, suffering

17 burns and abrasions to the ear, face, chest and arms. S and L told V he would be burned again and have some fingers cut off. V's brother could hear the screaming and threats that V would be stabbed were made. The burns were inflicted by W and S over half an hour. A neighbour complained to her landlord about the noise after which point the demand calls to V's brother stopped. V was dropped near a tube station and he walked home. Neither V nor his brother wanted to make a statement out of fear. V said he had lost his friends due to his fear of public contact. If he went outside, he would now conceal his appearance. S was aged 17 and had a conviction for possession of a bladed article and robbery but had not served a custody. He had admitted his involvement at a comparatively early stage and claimed he was acting under direction. R was aged 21 and had convictions for robbery, conspiracy to commit robbery, section 20, threatening behaviour (x4), violent disorder, and affray. He had not however served a custodial sentence. He was in breach of suspended sentences for the conspiracy to rob and section 20 offences. R was sentenced on the basis he was involved in the early stages of the detention but not the torture. The Attorney-General appealed R and S's sentences and L and W appealed. Held. R did not enter the flat where V was held but had said sorry to the others for not doing so. R was fully involved with the demands made to V's brother. R had led the criminal enterprise with another and had personally made threats to V's brother. He was not to be sentenced for responsibility for the torture. For R, starting at 9 years, so with plea **6 years 9 months** not 4 ½ years with half of the suspended sentence activated making 7 years 3 months. S was involved at an early stage and was personally involved in the torture. Had he been an adult, the starting point would have been 12 years. Because of his age, the appropriate starting point was three-quarters of that, namely 8 years. With plea, **7 years' detention** not 3½. W's **15 years** and L's **9 years** were upheld.

### **219.13 Supermarkets and retail stores**

*R v Moncrieffe* 2014 EWCA Crim 1237 D pleaded to blackmail. D targeted M, the manager of a Sainsbury's supermarket. Separate letters were sent to M and his wife using a phrase that M used regularly. D contacted M by telephone revealing knowledge of his family's daily lives. D also issued threats suggesting M should open the safe if he valued his family's safety. M stated he did not have access to the safe. D asked about the amount of money in the tills and numerous questions about security. D then told M he would tell his people to back off. M's family believed they were under surveillance. D, aged 39, was of effective good character and was genuinely remorseful. Held. The offence had a serious impact on the lives of M and his family and caused distress, severe anxiety and considerable upheaval. However the blackmail was ultimately unsuccessful and was ended by D himself who used his own mobile phone which enabled him to be traced. Starting at 7 years, with credit for the early plea, **4 years 8 months** not 6 years.

### **219.15 Violence occurs, Serious**

*Att-Gen's Ref Nos 39-42 of 2014* 2014 EWCA Crim 1557 Three defendants were convicted of false imprisonment. D pleaded guilty (20% credit) to the same charge. V bought cannabis from D. V was driven to D's flat. After a "horrendous" humiliating and brutal attack to V's face, with D wielding a hammer and others helping, V's family was told to pay a £1,500 debt. V was tied up, placed onto a body bag and hit again. D hit V on the head with the hammer. He fell and was punched. D then repeatedly hit V in the face, particularly in the eye and mouth. V's teeth were deliberately broken. The attack was recorded. Threats were made to kill and rape V. V's belongings were taken and D hit V's legs with the hammer making walking difficult. Two defendants visited P, V's partner. A phone call was made to V. During the call, D held the hammer to V's head, demands were made for £1,500, and threats made that one of them would rape P. P had no money. V was driven to an isolated wood whilst the defendants discussed killing V there. V took the threats as genuine. Further demands for money were made. V was untied, driven back, his property returned and he was given some cannabis resin. D offered V money not to give evidence. D was 21 and had an extensive record, including violence. He was dependent on drugs.

The others were aged 17 (with an ABH and drug conviction), 22 and 19 (neither with convictions). Held. For D, **14 years, (10 years' custody** and 4 years extended licence) with a 3-year consecutive sentence for two unrelated supply counts (as before). For the others **7 years' YOI, not 4, 4 years, not 2 and, 8 years' YOI, not 5.**