Midlands, said: "The way he went about attacking these women was so similar to the allegations he had previously faced, we asked the Court of Appeal to consider whether he should be retried for his original offences, on the basis that his subsequent offending provided new and compelling evidence and it was in the interests of justice for the case to be retried by a jury.

"The Court of Appeal allowed our application and he has now faced justice for all the offences he committed. The new evidence which formed the basis for our application to quash the acquittal was unrelated to the original offence, but showed a very similar pattern of behaviour. It was a terrifying experience for all Harbinder Khatkar's victims and they have shown great courage in coming to court to give evidence about what happened to them."

Alison Levitt QC, principal legal adviser at the CPS, described the new power as "exceptional" adding that the case was a "really significant development" and showed the importance of circumstantial evidence. She said: "In 2005 the law was changed to allow what is called bad character evidence, which is evidence that somebody has done something so similar or of the same type of offence on another occasion. When something has gone wrong and the evidence is strong enough, as we said it was in this case, it is only right that we should use it."

Asked why the action taken against Khatkar was previously not allowed in the justice system, Ms Levitt added: "The law is constantly evolving, it reacts to circumstances. Nobody would suggest that it was necessarily wrong what had happened before but subsequent events show us that perhaps allowing juries to apply their common sense is in fact a very straightforward way of achieving justice."

Essex Policewoman Jailed For 'Rape Lie'

A police officer who falsely told an alleged rape victim her case had been dropped - leading her to attempt to take her own life - has been jailed for four months. Hannah Notley, 30, of Benfleet, Essex, pleaded guilty to a charge of misconduct in public office. Southwark Crown Court heard Notley told her superiors and the alleged victim prosecutors were not pursuing the case, knowing it had not been passed to them.

Vigil/Peaceful Protest Outside High Wycombe Police station *Friday 20th of December 7:30 pm*

This is the latest release from Justice4Paps - those people who really hate the police (we really like standing outside places of power in sub-zero temperatures!) Seriously though we don't hate the police (well not all of them!) we just hate poor practice, harassment and discrimination, corruption and cover ups which is why we are serious about putting this straight by demanding a public inquiry. The most recent incidents and the police response exemplify this and support our assertion that Asian communities (like African and African Caribbean communities) victims of crime are treated poorly by the police in Thames Valley.

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 455 (12/12/2013)

Judicial Protocol on the Disclosure of Unused Material

'Failure to disclose material to the defence to which they were entitled remains the biggest single cause of miscarriages of justice' Criminal Cases Review Commission

Disclosure remains one of the most important - as well as one of the most misunderstood and abused - of the procedures relating to criminal trials. Lord Justice Gross' review has re-emphasised the need for all those involved to understand the statutory requirements and to undertake their roles with rigour, in a timely manner.

The House of Lords stated in R v H and C [2004] UKHL 3; [2004] 2 AC 134; [2004]

2 Cr App R 10: "Fairness ordinarily requires that any material held by the prosecution which weakens its case or strengthens that of the defendant, if not relied on as part of its formal case against the defendant, should be disclosed to the defence. Bitter experience has shown that miscarriages of justice may occur where such material is withheld from disclosure. The golden rule is that full disclosure of such material should be made." ([2004] 2 AC 134, at 147)

The overarching principle is that unused prosecution material will fall to be disclosed if, and only if, it satisfies the test for disclosure applicable to the proceedings in question, subject to any overriding public interest considerations. The test for disclosure will depend on the date the criminal investigation in question commenced, as this will determine whether the common law disclosure regime applies, or either of the two disclosure regimes under the CPIA 1996.

The test for disclosure under section 3 of the CPIA 1996 as amended will be applicable in nearly every case and all those involved in the process will need to be familiar with it. Material fulfils the test if – but only if – it 'might reasonably be considered capable of undermining the case for the prosecution … or of assisting the case for the accused.'

The disclosure process must be led by the prosecution so as to trigger comprehensive defence engagement, supported by robust judicial case management. Active participation by the court in the disclosure process is a critical means of ensuring that delays and adjournments are avoided, given failures by the parties to comply with their obligations may disrupt and (in some cases) frustrate the course of justice.

The court should keep the timetable for prosecution and defence disclosure under review from the first hearing. judges should as a matter of course ask the parties to identify the issues in the case, and invite the parties to indicate whether further disclosure is sought, and on what topics. For example, it is not enough for the judge to rely on - the content of the PCMH form. Proper completion of the disclosure process is a vital part of case preparation, and it may well affect the progress of the case. The court will expect disclosure to have been considered from the outset; the prosecution and defence advocates need to be aware of any potential problems and substantive difficulties should be explained to the judge; and the parties should propose a sensible timetable. Realism is preferable to optimistic but unachievable deadlines which may dislocate the court schedule and imperil the date of trial. It follows that judges should not impose deadlines for service of the case papers or disclosure until they are confident that the prosecution advocate has taken instructions from the individuals who are best placed to evaluate the work to be undertaken.

The advocates - both prosecution and defence - must be kept fully informed throughout the course of the proceedings as to any difficulties which may prevent them from complying with their disclosure obligations. When problems arise or come to light after directions have been given, the advocates should notify the court and the other party (or parties) immediately rather than waiting until the date set by the court for the service of the material is imminent or has passed, and they must provide the court with a suggested timetable in order to resolve the problem. The progress of the disclosure process should be reviewed at every hearing. There remains no basis in practice or law for Counsel to Counsel disclosure.

If there is a preliminary hearing the judge should seize the opportunity to impose an early timetable for disclosure and to identify any likely problems including as regards third party material and material that will require an application to the Family Court. In an appropriate case the court should consider holding a joint Criminal/Care Directions Hearing. See Material held by Third Parties, from paragraph 44 below.

