cated team of detectives to continue the investigation into the death of Stephen Lawrence. We have put in place a succession plan, which includes the appointment of a new experienced senior investigating officer, which we will discuss privately with the family and other interested parties. DCI Driscoll will continue to retain a key role in the Lawrence investigation until his retirement in June, which will include a thorough handover to his successor." 18-year-old aspiring architect Mr Lawrence was stabbed to death by a group of up to six white youths in an unprovoked racist attack as he waited at a bus stop in Eltham, London, on 22 April 1993.

Old Bailey Bomber Marian Price Walks Free From Court *Belfast Telegraph, 07/01/14*

McGlinchey had previously admitted a charge of buying the mobile phone used by the Real IRA to claim responsibility for the murders of two British soldiers outside Massereene Army Barracks in March 2009. The 59-year old, from Stockman's Avenue in west Belfast, also admitted helping out at an Real IRA Easter commemoration in April 2011, during which she was pictured holding a statement for a masked man in a Londonderry cemetery.

Sentencing McGlinchey, Judge Gordon Kerr QC told the court McGlinchey had a "significant conviction for terrorist activity" in reference to two life sentences imposed in November 1974 for her role in the Old Bailey bombing. The Judge did, however, tell the court that pre-sentence reports presented to him suggested McGlinchey was "no longer interested in political activity".

He also spoke of McGlinchey's physical and psychiatric problems, saying sending her back to jail would result in a worsening of her mental health. The court heard McGlinchey suffered from "psychotic depression" as well as a number of physical ailments including arthritis and the risk of TB. The Judge told Belfast Crown Court "there is no doubt she (McGlinchey) has significant health problems."

McGlinchey pleaded guilty to providing property for the purposes of terrorism on March 8, 2009, and for this she was handed a 12-month prison sentence. She also admitted aiding and abetting, counselling and procuring the address made to encourage support for the Real IRA at the Easter Rising parade in Londonderry on April 25, 2011, for which she received an eight month sentence. Judge Kerr ordered that the sentences run concurrently, which he then suspended for three years.

She also admitted aiding and abetting, counselling and procuring the address made to encourage support for the Real IRA at the Easter Rising parade in Derry on April 25, 2011, for which she received a nine-month sentence. During the commemoration, a masked man read a statement on behalf of the Real IRA, supporting the aims of the dissident organisation. During this address, McGlinchey held the statement for the masked man.

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, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland,

Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Fax: 087 2023 1623

MOJUK: Newsletter 'Inside Out' No 459 (09/01/2014)

Sentences of Hundreds of Years to Avoid ECtHR Ban on 'Life Tariffs'

Ian Johnston, The Guardian, Wednesday 01 January 2014

People convicted of murder and other serious offences could be given prison sentences of hundreds of years to avoid a European human rights ban on life sentences, according to a report. The Daily Telegraph said ministers were considering the introduction of US-style sentences after the European Court of Human Rights ruled last year that "whole-life" tariffs were a violation of human rights law because there was no "right to review". The paper said at least one multiple murderer had not received a whole-life sentence because of the ruling. There are currently 49 people serving whole-life terms in England and Wales, including Mark Bridger, 47, who murdered Welsh schoolgirl April Jones in May last year. He has appealed against his whole-life sentence.

A Government source said: "The European Court of Human Rights seems to be making decisions a million miles away from what the vast majority of the public think. "They don't want any possibility of the most horrible of criminals walking the streets again, and this plan could be a way to make sure that doesn't happen." Long sentences could still be reviewed and would therefore appear to comply with the convention, even if the prisoner would die long before his release date.

'When there is no Hope, Life doesn't Mean Life. It Means Death'

Crime and Punishment: Why Throwing Away the Key Doesn't Work *Archie Bland, Indpendent,*

Douglas Vinter will die in prison. So he deserves to do: he is a double murderer who strangled and stabbed his wife, Anne White, in 2008 while free on licence for the killing of Robert Eden, a railway worker, more than a decade earlier. "The extreme violence which you used is described as continuing," the judge said as he passed sentence. "You therefore fall into that small category of people who should be deprived permanently of their liberty."

Many offenders are sentenced to "life". After serving a certain minimum tariff, which might be 10, 15 or 30 years, they become eligible for parole: a portion of their sentence is punitive, and after that the length of their stay in prison depends on the prospect of rehabilitation. But that will not be the case for Vinter. What the judge meant was that he would be given a whole-life sentence. Not only has the court decided he should spend the rest of his days in prison – it has decided that his case should never come up for review.

Under such sentences, available since the 2003 Criminal Justice Act, the only theoretical route to release is if a prisoner is terminally ill and a minister considers him deserving of compassion. One of the criteria for this exception is if "further imprisonment would reduce life expectancy" – that is, would reduce the length of his sentence, which lasts exactly as long as his heart continues to beat. In any case, no prisoner serving a whole-life term has been freed on such grounds since the law was introduced.