For the PCMH to be effective, the defence must have a proper opportunity to review the case papers and consider initial disclosure, with a view to preparing a properly completed defence statement which will inform the judge's conduct of the PCMH, and inform the prosecution of the matters required by sections 5, 6A and 6C of the CPIA. As the Court of Appeal noted in R v Newell [2012] EWCA Crim 650; [2012] 2 Cr App R 10, "a typed defence statement must be provided before the PCMH. If there is no defence statement by the time of the PCMH, then a judge will usually require the trial advocate to see that such a statement is provided and not proceed with the PCMH until that is done. In the ordinary case the trial advocate will be required to do that at the court and the PCMH resumed later in the day to avoid delay". There may be some instances when there will be a well-founded defence application to extend the 28-day time limit for serving a proper defence statement. In a proper case (but never routinely), it may be appropriate to put the PCMH back by a week or more, to enable an appropriate defence statement to be filed.

The defence statement can be admitted into evidence under section 6E(4) of the CPIA 1996. However, information included on the PCMH form (which is primarily an administrative form) will not usually be admitted in evidence when the defence advocate has complied with the letter and the spirit of the Criminal Procedure Rules.' Introducing the PCMH form (or part of it) during the trial is likely to be an exceptional event. The status of the trial preparation form in the magistrates' court is somewhat different, as discussed below.

The court should not extend time lightly or as a matter of course. If an extension is sought, it ought to be accompanied by an appropriate explanation. For instance, it is not sufficient for the prosecutor merely to say that the investigator has delivered the papers late: the underlying reasons are to be provided to the court. The same applies if the defence statement is delayed. Whichever party is at fault, realistic proposals for service are to be set out.

Judges should not allow the prosecution to avoid their statutory responsibility for reviewing the unused material by the expedient of permitting the defence to have access to (or providing the defence with copies of) the material listed in the schedules of non-sensitive unused prosecution material irrespective of whether it satisfies, wholly or in part, the relevant test for disclosure. Additionally, it is for the prosecutor to decide on the manner of disclosure, and it does not have to mirror the form in which the information was originally recorded. Rose Lj gave guidance on case management issues in this context in R v CPS (Interlocutory Application under sections 35/36 CPIA) [2005] EWCA Crim 2342. Allowing the defence to inspect

offenders losing their home while in prison. Advisers can make this contact to prevent the loss of a tenancy or to terminate a tenancy to prevent a build-up of rent arrears.

So what of the future? Ex-offenders in general are younger and poorer than the general population and much less likely to own a home. More than half are reliant on welfare to support their income. They can lose their secure social homes when in prison if they build up rent arrears or have been convicted of certain related offences. The Prevention of Social Housing Fraud Act 2012 could prevent social tenants in prison sub-letting their homes to avoid rent arrears. Secure social tenancies are of particular value to more vulnerable people in helping them to rebuild their lives. Some councils are already introducing two-year contracts for young people and suggesting that people with convictions could be excluded from social housing altogether.

Private renting is fast becoming the only realistic option for ex-offenders, especially in London and the south-east. Evidence collected by Shelter and Crisis shows that some ex-offenders value the chance to move away from their old networks as this can help them to avoid offending and substance misuse. Evidence from Homeless Link suggests that ex-offenders can struggle to maintain private rented tenancies due to landlords' attitudes, while the cost of starting a tenancy can be well over £1,000.

Sweeping changes to welfare and a reduction in the number of rented homes will affect many people. It is vital that housing advice services for prisoners and those commissioning them respond to the challenges. Prison Service commissioners must make best use of the evidence on housing and reoffending when making the decisions, particularly bearing in mind how stable accommodation reduces reoffending. Housing for Women's Re-Unite project has found that 38% of women prisoners expect to be homeless on release. Access to support for them is rarely available, but without it the 1,700 children separated from their mothers due to imprisonment will often remain in care.

Commissioners should consider what sort of housing advice is available in each prison and who is providing it. The outcomes and effectiveness of the initial housing needs assessment that each prisoner is given should be considered. Shelter services have discovered that including other prisoners to help deliver a service can encourage greater participation from new prisoners. This happens in Sweden, a country with a population that is a fraction of ours, where prisoners share in the running of prisons and help in finding post-prison accommodation as a matter of course. In the UK, those prisoners helping in the service benefit as well in that they develop new skills and build self-esteem. Evidence from Homeless Link suggests an integrated approach to advice—for instance, by addressing mental health problems along with housing difficulties.

Violent Serial Rapist Jailed in Landmark 'Double Jeopardy' Case

Harbinder Khatkar, 37, attacked six women on 2 February this year, less than six weeks after he was acquitted of an earlier rape. The case marks the first time that the CPS has successfully sought permission from judges for a retrial by arguing that his subsequent attacks amounted to new evidence. Khatkar, of Moorside Crescent, Sinfin, was found guilty of 18 offences including rape, sexual assault, assault by beating, and trespass with intent to commit a sexual offence.

A change to "double jeopardy" laws in 2005 - which prevented defendants being tried twice for the same offence - paved the way for retrials if "new and compelling" evidence emerged. After his conviction, the CPS said the earlier crime was strikingly similar to, and had all the hallmarks of, the later offences.

In a statement issued after the case, Steve Chappell, Chief Crown Prosecutor for CPS East

refer the conviction of Stephen Ward to the Court of Appeal as a potential miscarriage of justice.

Prisoners: Accommodation on Leaving Prison *House of Lords /05/12/13 : Column GC79*

In 2011, the prison population in England and Wales reached a record high of 88,000. Ex-offenders are more likely to be male, young and have children under 18 when they enter prison compared to 38% of the general population. They are also likely to be socially excluded, economically disadvantaged and much more likely than the general population to have a mental health problem. They are likely to have grown up in care or in a disadvantaged family. Around half were found to have a history of debt problems. Four in 10 offenders lack financial services such as bank accounts.

Before going to prison, 11% of ex-offenders owned a home, while just over one-third rented; 16% were homeless, either sleeping rough or in temporary accommodation; and others were living rent free with a friend, paying board in someone else's home, or living with family and in shared ownership housing. Offenders are less likely than the general population to have a home before entering prison and it is often not clear where they will go when they leave. A 2008 study by the Ministry of Justice surveyed nearly 5,000 offenders and combined the results with reoffending records over a number of years. The study concluded that ex-offenders were more likely to reoffend when they had a problem with both employment and housing. Figures also show that offenders who are homeless upon entering prison have a much higher reconviction rate within one year of release, more than three-quarters being reconvicted. Ex-offenders themselves report that homelessness is a principal cause of reoffending, and the St Giles Trust in its through-the-gate advice service identified homelessness as often being a key factor in reoffending. There is evidence that prisoners who have accommodation arranged on release are four times more likely to have employment, education or training arranged once they leave prison than those who do not have accommodation in place.

What sort of housing advice do ex-offenders receive? It seems that housing needs assessments are not conducted in a consistent way because they are carried out by a diverse range of people, including prison officers, probation officers and voluntary sector staff. A survey found that just one in five initial assessments is carried out by housing specialists. A recent Homeless Link study revealed a big variation in support received by those in different parts of the country. A number of organisations provide housing advice within prisons. Shelter has developed its prison advice services with a peer mentor model, meaning that existing prisoners are given skills and responsibilities alongside professional housing advisers. Some housing and support providers, such as Stonham, provide their own supported accommodation for ex-offenders. Once offenders have left prison, they will also have access to a range of housing advice available to the general public, through Citizens Advice or the Shelter helpline. In the year to October 2012, Shelter services outside prison were contacted by at least 920 ex-offenders.

Evidence from Homeless Link suggests that housing advice is most effective when advisers work closely with probation staff, local authority contacts and other advisers. Evidence from the St Giles Trust shows that ex-offenders value being met at the prison gates by service staff to help sort out immediate accommodation issues. However, many barriers are faced by ex-offenders in finding or retaining an existing home on release from prison, such as shortage of housing with support needs, not meeting the criteria for local authority support through homeless legislation, difficulties in accessing the private rented sector, often due to affordability, and the prejudice of landlords against ex-offenders and benefit claimants.

Those leaving prison after serving a short sentence may be able to prevent eviction by continuing to communicate with their landlord or bank. Failure to do this is a major cause of ex-

items that fulfil the disclosure test is also a valid means of providing disclosure.

The larger and more complex the case, the more important it is for the prosecution to adhere to the overarching principle and ensure that sufficient prosecution attention and resources are allocated to the task. Handing the defendant the "keys to the warehouse" has been the cause of many gross abuses in the past, resulting in considerable expenditure by the defence without any material benefit to the course of justice. The circumstances relating to large and complex cases are outlined below.

The court will require the defence to engage and assist in the early identification of the real issues in the case and, particularly in the larger and more complex cases, to contribute to the search terms to be used for, and the parameters of, the review of any electronically held material (which can be very considerable). Any defence criticisms of the prosecution approach to disclosure should be timely and reasoned; there is no place for disclosure "ambushes" or for late or uninformative defence statements. Admissions should be used so far as possible to narrow the real issues in dispute.

A constructive approach to disclosure is a necessary part of professional best practice, for the defence and prosecution. This does not undermine the defendant's legitimate interests, it accords with his or her obligations under the Rules and it ensures that all the relevant material is provided. Delays and failures by the prosecution and the defence are equally damaging to a timely, fair and efficient trial, and judges should be vigilant in preventing and addressing abuses. Accordingly, whenever there are potential failings by either the defence or the prosecution, judges, in exercising appropriate oversight of disclosure, should carefully investigate the suggested default and give timely directions.

In the Crown Court, the defence statement is to be served within 28 days of the date when the prosecution complies with its duty of initial disclosure (or purports to do so) and whenever section 5(5) of the CPIA applies to the proceedings, and the defence statement must comply with section 6A of the CPIA. Service of the defence statement is a most important stage in the disclosure process, and timely service is necessary to facilitate proper consideration of the disclosure issues well in advance of the trial date. judges expect a defence statement to contain a clear and detailed exposition of the issues of fact and law. Defence statements that merely rehearse the suggestion that the defendant is innocent do not comply with the requirements of the CPIA.

The prosecutor should consider the defence statement carefully and promptly provide a copy to the disclosure officer, to assist the prosecution in its continuing disclosure obligations. The court expects the Crown to identify any suggested deficiencies in the defence statement, and to draw these to the attention of the defence and the court; in particular in large and complex cases, it will assist the court if this is in writing.

Although the prosecution's ability to request, and the court's jurisdiction to give, an adverse inference direction under section 11 of CPIA is not contingent on the prosecution having earlier identified any suggested deficiencies, nevertheless the prosecutor must provide a timely written explanation of its position.

Judges should examine the defence statement with care to ensure that it complies with the formalities required by the CPIA. As stated in R v Hand C (supra) (paragraph 35): "If material does not weaken the prosecution case or strengthen that of the defendant, there is no requirement to disclose it. For this purpose the parties' respective cases should not be restrictively analysed. But they must be carefully analysed, to ascertain the specific facts the prosecution seek to establish and the specific grounds on which the charges are resisted. The trial pro-

cess is not well served if the defence are permitted to make general and unspecified allegations and then seek far-reaching disclosure in the hope that material may turn up to make them good. Neutral material or material damaging to the defendant need not be disclosed and should not be brought to the attention of the court."

If no defence statement - or an inadequate defence statement - is served within the relevant time limits, the judge should investigate the position. At every PCMH where there is no defence statement, including those where an extension has been given, or the time for filing has not yet expired, the defence should be warned in appropriate terms that pursuant to section 6E(2) of the CPIA an adverse inference may be drawn during the trial, and this result is likely if there is no justification for the deficiency. The fact that a warning has been given should be noted.