It is generally assumed that such a sentence ends the violence of a man like Vinter. In fact, it has nurtured it. Whatever he deserves, giving him no hope of freedom means he has no incentive to control himself. Dr Stephanie Hill, a consultant in forensic and clinical psychology who assessed him, warned in a submission to the European Court of Human Rights (ECHR) that he has "little concern for others in light of his whole-life order and this lack of concern

has recently manifested itself in an assault on another inmate".

Three years ago, Vinter explained his attitude in a letter to The Guardian written from the segregation unit where he said he had been sent for stabbing someone. He had been given, he felt, "an invisible licence that said I can breach any laws I want … I said to the governor, don't waste any money on investigations, just give me another life sentence for my collection. They don't mean anything any more." Soon after that, he stabbed Roy Whiting – the killer in 2000 of seven-year-old Sarah Payne – in the eye, using the sharpened handle of a toilet brush.

To think that a justice system that condemns some people to a lifelong existence without hope is flawed, you don't need to feel any sympathy for this man. You don't have to believe in the possibility of change. All you have to feel is that it's desirable for Douglas Vinter to believe in it. Because when Douglas Vinter has some prospect, however faint, however distant, however unlikely, of release, he has an incentive to not stab people in the eye.

Under such a system, Douglas Vinter might get a review of his case after 25 years. If he did not satisfy the parole board that he was likely to be one of the 98 per cent of mandatory lifers who do not reoffend, he would not be released. Granting him an infinitesimal hairline of hope would have cost nothing. Instead, says Alison Liebling, director of the Prisons Research Centre at Cambridge University's Institute of Criminology, we put such prisoners – there are about 50 in the UK – in a world of futility. "You create this environment of no hope, no meaning," she says. "When you've ruled out the possibility of atonement, most of the ways out are dangerous."

This is not liberal weediness. It is a cold, rational analysis of the facts. It is, unfortunately, not an analysis that the Government is minded to consider. Last year, to the familiar snap of knees jerking, Vinter, along with two other convicted murderers serving whole-life sentences, won an appeal to the ECHR. As the court was at pains to make clear, this decision did not mean that there was any imminent prospect of release.

All the judgment said was that it had to be possible. The British government's response to this has not been a substantive engagement with the legal and moral argument. Instead, it has decided to launch ad hominem assaults on the ECHR for having the temerity to apply a set of rights that we ought to be proud to see as British.

And last week, in a grotesquely immature response to such a solemn judgment, the Government has mooted a workaround: if we can't send people to prison for the rest of their natural lives, it has said, we'll send them for 100 years.

The Government's pitch on the subject has been deeply, and perhaps deliberately, confusing: it has briefed that such jail terms would allow reviews, thus satisfying the court. But you could just as well incorporate that right into the current whole-life sentencing regime. And David Cameron's bombastic public remarks seemed to suggest the opposite. "Life should mean life," he insisted. "Whatever the European Court has said we must put in place arrangements to make sure that that can continue."

There is something sickeningly enthusiastic in this assertion: a politicised determination to nurture total despair. The debate reached an absurd pitch when the Attorney General, Dominic Grieve, complained that the sentence meted out to a double murderer who killed again while on day release was unduly lenient, and referred it to the Court of Appeal. After the European ruling, Ian McLoughlin had been given a life sentence with a 40-year minimum term. By the time he is even eligible for parole, he will be 95. Or dead.

Besides anything else, all this "seems absolutely pointless", says Matthew Evans, who spent six years as managing solicitor of the Prisoners' Advice Service. "The review proce-

Delayed inquest: Fifteen-year-old Arlene, from Castlederg, County Tyrone, went missing in August 1994 after a night out at a disco in Bundoran, County Donegal. Her body has never been found. In 2005, Howard, who formerly lived near her home, was acquitted of her killing. The jury was unaware that by then he was already serving life for raping and killing a girl from south London. Fourteen-year-old Hanna Williams' body was found at a cement works in Northfleet, Kent, in March 2002. A long-delayed inquest into the circumstances surrounding Arlene's disappearance is due to begin in Omagh in April and last for up to nine weeks.

Howard has already failed in a previous High Court bid to block the inquest. His legal team claimed the move was an attempt to undermine the not guilty verdict returned against him in 2005. They argued that the inquest was being used as a way of reopening issues surrounding the case because the Arkinson family was unhappy with the outcome of the criminal trial. In 2011, a judge dismissed his application for a judicial review of the decision to hold a tribunal. He is now set to give evidence at the inquest via video-link from prison.

Outside the court, his lawyer acknowledged that Howard remains the prime suspect for the schoolgirl's disappearance. He said: "Mr Howard has been tried once for Arlene's murder and could potentially face a further trial. The jury could possibly reach critical findings against him which could form the basis of a further prosecution so it is imperative therefore that Mr Howard is afforded an equal opportunity to examine witnesses and elicit other evidence."

Doreen Lawrence 'Furious' As Top Detective Forced To Quit

Lizzie Dearden, Indpendent, Monday 06 January 2014

Baroness Lawrence, who was honoured with a peerage for her years of campaigning for justice for her son Stephen, said she was “furious” that Detective Chief Inspector Clive Driscoll was leaving the investigation. She told the Daily Mirror: “It seems the clearest sign yet that the Met is planning on winding down the investigation and that is wrong. Having battled for so many years, I want to see full justice for Stephen.”

In January 2012, Gary Dobson and David Norris were sentenced to life in prison after being found guilty of involvement in the 1993 stabbing. The cold case was reopened after a forensic review found significant new scientific evidence on clothing seized from their homes following the murder. Police believe more people were involved but no other suspects have been prosecuted.

A public inquiry headed by Sir William Macpherson in 1998 found the Metropolitan Police was ”institutionally racist” in its handling of the original investigation. Several investigations into professional standards and misconduct within the force have also been carried out.

Mrs Lawrence, 61, said: “I’ve always considered the convictions in 2012 as a partial justice and I don’t want the investigation stopped until all those responsible for Stephen’s death have been jailed. “Clive has been an integral part of that process to bring two of the killers to justice – no one knows the case better than he does and to take him off it is wrong. He is the first officer I have trusted and the only one to have delivered in the investigation.”

DCI Driscoll has been working on the case, codenamed Operation Fishpool, for nearly eight years and was instrumental in securing the two convictions. He told the Daily Mirror the decision to take him off the investigation was “made above” him but said he would “always help Stephen's family and friends” if he can.

A spokesman for the Metropolitan Police said DCI Driscoll is retiring in June after more than 30 years in the service. He added: “The MPS remain firmly committed to retaining a dedi-

Sadiq Khan, the shadow justice secretary, said: "This decision is a humiliating admission that the Ministry of Justice is not able to get value for money and good service from the private sector. "The fact that the Ministry of Justice has decided not to give the contract for lie detectors to the likes of G4S and Serco is very embarrassing for Chris Grayling. We now need him and the Ministry of Justice to eat a bit more humble pie and stop the dangerous privatisation of probation which is taking huge risks with public safety with no evidence that it will work." Labour is considering banning contractors such as Serco and G4S from winning further tenders if the party wins the next general election, the Independent reported last month. The two companies are barred from entering a planned £500m-a-year contract for probation services as lead bidders.

A G4S spokeswoman said: "It's not our practice to comment on tenders for reasons of commercial confidentiality. We cannot comment on why the Ministry of Justice may have delayed this exercise, as that is clearly a matter for them." Serco said: "We have no plans to bid for this contract."

Insiders believe the programme could be delayed for about nine months before the first testing takes place, though the Ministry of Justice said it expected only a short delay for training. "We considered options in light of investigations into G4S and Serco," said a spokesman. "People will speculate as to their involvement but a competition was never under away." The Government claims the contracts could save taxpayers up to £200m a year with all but the most serious offenders under the supervision of the private sector.

The use of the polygraph is set to expand rapidly within the criminal justice system. Some experts believe it can be used to expose many more offences committed by individual sex offenders, who may have a greater incentive than some other criminals to cover up crimes that spark public revulsion. The polygraph - widely used in the US - measures breathing, heart rates and sweating in response to questioning which would suggest if the subject has been lying.

Despite conditional backing from the NSPCC, concerns over its accuracy mean the results of any tests cannot be used as evidence in criminal trials. Police officers in South Yorkshire will use it to assess the offenders on bail or probation and target their investigations after training in Texas. It followed test studies by Hertfordshire police, which is also considering its wider use. Under the Hertfordshire pilot, suspects arrested for downloading child abuse images were offered voluntary polygraph testing in return for fast-tracking their cases. Of more than 30 low-risk suspects who took the test, only eight remained in that category afterwards with three men disclosing they had offended in the past. Concerns were raised about others that triggered further investigations, said Don Grubin, professor of Forensic Psychiatry at Newcastle University who oversaw the tests.

Arlene Arkinson Inquest: Legal Aid Granted *BBC News, 06/01/14*

A convicted child killer and rapist has been granted legal aid for an inquest into the death of a schoolgirl he was cleared of murdering, a court has been told. Justice Minister David Ford has approved funding for Robert Howard to be represented at the hearing to examine the disappearance of Arlene Arkinson. Howard is seen as a crucial witness. Mr Justice Horner was told that approval was reached on Christmas Eve.

Howard is expected to be called as a witness. The court was told that he may further challenge the decision to authorise legal aid payment for just one counsel. The 69-year-old launched judicial review proceedings in a bid to force the authorities into a determination on his legal aid application. Counsel for Howard said: "Effectively proceedings have served their purpose".

dure would be done by the High Court, and I cannot see a High Court looking at certain whole-life tariffs and saying actually they're free to go. Judges aren't falling over themselves to release people convicted of these offences."