An adverse inference may be drawn under section 11 of the CPIA if the accused fails to discharge his or her disclosure obligations. Whenever the amended CPIA regime applies, the prosecution may comment on any failure in defence disclosure (except where the failure relates to a point of law) without leave of the court, but counsel should use a measure of judgment as to whether it is wise to embark on cross-examination about such a failure.' If the accused is cross-examined about discrepancies between his evidence and his defence statement, or if adverse comment is made, the judge must give appropriate guidance to the jury."

In order to secure a fair trial, it is vital that the prosecution is mindful of its continuing duty of disclosure. Once the defence statement has been received, the Crown must review disclosure in the light of the issues identified in the defence statement. In cases of complexity, the following steps are then likely to be necessary: i. Service by the prosecution of any further material due to the defence following receipt of the defence statement. ii. Any defence request to the prosecution for service of additional specific items.

As discussed below, these requests must be justified by reference to the defence statement and they should be submitted on the section 8 form. iii. Prosecution response to the defence request. iv. If the defence considers that disclosable items are still outstanding, a section 8 application should be made using the appropriate form.

It follows that all requests by the defence to the prosecution for disclosure should be made on the section 8 application form, even if no hearing is sought in the first instance. Discussion and co-operation between the parties outside of court is encouraged in order to ensure that the court is only asked to issue a ruling when strictly necessary. However, use of the section 8 form will ensure that focussed requests are clearly set out in one place.

The judge should set a date as part of the timetabling exercise by which any application under section 8 is to be made, if this appears to be a likely eventuality.

The Court will require the section 8 application to be served on the prosecution well in advance of the hearing - indeed, prior to requesting the hearing - to enable the Crown to identify and serve any items that meet the test for disclosure.

Service of a defence statement is an essential precondition for an application under section 8, and applications should not be heard or directions for disclosure issued in the absence of a properly completed statement (see Part 22 of the Criminal Procedure Rules). In particular, blanket orders in this context are inconsistent with the statutory framework for disclosure laid down by the CPIA and the decision of the House of Lords in R v Hand C (supra).

It follows that defence requests for disclosure of particular pieces of unused prosecution material which are not referable to any issue in the case identified in the defence statement should be rejected.

it can continue to demonstrate global authority and impunity without boots on the ground and loss of US life. But that is a reflection of US weakness in the wake of Afghanistan and Iraq: dirty wars cause human misery but give limited strategic leverage.

They also create precedents. If the US and its friends arrogate to themselves the right to launch armed attacks around the world at will, other states now acquiring drone capabilities may well follow suit. Most absurdly, what is justified in the name of fighting terrorism has spread terror across the Arab and Muslim world and provided a cause for the very attacks its sponsors are supposed to be defending us against at home. The US-led dirty wars are a recipe for exactly the endless conflict Obama has promised to halt. They are laying the ground for a far more dangerous global order. The politicians and media who plead national security to protect these campaigns from exposure are themselves a threat to our security. Their secrecy and diminished footprint make them harder than conventional wars to oppose and hold to account – though the backlash in countries bearing the brunt is bound to grow. But their victims cannot be left to bring them to an end alone.

Victory for ETA Prisoners in Spain and Britain

In October, prisoners from the Basque nationalist group ETA won a significant victory when the European Court for Human Rights (ECtHR) ruled that Spain could not retrospectively raise legal limits on prison sentences. The Parot doctrine was introduced by the Spanish government in 2005, specifically to restrict the entitlement of ETA prisoners to remission or other benefits. On 21 October 2013, the ECtHR ordered the release of ETA prisoner Ines del Río. Del Rio was arrested in 1988 in Zaragoza and sentenced to 3,828 years in prison for her involvement in a number of ETA attacks, including the 1986 Plaza Republica Dominicana bombing in Madrid. She was due to be released in 2008, having been granted remission, but the government invoked the Parot doctrine to keep her in prison.. The ECtHR found that the lengthening of her sentence was a violation of the European Convention on Human Rights.

Following the ruling, the High Court in London ordered the release of Antton Troitino, a former ETA member imprisoned in HMP Long Lartin in Britain where he faced extradition to Spain for involvement in ETA bombings. Spanish courts originally sentenced him to more than 2,700 years' imprisonment, but he was released in 2011 after serving 24 years because at the time of sentencing the constitutional limit on time served was 30 years, and he had earned time off for good behaviour. Within days of his release, Spain invoked the Parot doctrine to nullify the time limit and ordered Troitino to be re-arrested. He fled the country but was eventually arrested in Britain under an international warrant in June 2013. The ECtHR ruling marks a significant victory against the Parot doctrine, which has been used exclusively and vindictively against ETA prisoners. An estimated 60 prisoners have had their time in prison extended under the doctrine; about 30 have appeals pending in Strasbourg. In November Spanish courts ordered the release of a further nine ETA prisoners, and a further 43 are expected to be freed in the coming weeks. Report by Cat Wiener

Early day motion 829: Stephen Ward

That this House notes that Stephen Ward was convicted by a jury in 1963 at the Old Bailey of living off immoral earnings; believes this to have been a miscarriage of justice brought about by an Establishment seeking to scapegoat Stephen Ward in order to deflect attention and responsibility from John Profumo; regrets that Stephen Ward was driven to suicide as a result of the witch-hunt against him; and calls on the Government to publish the transcript of the trial at the Old Bailey and the evidence provided to the Denning Inquiry into the Profumo affair, and to

family by a US Joint Special Operations Command (Jsoc) secret unit in Gardez, Afghanistan (initially claimed by the US military to have been honour killings). It then moves through a murderous cruise missile attack in Majala, Yemen, that killed 46 civilians, including 21 children; the drone assassination of the radical US cleric Anwar al-Awlaki and his 16-year-old son; and the outsourced kidnappings and murders carried out by local warlords on behalf of Jsoc and the CIA in Somalia. What emerges is both the scale of covert killings by US special forces – running 20 raids a night at one point in Afghanistan – and the unmistakable fact that these units are operating as death squads, whose bloodletting is dressed up as "targeted killings" of terrorists and insurgents for the benefit of a grateful nation back home.