All that is being asked for is a chink of light. Ann Power-Forde, an Irish judge of the European Court, made a good case for the reasons why this is important in her assenting opinion. "Those who commit the most abhorrent and egregious of acts and who inflict untold suffering upon others," she wrote, "nevertheless retain their fundamental humanity and carry within themselves the capacity to change. Long and deserved though their prison sentences may be, they retain the right to hope that, some day, they may have atoned for the wrongs which they have committed. They ought not to be deprived entirely of such hope."

To run through the list of prisoners who have been subjected to whole-life sentences in Britain is not to find yourself instinctively howling at injustice. These people have committed crimes of such premeditated wickedness that it is only natural to want to throw away the key. "There are some very horrible crimes," acknowledges Professor Dirk van Zyl Smit, an expert in life sentences at the University of Nottingham. "You think of Dr [Harold] Shipman or something – where the retributive period must be very long,"

"I can see why a judge would say, in a truly extreme case like that, that you must be inside for ever," he adds. But Article 3 of the Human Rights Act, the law by which Britain adopted the principles of the European Convention on Human Rights, does not make exceptions for the worst among us. "It's precisely that sort of understandable reaction that should be examined again some years later, when emotions have cooled," says Professor van Zyl Smit. "Such people deserve long sentences. But the question is whether they deserve for ever."

For the moment, then, set aside the practical considerations about the behaviour of such people as Douglas Vinter, and ask: what does it do to a person to face a life without hope? What does it mean to be 50, and to be told you will be locked away for 100 years?

Alison Liebling, who conducted two major studies, 12 years apart, at HM Prison Whitemoor, says that the lifer's lot is a distinctive one. "You see these quite young prisoners facing unimaginably long times in prison, longer than they've been alive, and they can't get their heads round it," she says. "They say, really blandly, 'For the first four or five years I had trouble with my emotions.' And anything can happen to them, really." Such prisoners are understood by their fellow inmates to have nothing to lose. "They get used by other prisoners, targeted and asked to carry out violent acts on their behalf. They become usable commodities." Dr Liebling has a chilling formulation for the effect on a prisoner of the decision to lock them up for ever, hence abandoning any gesturetowards rehabilitation: they stop being people, she says, and become "sites of physical danger".

Some do find a way to navigate this. "They can be mature, reflective... they find a way, perhaps they're fighting their convictions, because actually they find it psychologically impossible to give up on hope and live," says Liebling. For others, the consequence in the end is a sort of bovine docility. "At the beginning of the sentence there is often a lot of friction or trouble, a difficulty in acceptance," says Matthew Evans. "In the end, most prisoners would say that lifer wings are pretty placid places."

And there will always be those like Douglas Vinter. In a documentary last year, Lifers, Channel 4 spoke to Philip Hegarty, given a whole-life sentence after he murdered his best friend with a hammer. "The judge said I would die in prison, so I'll die in prison," he said, his eyes glassy. "You may as well say go and commit suicide – do you want the rope, or do you want the knife?" As he spoke, two guards were searching his provisions. "How do you control people like me?" he mused. "If I kill these two officers here, and I wouldn't, but if I did, what do they do?"

In the end, though, I am not inclined to see Vinter and Hegarty as the best evidence for the argument. To decry the absence of sentence reviews for merely pragmatic reasons instead of from a position of principle is to enable the reply: well, we might as well just execute them. And the truth is, such sentences are functionally not far away from the hangman's noose. The sentenced do not die, but they cannot be said to continue to live: their meaningful existences are severed in just the same way, and their punishment is, in just the same way as an execution, both wildly draconian and nothing like enough. Nothing can ever be enough.

It is an irony of the way we talk about all this that the term "life" has become so fraught, so deprived of meaning by its status as a soundbite. "Life should mean life," Mr Cameron insists. But that's not what this system really stands for. *When there is no hope, life doesn't mean life. It means death.*

Failing Private Prisons to be Re-nationalised, Says Labour *Nicholas Watt, The Guardian,*

Labour would take control of privately run prisons if their managers failed to meet a six-month "buck up" deadline, the shadow justice secretary, Sadiq Khan, has said in the wake of a damning report on a flagship jail run by G4S. Tougher contracts would be negotiated, including stiffer financial penalties, after the chief inspector of prisons reported that inmates find it easier at HMP Oakwood to get hold of illicit drugs than soap, Khan said. He accused Chris Grayling, the justice secretary, of a "catastrophic misjudgment" after he praised the "supersized" 1,605-place Oakwood in Staffordshire as his favourite prison.

Nick Hardwick, the chief inspector of prisons, said in October that the first official inspection report into Oakwood had shown that a retrieval plan for the prison was urgently needed. Hardwick said prison staff were inexperienced and were so unwilling to challenge inmates that they came close to colluding. In an unannounced two-week visit to the prison in June inspectors reported that "on more than one occasion we were told by prisoners that you can get drugs here but not soap".

Khan said: "It's clearly not working at Oakwood. I can't remember a week going by without a disturbance, or a damning inspection. I've actually been and seen at first hand the problems in the prison and I came away really worried about conditions for prisoners and staff. As things stand, it's not delivering what the public should expect of the millions being paid to G4S to run it."

The shadow justice secretary described Grayling as a "repeat offender" after he responded to the report by describing Oakwood as a first-class facility. Grayling told the Express & Star during a visit to Wolverhampton in November: "It's a newly opened prison. Every new prison has teething problems, whether public or private. I am very optimistic for Oakwood. It is a first-class facility. It is the most impressive set of facilities I have seen on a prison estate. Clearly the management of the prison need to address the problems but it's a prison that will be very good." Khan said: "I'd have done things very differently than Chris Grayling. I'd have summoned in the management of G4S and told them they've got six months to buck up their ideas or they're out. Simple as that. If there's no improvement in six months, then I'd be prepared to take control of Oakwood prison away from G4S back into the hands of the public sector. I'd do just the same for a failing public prison – give them six months to sort themselves out, and if they fail, impose new management that will sort it out. I see no difference whether the underperformance is in the public, private or voluntary sector – I'd apply the same laser zero tolerance. We shouldn't tolerate mediocrity in the running of our prisons."

Construction started on the £180m Category C prison in 2009. The contract to run it was awarded to G4S by the then justice secretary, Ken Clarke, in March 2011. Khan said: "We can't go on with scandal after scandal, where the public's money is being squandered and

Monday. "Police and internal investigations will now take place. It would be inappropriate to comment further until these have been completed." Staffordshire police said the force was offering support and assistance to G4S.

The prison was the focus of a highly critical report last year that cited prisoners who claimed it was easier to get hold of illicit drugs than a bar of soap. The chief inspector of prisons confirmed that drug use at the "supersized" jail, which opened in April 2012, was more than twice the rate of similar jails and that inmates found it difficult to get hold of clean prison clothing, basic toiletries and cleaning materials. The jail has also taken on a political significance, with the justice secretary, Chris Grayling, praising it as a "first class facility" and the Labour party threatening to renationalise it and other prisons if managers failed to make improvements.

A spokesman for Staffordshire police said the force was aware of the incident at the prison and was offering support and assistance to G4S. However, a popular Facebook page established to campaign for safer conditions for prison officers claimed that reports indicated "an entire wing has been lost to prisoners control".

In Oakwood's first official inspection report, published last October by Nick Hardwick, the chief inspector of prisons, it was found that the level of drug use was matched by high levels of assaults, victimisation and bullying. The use of force to restrain inmates was twice as high as at similar jails, with 241 incidents in the first six months of this year. Prisoners subsequently staged a number of rooftop protests, including one last November in which six inmates were involved. The shadow justice secretary, Sadiq Khan, said last week that Labour would take control of privately run prisons if their managers failed to meet a six-month "buck up" deadline and accused Grayling of a "catastrophic misjudgment" after he praised Oakwood as his favourite prison.

No Privatised Lie Detector Tests For Sex Offenders *Paul Peachey, Indpendent, 05/01/14*

The Government has abandoned plans to allow the private sector to run lie detector tests for hundreds of serious sex offenders, amid continuing turmoil over outsourcing following scandals involving the country's two biggest contractors. The programme to test hundreds of sex offenders was due to start this month but has now been delayed for staff to be trained internally, in the latest blow to privatisation plans for monitoring former offenders in the community. The compulsory tests for about 750 released serious sex offenders in England and Wales are part of a major planned expansion of the use of the polygraph this year despite concerns over its effectiveness. Two police forces are set to introduce voluntary testing for people arrested for allegedly downloading child abuse images to examine the potential danger they pose and to identify other victims.

The private sector conducted pilot studies of more than 300 ex-inmates in the Midlands - resulting in 22 being returned to prison because of disclosures they made after using the polygraph. However, the use of private companies to carry out the full programme has been now been ruled out. It follows last month's decision to strip G4S and Serco of contracts to monitor tagged offenders, amid allegations that they overcharged the government millions of pounds. The case is being investigated by the Serious Fraud Office.

The two companies, which the Government has relied upon for the vast bulk of its private contracts, are not expected to bid for the specialist polygraph contract. Yet other firms have also been told they can only bid to train and monitor probation staff, and not to run the polygraph programme.