When a Yemeni journalist, Abdulelah Haider Shaye, demonstrated just how targeted these killings can actually be in practice – by exposing the US slaughter at Majala – he was framed and jailed in Yemen as an al-Qaida collaborator, and his release was initially blocked by the personal intervention of Obama. Of course, the US and its friends have carried out covert assassinations and sponsored death squads for many years. But assassination and undercover killings, once criticised by the US as an unfortunate Israeli habit, are now a central part of American strategy – and the battlefield has gone global.

The number of countries in which the US Special Operations Command is operating has risen from 40 to 120. And Britain is with them every step of the way. British officials like to present their own drone operations in Afghanistan as a moral cut above those of the CIA and Jsoc. In real life, the collaboration could hardly be closer. This week Noor Khan, whose father was one of more than 40 killed in a US drone attack in Pakistan, has been at the appeal court in London demanding the British government reveal the extent of GCHQ support for such war crimes. The government is hiding behind "national security" and the special relationship. But there can be no doubt that GCHQ intelligence is used for drone attacks – just as British undercover units have been operating hand in glove with US special forces in Somalia, Mali, Libya, Iraq and Afghanistan.

As Theresa May has been stripping British Muslims suspected of fighting for al-Shabaab in Somalia of their citizenship, just in time for them to be killed or kidnapped by US special forces, evidence has emerged that British special forces themselves killed a British recruit, Tufail Ahmed, there last year. Britain has plenty of experience of its own dirty wars, of course. BBC's Panorama programme last month broadcast interviews with members of a former undercover army unit in Northern Ireland (several of whose officers had taken part in colonial campaigns) that carried out a string of drive-by shootings of unarmed civilians in Belfast in the 1970s. "We were there to act like a terror group," one veteran explained. Just like the US special forces in Gardez, they mounted regular cover-ups and struggled to accept the people they killed had not been "terrorists".

The assumption that they were taking out the bad guys, armed or unarmed, clearly trumped the laws of war. The same goes for the war on terror on a far bigger scale. Drone strikes are presented as clean, surgical attacks. In reality, not only does the complete absence of risk to the attacking forces lower the threshold for their use. But their targets depend on intelligence that is routinely demonstrated to be hopelessly wrong. In many cases, far from targeting named individuals, they are "signature strikes" against, say, all military-age males in a particular area or based on a "disposition matrix" of metadata, signed off by Obama at his White House "kill list" meetings every Tuesday. Which is why up to 951 civilians are estimated to have been killed in drone attacks in Pakistan alone, and just 2% of casualties are "high value" targets.

At best, drone and special forces killings are extrajudicial summary executions. More clearly, they are a wanton and criminal killing spree. The advantage to the US government is that

Judges must ensure that defendants are not prejudiced on account of the failures of their lawyers, and, when necessary, the professions should be reminded that if justice is to be done, and if disclosure is to be dealt with fairly in accordance with the law, a full and careful defence statement and a reasoned approach to section 8 applications are essential. In exploring the adequacy of the defence statement, a judge should always ask what the issues are and upon what matters of fact the defendant intends to rely" and on what matters of fact the defendant takes issue.

Sufficient time is necessary for the judge properly to undertake the PCMH, and this is a paramount consideration when listing cases. Unless the court is able to sit early, judges who are part heard on trials are probably not best placed to conduct PCMHs.

Cases that raise particularly difficult issues of disclosure should be referred to the Resident Judge for directions (unless a trial judge has been allocated) and, for trials of real complexity, the trial judge should be identified at an early stage, prior to the PCMH if possible. Listing officers, working in consultation with the Resident Judge and, if allocated, the trial judge, should ensure that sufficient time is allowed for judges to prepare and deal with prosecution and defence applications relating to disclosure, particularly in the more complex cases.

Large and complex cases in the Crown Court

Disclosure is a particular problem with the larger and more complex cases, which require a scrupulous approach by the parties and robust case management by the judiciary. If possible, the trial judge should be identified at the outset.

The legal representatives need to fulfil their duties in this context with care and efficiency; they should co-operate with the other party (or parties) and the court; and the judge and the other party (or parties) are to be informed of any difficulties, as soon as they arise. The court should be provided with an up-to-date timetable for disclosure whenever there are material changes in this regard. A disclosure-management document, or similar, prepared by the prosecution will be of particular assistance to the court in large and complex cases.

Judges should be prepared to give early guidance as to the prosecution's approach to disclosure, thereby ensuring early engagement by the defence.

Cases of this nature frequently include large volumes of digitally stored material. The Attorney General's 2011 guidance is of particular relevance and assistance in this context:

Applications for witness anonymity orders require particular attention; as the Court of Appeal noted in R v MQyers and Others [2008] EWCA Crim 2989; [2009] 1 Cr App R 30, in making such an application, the prosecution's obligations of disclosure "go much further than the ordinary duties of disclosure".

If the judge considers that there are reasonable grounds to doubt the good faith of the investigation, he or she will be concerned to see that there has been independent and effective appraisal of the documents contained in the disclosure schedule and that its contents are adequate. In appropriate cases where this issue has arisen and there are grounds which show there is a real issue, consideration should be given to receiving evidence on oath from the senior investigating officer at an early case management hearing.

Material held by Third Parties

Where material is held by a third party such as a local authority, a social services department, hospital or business, the investigators and the prosecution may need to make enquiries of the third party, with a view to inspecting the material and assessing whether the relevant test for disclosure is met and determining whether any or all of the material should be

retained, recorded and, in due course, disclosed to the accused. If access by the prosecution is granted, the investigators and the prosecution will need to establish whether the custodian of the material intends to raise PII issues, as a result of which the material may have to be placed before the court for a decision. This does not obviate the need for the defence to conduct its own enquiries as appropriate. Speculative enquiries without any proper basis in relation to third party material - whether by the prosecution or the defence - are to be discouraged, and, in appropriate cases, the court will consider making an order for costs where an application is clearly unmeritorious and misconceived.