The issue for the jury was whether the account advanced in the basis of plea document could be accepted as a possible one, given (a) the fact that Ahmed had chosen not to support it by sworn evidence which could be tested (b) it was a late-devised account transparently tailored to the undisputable evidence and most of all (c) it was an account directly shown to be false by the unchallenged telephone evidence, which demonstrated that the defendant went back to the factory at 2131, when his basis of plea account said that he left at 2000 and did not go back until the following morning. That was a damning piece of evidence for which there was no hint of any explanation. If there existed an honest explanation, the defendant had only to give it. It was, we are satisfied, this, together with the absence of any evidence given to support the unsworn account, not any evidence of Dr Heath's, that destroyed the possibility that the basis of plea account might be true.

Although it is not critical to the outcome in this appeal, we do not in any event agree with Mr Ali's submission that it is sufficient to render a conviction unsafe that there now exists material which the jury did not have and which might have affected their decision.

The responsibility for deciding whether fresh material renders a conviction unsafe is laid inescapably on this court, which must make up its own mind. Of course it must consider the nature of the issue before the jury and such information as it can gather as to the reasoning process through which the jury will have been passing. It is likely to ask itself by way of check what impact the fresh material might have had on the jury. But in most cases of arguably relevant fresh evidence it will be impossible to be 100% sure that it might not possibly have had some impact on the jury's deliberations, since ex hypoethesi the jury has not seen the fresh material.

The question which matters is whether the fresh material causes this court to doubt the safety of the verdict of guilty. We have had the advantage of seeing the analysis of Pendleton [2001] UKHL 66; [2002] 1 Cr. App. R. 34 and Dial [2005] UKPC 4; [2005] 1 WLR 1660 made recently by this court in Burridge [2010] EWCA Crim 2847 (see paragraphs 99 – 101) and we entirely agree with it.

Where fresh evidence is under consideration the primary question "is for the court itself and is not what effect the fresh evidence would have had on the mind of the jury." (Dial). Both in Stafford v DPP [1974] AC 878 at 906 and in Pendleton the House of Lords rejected the proposition that the jury impact test was determinative, explaining that it was only a mechanism in a difficult case for the Court of Appeal to "test its view" as to the safety of a conviction. Lord Bingham, who gave the leading speech in Pendleton, was a party to Dial.

In this case the information about Dr Heath, deeply concerning though it must be to anyone connected with the administration of criminal justice, does not cause us to fear for the safety of this conviction. We understand why the CCRC referred the case. The review which we have conducted was necessary. But our conclusion is clear. This conviction is safe. T*he appeal is accordingly dismissed.*

Riot at HMP Oakwood, Managed by G4S Takes Five Hours to Quell

Ben Quinn, theguardian.com, Monday 6 January 2014

Staff at the privately managed prison, which was the scene of rooftop protests in 2012, were supported by local police in tackling the incident at HMP Oakwood in Featherstone, near Wolverhampton, which provides places for more than 1,500 Category C male prisoners. Sky News reported that serious disorder had broken out in one of the wings, possibly involving weapons, and that specialist riot police had been called to help restore order. G4S would not give any details of the nature of the incident.

A spokesperson for G4S said the incident started early on Sunday evening on one wing but was contained under "standard procedures" at the £180m prison and was over at 2am on

the quality of what's delivered isn't up to scratch. The government is too reliant on a cosy group of big companies. The public are rightly getting fed up to the back teeth of big companies making huge profits out of the taxpayer, which smacks to them of rewards for failure. If we are going to get the full bang for the public's buck then we need a totally new approach."

Post Communion Road Traffic Collision: Drunk Priest Arrested *Police Oracle*

Parishioner has a lucky escape as unholy episode ends in priest answering some tough questions. A drunken priest is facing 12 years in prison after running over a parishioner in his car as she walked home from his church service. Katarzyna Pawlak (41) from Lowicza, Poland, was taken to hospital with concussion after being hit after attending Mass. A spokesman for the priest's diocese said: "With great regret and deep sorrow we received the news about the accident in which the victim was a woman hit by a car being driven by a priest after drinking alcohol. This situation deserves condemnation and never should have happened. Priests have to follow the same laws as everyone else. He should not drive a a car after drinking." The 66-year-old priest was charged with drink driving and had his licence confiscated. Police spokesman Urszula Szymczak said: "He wasn't detained as we didn't think it necessary. He was fully compliant and handed over all his documents for officers to inspect. A hospital spokesperson said: "The woman has been lucky. She is being kept in hospital for observation but will make a full recovery."

Police Staff Strike 'Best Supported Ever' *Jasmin McDermott - Police Oracle - 31/12/13*

Thousands of police staff were on a 24-hour strike over a below-inflation pay increase – forcing senior leaders to close some stations and cancel officer leave. Members of the Public and Commercial Services Union (PCS) formed picket lines outside the Met's headquarters at New Scotland Yard on New Year's Eve after the force imposed a one per cent pay rise in November. Reports indicate that several stations across the capital wereforced to close due to a lack of staff and PCS full time officer Kim Hendry said that some call centres were also affected. The walkout by PCSOs, 999 call handlers and custody detention officers as well as support staff followed a ballot where almost three quarters of members were in favour of industrial action.

A spokesman for the Met said that, as part of their business continuity plan, the force has stopped granting requests for annual leave for officers and staff in certain areas and cancelled days off for officers with critical skills or in crucial operational areas.

In an interview with PoliceOracle.com PCS's Kim Hendry said that the amount of support shown to staff highlighted the level of anger and frustration over the pay deal. She said: "This is by far the best supported strike ever. It goes without saying that this is a last resort for our members but by making the decision to do this we want it to be as successful as possible. We want to make sure that the employer side listens to what we are saying. We think that the Met has been really is short sighted and that the pay increase is counterproductive. All we asking is that staff are paid so they can maintain their standard of living. They (the Met) have the money and it will be well spent if they use it to improve pay as they will keep the morale of their staff."

The pay deal is in accordance with the one per cent increase for officers agreed by the Police Negotiating Board and the Police Staff Council. Ms Hendry said that the union has been in talks with the force, but that the only improved offer on the pay deal was a one-off payment for the lowest paid staff. She said this would only apply to 500 personnel. There is some common ground with the Met in that they want to do something for the lowest paid and we want

to do something to benefit them too," she added. The difference is that they are not offering something for the majority."

Following the walkout the PCS group executives will convene an emergency meeting next week to discuss the outcome of the action as well as the possibility of further industrial action. Ms Hendry said that they would also look to establish a full political and media campaign. Additionally, the PCS will contact the force's Federation to explore the possibility of joint working over certain issues that affect both officers and staff.

A spokesman for the Met said: "This (pay rise) is at the ceiling of the Government's public sector pay policy and the pay increase was given without any strings attached to it. The PCS demands include a pay increase of up to six per cent. The MPS is simply unable to meet this demand. We have tried and tested business continuity plans for all eventualities, including industrial action. These ensure that critical functions performed by police staff are performed by police officers who are fully trained in those roles. These are clearly all steps we'd rather not take, but we have to be prepared to maintain critical operational areas and we are confident that we have appropriate plans in place."

Moors Murderer Ian Brady 'has Dementia' *Indpendent, 03/01/14*

Jackie Powell, who has represented Brady since 1999 and also says she is a co-executor of his will, said medical experts now believe he is seriously ill. She told the Daily Mirror that dementia was a "worst nightmare" for Brady, who was jailed for life in 1966 for killing five young children in Manchester with his girlfriend Myra Hindley. The body of one of those victims, Keith Bennett, has never been found, and last night a solicitor for the 12-year-old's family appealed for Brady to give up the location while he still can. "If he deteriorates and is not able to impart this information then it may be that Keith is never found," John Ainley said.

Brady, now 76, has been detained at the Ashworth maximum-security psychiatric hospital since 1985, and had a recent appeal to be transferred to prison turned down. Ms Powell said that during a recent meeting with him she witnessed the signs of behaviour that experts said were symptoms of dementia, and that he now seems to be "waiting to die". But she added that Brady refused to accept there was anything wrong, and did not want to undergo tests that could confirm whether or not he has Alzheimer's disease. She said: "Brady has to be in control and getting dementia is his worst nightmare. No one who meets him could ever deny that he had a very sharp mind. He is highly intelligent and insists on dealing with things on his own terms. He never wants to expose his feelings so he is terrified of losing his self-control.

"Everything he does has always been very calculated and he could not imagine anything worse than his own mind slipping away from him. He'd never admit it, but I believe he is frightened about what is happening to him." Ms Powell said she believed it highly unlikely he would ever reveal where Keith Bennett is buried, saying that he refuses to even discuss it. She has previously said she never discusses the murders with Brady, adding: "Every human being, whoever they are, should be treated with some amount of respect and dignity."

Technology To Block Mobiles in Prisons Too Expensive *Indpendent, 02/01/14*

Prisoners can continue to use smuggled phones because the Ministry of Justice says jamming equipment is "prohibitively expensive". Illegal mobiles are used by prisoners to order violent attacks, harass victims and maintain links with criminal gangs and extremists, the ministry has said. In 2012 alone, the National Offender Management Service (NOMS) was told

as being consistent with that possibility, and he thought that if one rolled into polythene one would resist and move away. "That", he said, "is really as far as I can go."

In this, both Dr Shorrock and Dr Borek were plain in their disagreement. Both said that there was nothing in the pathology findings which by themselves disproved this manner of death occurring. Dr Shorrock went on to explain that if a person is gagged, the airway can relatively easily be obstructed. There was no doubt evidence that Hasani could have been gagged, because there were marks behind the ears and bruising inside the lip which were plainly consistent with it. Dr Borek suggested the possibility of a sudden reflex inhibition, similarly leading to sudden death. Thus the evidence of Dr Shorrock and Dr Borek made clear to the jury their disagreement with the evidence of Dr Heath, even relatively cautiously expressed, on the crucial question of the manner of asphyxiation and death. Both those pathologists, one called by the Crown, told the jury in the clearest terms that in their view there was nothing in the pathological findings which by themselves showed that the account given in the basis of plea document could not be true.