The 2013 Protocol and Good Practice Model on Disclosure of Information in Cases of Alleged Child Abuse and Linked Criminal and Care Directions Hearings has recently been published. It provides a framework and timetable for the police and CPS to obtain discloseable material from local authorities, and for applications to be made to the Family Court. It is applicable to all cases of alleged child abuse where the child is aged 17 years or under. It is not binding on local authorities, but it does represent best practice and therefore should be consulted in all such cases.

Delays in obtaining this type of material have led to unacceptable delays to trials involving particularly vulnerable witnesses and every effort must be made to ensure that all discloseable material is identified at an early stage so that any necessary applications can be made and the defence receive material to which they are entitled in good time.

There is no specific procedure for disclosure of material held by third parties in criminal proceedings, although the procedure established under section 2 of the Criminal Procedure (Attendance of Witnesses) Act 1965 or section 97 of the Magistrates' Courts Act 1980 is often used for this purpose. Where the third party in question declines to allow inspection of the material, or requires the prosecution to obtain an order before providing copies, the prosecutor will need to consider whether it is appropriate to obtain a witness summons under either section 2 of the Criminal Procedure (Attendance of Witnesses) Act 1965 or section 97 of the Magistrates' Court Act 1980. Part 28 of the Criminal Procedure Rules and paragraphs 3.5 and 3.6 of the Code of Practice under the CPIA 1996 should be followed.

Applications for third party disclosure must identify the documents that are sought and provide full details of why they are discloseable. This is particularly relevant when access is sought to the medical records of those who allege they are victims of crime. It should be appreciated that a duty to assert confidentiality may arise when a third party receives a request for disclosure, or the right to privacy may be claimed under article 8 of the ECHR (see in particular Crim PR Part 28.6).

Victims do not waive the confidentiality of their medical records, or their right to privacy under article 8 of the ECHR, by making a complaint against the accused. The court, as a public authority, must ensure that any interference with the right to privacy under article 8 is in accordance with the law, and is necessary in pursuit of a legitimate public interest. General and unspecified requests to trawl through such records should be refused. Confidentiality rests with the subject of the material, not with the authority holding it.

The subject is entitled to service of the application and has the right to make representations: Criminal Procedure Rule 22.3 and R (on the application of B) v Stafford Combined Court [2006] EWHC 1645 (Admin); [2006] 2 Cr App R 34. The 2013 Protocol and Good Practice Model at paragraph 13 should be followed. It is likely that the judge will need to issue directions when issues of this kind are raised (e.g. whether enquiries with the third party are

Clifton Jeter Confrontation With Prison Staff Who's Telling the Truth?

According to the Mail Online 29/12/13, Clifton attacked two custody officer in the segregation unit of HMP Manchester on the 22nd of November this year. They said "The two wardens were slashed with a makeshift weapon made out of a razor blade melted into the head of a toothbrush while they escorted inmates to a segregation unit. One of the warders needed stitches after being left with a five-inch gash across the back of his neck. The other officer suffered cuts to his face, arm and leg." The Manchester Evening News, reported this incident under the heading, 'Strangeways jail 'slasher' has history of attacking prison staff'.

However MOJUK would like to hear Jeter's version of event as in a letter to MOJUK in 2011, he was adamant that he had been the subject of serial racist attacks from prison staff. MOJUK more than suspect that prison staff never learn, never change the way they treat inmates. [Letter from Clifton Jeter Circa July 2011. I have suffered from racism and brutality whilst incarcerated and currently serving a life sentence. I have been assaulted and then criminally charged for assault, for prison staff to justify such behaviour. They have made false allegations and said they had to use force in order to protect themselves and their colleagues.

In HMP Full Sutton segregation unit I was punched and kicked repeatedly while lying face down on the floor. They managed to have me charged with three assaults. I was also racially abused and threatened in HMP Frankland. under stress and seriously frustrated because of the lack of help I received from staff at HMP Frankland, I was threatened and I lashed out in a preemptive strike of self-defence.

I was criminally charged for assaulting two prison officers and won a partial victory in Newcastle crown court earlier this year. I'm keen to hear from prisoners who have been assaulted by officers at Full Sutton. Your experiences may be of assistance for the up-coming trial. To add insult to injury health care staff, who witnessed the injuries, failed to make full reports in fear of rocking the boat amongst their colleagues and friends. I am still in segregation, it will be a year in August. I am being held in HMP Long Lartin.]

Word has it that Clifton is currently in HMP Wakefield segregation, waiting to be moved into the Close Supervision Centre (CSC) Unit, when Charlie Bronson is moved to HMP Woodhill. Clifton has a criminal charge S18 coming up. He seems to be in good spirits.

Clifton Jeter, A3734AE, HMP Wakefield, Love Lane, Wakefield , WF2 9AG

Britain is up to its Neck in US Dirty Wars and Death Squads

The war on terror is now an endless campaign of drone and undercover killings that threatens a more dangerous world Seumas Milne, The Guardian, Wednesday 4 December 2013. You might have thought the war on terror was finally being wound down, 12 years after the US launched it with such disastrous results. President Obama certainly gave that impression earlier this year when he declared that "this war, like all wars, must end". In fact, the Nobel peace prize winner was merely redefining it. There would be no more "boundless global war on terror", he promised. By which he meant land wars and occupations are out for now, even if the US is still negotiating for troops to remain in Afghanistan after the end of next year. But the war on terror is mutating, growing and spreading. Drone attacks, which have escalated under Obama from Pakistan to north Africa, are central to this new phase. And as Dirty Wars – the powerful new film by the American journalist Jeremy Scahill – makes clear, so are killings on the ground by covert US special forces, proxy warlords and mercenaries in multiple countries.

Scahill's film noir-style investigation starts with the massacre of a police commander's

which had been provided allowed Mr Corey to instruct his advisers effectively, and so article 5(4) was complied with. This Court refused Mr Corey permission to appeal on that issue. Whether the High Court could grant him bail is therefore academic, but important enough that this Court allowed the appeal to proceed on that issue.

Reasons for the judgment: Lord Kerr, with whom the other Justices agree, concludes that the High Court in Northern Ireland has an inherent jurisdiction to grant bail [18–19], provided certain conditions are met. The question is whether those conditions are met in this case. They are that it is (a) necessary for the effective disposal of Mr Corey's claim and (b) not contrary to the purpose or spirit of the legislation in question that the court should have power to order his release pending reconsideration of his case by the commissioners [21–22].

The judge's order that the review of Mr Corey's detention had not been conducted lawfully and that it should be reconsidered was, on its own terms, a full vindication of the right which the appellant had asserted. On that ground alone, the judge did not have power to order Mr Corey's release [27].

It is important to bear in mind that in the present case the lawfulness of Mr Corey's detention on foot of his recall to prison was not directly in issue. The focus of his challenge was to the commissioners' failure to direct his immediate release and the manner in which their determination was made [25].

In any event, an inherent jurisdiction to order release in the circumstances of this case would run directly counter to the operation of the legislation in question in this case: the Life Sentences (Northern Ireland) Order 2001. One of the principal philosophies underlying the Order is expressed in article 6(4) which provides that the commissioners shall not direct a prisoner's release unless satisfied that his confinement is no longer necessary to protect the public from serious harm.And article 3(2) requires that the commissioners have expertise from a variety of fields: one must hold or have held judicial office; one must be a psychiatrist; one must be a chartered psychologist; one must have experience of working with victims of crime; and must have expertise in the causes of delinquency or the treatment of offenders. This requirement reflects the need to have available a range of specialists who can contribute to what must often be a difficult debate as to whether the rigorous test set out in article 6(4) is satisfied. Put simply, the legislature has placed in the hands of a panel of experts the difficult decision as to when a life sentence prisoner should be released. Their role should not be supplanted by a judge who does not have access to the range of information and skills available to the commissioners [31–33].

Lord Kerr notes in passing the European Court of Human Rights' recent judgment in James v United Kingdom (2012) 56 EHRR 399, which appeared to suggest that, if a prisoner has not had a chance to take the steps necessary to meet the conditions for release, his detention would breach article 5(1) of the European Convention during those periods. Article 5(1) allows states to imprison people only when justified by law, and requires prisoners not lawfully detained to be released. Since it is unnecessary to decide the question in this case, Lord Kerr would defer decision on it until necessary.

Lord Mance, with whom the remaining Justices agree, suggests that James should be interpreted as arising only from a secondary obligation, implied by article 5(1), to progress prisoners through the prison system. Such a breach would not require a prisoner to be released, but would entitle him to damages. These observations do not form part of the reasoning on which the judgment in this case was based. *References in square brackets are to paragraphs in the judgment.*

likely to be appropriate; who is to make the request; what material is to be sought, and from whom; and a timetable should be set).

The judge should consider whether to take any steps if a third party fails, or refuses, to comply with a request for disclosure, including suggesting that either of the parties pursue the request and, if necessary, make an application for a witness summons. In these circumstances, the court will need to set an appropriate timetable for compliance with Part 28 of the Rules. Any failure to comply with the timetable must immediately be referred back to the court for further directions, although a hearing will not always be necessary. Generally, it may be appropriate for the defence to pursue requests of this kind when the prosecution, for good reason, decline to do so and the court will need to ensure that this procedure does not delay the trial.

There are very limited circumstances in which information relating to Family Court proceedings (e.g. where there have been care proceedings in relation to a child who has complained to the police of mistreatment) may be communicated without a court order: see the Family Procedure Rules 12.73. Reference should be made to the 2013 Protocol and Good Practice Model. In most circumstances, a court order will be required and paragraph 11 of the Protocol which sets out how an application should be made should be followed.

Other Government Departments

Material held by other government departments or other Crown agencies will not be prosecution material for the purposes of section 3(2) or section 8(4) of the CPIA if it has not been inspected, recorded and retained during the course of the relevant criminal investigation. The CPIA Code of Practice and the Attorney General's Guidelines on Disclosure, however, impose a duty upon the investigators and the prosecution to pursue all reasonable lines of inquiry and that may involve seeking disclosure from the relevant body.

Applications for Non-Disclosure in the Public Interest

Applications in this context, whenever possible, should be considered by the trial judge. The House of Lords in R v Hand C (supra) has provided useful guidance as to the proper approach to be applied (paragraph 36): "When any issue of derogation from the golden rule of full disclosure comes before it, the court must address a series of questions: (1) What is the material which the prosecution seek to withhold? This must be considered by the court in detail. (2) Is the material such as may weaken the prosecution case or strengthen that of the defence?

If No, disclosure should not be ordered. If Yes, full disclosure should (subject to (3), (4) and (5) below) be ordered. (3) Is there a real risk of serious prejudice to an important public interest (and, if so, what) if full disclosure of the material is ordered? If No, full disclosure should be ordered. (4) If the answer to (2) and (3) is Yes, can the defendant's interest be protected without disclosure or disclosure be ordered to an extent or in a way which will give adequate protection to the public interest in question and also afford adequate protection to the interests of the defence?

This question requires the court to consider, with specific reference to the material which the prosecution seek to withhold and the facts of the case and the defence as disclosed, whether the prosecution should formally admit what the defence seek to establish or whether disclosure short of full disclosure may be ordered.

This may be done in appropriate cases by the preparation of summaries or extracts of evidence, or the provision of documents in an edited or anonymised form, provided the documents supplied are in each instance approved by the judge. In appropriate cases the appointment of special counsel may be a necessary step to ensure that the contentions of the prosecution are tested and the interests of the defendant protected (see para 22 above). In

cases of exceptional difficulty the court may require the appointment of special counsel to ensure a correct answer to questions (2) and (3) as well as (4). (5) Do the measures proposed in answer to (4) represent the minimum derogation necessary to protect the public interest in question? If No, the court should order such greater disclosure as will represent the minimum derogation from the golden rule of full disclosure. (6) If limited disclosure is ordered pursuant to (4) or (5), may the effect be to render the trial process, viewed as a whole, unfair to the defendant? If Yes, then fuller disclosure should be ordered even if this leads or may lead the prosecution to discontinue the proceedings so as to avoid having to make disclosure. (7) If the answer to (6) when first given is No, does that remain the correct answer as the trial unfolds, evidence is adduced and the defence advanced? It is important that the answer to (6) should not be treated as a final, once-andfor-all, answer but as a provisional answer which the court must keep under review." ([2004] 2 AC 134, at 155-156)

In this context, the following matters are to be emphasised: a. The procedure for making applications to the court is set out in the Criminal Procedure Rules, Part 22; b. When the PII application is a Type 1 or Type 2 application, proper notice to the defence is necessary to enable the accused to make focused submissions to the court and the notice should be as specific as the nature of the material allows.

It is appreciated that in some cases only the generic nature of the material can be identified. In some wholly exceptional cases (Type 3 cases) it may be justified to give no notice at all. The judge should always ask the prosecution to justify the form of notice (or the decision to give no notice at ali). c. The prosecution should be alert to the possibility of disclosing a statement in a redacted form by, for example, simply removing personal details. This may obviate the need for a PII application, unless the redacted material satisfies the test for disclosure. d. Except when the material is very short (for instance only a few sheets), or for reasons of sensitivity, the prosecution should supply securely sealed copies to the judge in advance, together with a short statement explaining the relevance of each document, how it satisfies the disclosure test and why it is suggested that disclosure would result in a real risk of serious prejudice to an important public interest; in undertaking this task, the use of merely formulaic expressions is to be discouraged. In any case of complexity a schedule of the material should be provided, identifying the particular objection to disclosure in relation to each item, and leaving a space for the judge's decision. e. The application, even if held in private or in secret, should be recorded.

The judge should give some short statement of reasons; this is often best done document by document as the hearing proceeds. f. The recording, copies of the judge's orders (and any copies of the material retained by the court) should be clearly identified, securely sealed and kept in the court building in a safe or locked cabinet consistent with its security classification, and there should be a proper register of the contents. Arrangements should be made for the return of the material to the prosecution once the case is concluded and the time for an appeal has elapsed.

Conclusion: Historically, disclosure was viewed essentially as being a matter to be resolved between the parties, and the court only became engaged if a particular issue or complaint was raised. That perception is now wholly out of date. The regime established under the Criminal justice Act 2003 and the Criminal Procedure Rules gives judges the powerindeed, it imposes a duty on the judiciary - actively to manage disclosure in every case. The efficient, effective and timely resolution of these issues is a critical element in meeting the overriding objective of the Criminal Procedure Rules of dealing with cases justly.

Application by Martin Corey (AP) for Judicial Review

Judgment: The Supreme Court unanimously dismisses Mr Corey's appeal.

Justices: Lord Mance, Lord Kerr, Lord Clarke, Lord Hughes, and Lord Toulson

Background To The Appeals: This appeal is about the jurisdiction of the High Court to grant bail. In 1973 Martin Corey was sentenced to life imprisonment for murdering two police officers. The respondent, the Secretary of State for Northern Ireland, released him on licence in 1992. The Secretary of State referred Mr Corey's case to the parole commissioners on 13 April 2010 to ask whether his licence should be revoked. The next day a single parole commissioner recommended that it should be. That recommendation was based on material the Secretary of State supplied, including confidential information from the security services. The Secretary of State accordingly revoked Mr Cory's licence on 15 April 2010. Mr Corey was taken into custody the next day and has been in prison since then.

Mr Corey's case was then referred, as required, to the commissioners. The Secretary of State provided information including a gist of material he had certified as confidential. The single commissioner who initially considered the case read these and the confidential material itself. In accordance with her recommendation, a full panel of commissioners considered Mr Corey's case at a closed hearing on 25 January 2011. His interests were represented by a special advocate, who, like the panel, was entitled to see a statement of all open and closed material relevant to the case, including anything undermining the Secretary of State's case. Mr Cory and his own legal representatives were allowed to see a similar statement in respect of the open material, but not of the closed material.

On 15 August 2011 the panel gave both closed and open judgments. In the open judgment, they stated that Mr Corey had become involved in the Continuity Irish Republican Army from early 2005 and was in a position of leadership in it from 2008 until his recall to prison. Since the panel were satisfied that Mr Corey posed a risk of serious harm to the public, they were required to refuse to direct his release.

Mr Cory sought judicial review of the commissioners' decision on the grounds (among others) (1) that the gist disclosed inadequate information and (2) that the refusal to direct his release had been based solely or to a decisive degree on the closed material and so breached article 5(4) of the European Convention on Human Rights. Article 5(4) provides, 'Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.'

Mr Justice Treacy held on 9 July 2012 that the commissioners' decision was indeed based solely or decisively on the closed material. He further found that the allegations in the open material were not specific enough to allow Mr Corey, through his lawyers and the special advocate, to refute them. The commissioners' hearing therefore breached his 'right to procedural fairness' under article 5(4). Instead of quashing the commissioners' decision, however, Mr Justice Treacy directed them to reconsider the case in accordance with his ruling. He also gave Mr Corey bail pending their decision, since his detention would be in the meantime unlawful. The Secretary of State immediately applied for a stay of that order and appealed it.On 11 July 2012 the Court of Appeal decided that the judge did not have power to grant bail, and so stayed that grant. This Court granted Mr Corey permission to appeal on the bail issue. Meanwhile, the Court of Appeal allowed the Secretary of State's appeal on the article 5(4) issue, which had been heard separately. The Court of Appeal concluded that the material