Mr Ali invites us to say that Dr Heath gave his evidence forcefully. That expression may be borrowed from other cases where that description was applied to his manner. We did not of course see him. We think that we should accept that because that description has been applied to his manner in one or two other cases it might apply to this. But we see little evidence of it on the transcript and Mr Ali, who was not at the trial either, has not demonstrated any. It is rather more likely that Dr Heath's evidence will have been at least to some extent tempered in manner by the presence of Dr Shorrock, transparently called for the purpose of providing an independent second opinion, not to mention by the pending disciplinary proceedings.

Mr Ali also points to two questions asked by the jury during Dr Heath's evidence as suggesting that it attached particular significance to what he said. We do not think that the questions are capable of supporting that conclusion. The first question was produced at the start of Dr Heath's cross examination and asked: "Could the deceased have been winded or in shock after he fell near the workbench ?" This question had nothing to do with anything Dr Heath had said. It was a classic novel enquiry generated within the jury, whether by one member or more. All Dr Heath said about it, when asked to respond, was that you would have to hit your abdomen, not your head, to be winded, and that you might, if shocked in lay (as distinct from medical) terms, sit down to take stock. There was no further investigation of this note. It was plainly asked at the stage it was not because Dr Heath was especially relied upon, but simply because he was the first medical witness. The enquiry led nowhere.

The second question was about bruising on the lower lip. This was common ground amongst the doctors and Dr Heath's answer, to the effect that it was consistent with a gag being applied as well as with polythene or similar material being pressed on the face, was entirely neutral, and was evidence with which it is apparent everyone else agreed. There were also, we observe, two jury questions asked during Dr Borek's evidence, although again neither really advanced the case.

Next, Mr Ali contends that the summing up concentrated unnecessarily on the evidence of Dr Heath. Since the doubts about Dr Heath had not been put into evidence, it appears that the judge simply followed the conventional route of recounting in some detail the evidence of the first pathologist and then identifying the points on which any other of the pathologists disagreed. We are unable to detect any unfairness in this manner of summing up. Importantly, the judge made it absolutely clear to the jury that both Dr Shorrock and Dr Borek disagreed with the proposition that the pathological findings militated against the version of events set out in the basis of plea.

This is not a case in which the pathological evidence lay at the heart of the issue for the jury.

some doubt on the veracity of the basis of plea account of Hasani falling and lying motionless.

Thirdly, there were limited differences of opinion as to the conclusions which could or could not be drawn about the manner in which the deceased had been tied up. Dr Heath did advance the conclusion that he saw no evidence of his having been "hog-tied" with feet and ankles connected by ligature behind the back, but nor did anyone else see such evidence. Dr Heath thought that Hasani had been tied with his right arm across the front of his trunk, anchored by a ligature to the left elbow and with the left arm across his back, anchored to the right elbow. That derived from arm-size bands of blanching angled across the back and front, coupled with signs that at some stage there may have been a binding on the arms. We think it is probable that this theory, together with the absence of positive evidence of hog-tying, was one of the reasons why Dr Heath contended, generally, that the basis of plea account did not fit the findings. But the importance of this theory in the case can easily be overstated.

i) The basis of plea does not clearly say that the deceased was hog-tied, although this possibility was explored in evidence. It merely says that the hands and ankles were tied together. That leaves open whether the hands were also tied to the ankles. The uncertainty was recognised in counsel's questions put to Dr Heath. No one could ask Ahmed which he meant, since he did not give evidence.

ii) It must have been clear that an absence of evidence supporting hog-tying was not the same as evidence that this had not, at some stage, been done.

iii) There was ample evidence, not disputed by any of the pathologists, that there were pressure marks on the wrists and forearms which might have been caused by being tied. It was also common ground that the legs had been tied even when the body was dumped, and that pressure marks found there could be the result of this tying, which might or might not have dated from Friday night, but also might have occurred only when the body was moved.

iv) It was clear that there was no way of knowing what had happened to the body, and what position it might have been in, even on the basis of the plea account, between the time when it was said that Ahmed had discovered that Hasani was dead on Saturday morning, and the time when he dumped the body in Stratford on Saturday evening or night.

v) Dr Shorrock readily agreed that the band of blanching across the front of the trunk, such as the right arm would leave, showed that at some stage the body had lain on its front with the right arm underneath the trunk, though when he could not say. Dr Borek agreed that Dr Heath's theory was one possible explanation of the blanching.

We think it follows that Dr Heath's theory of the exact manner in which the hands were tied was not compelling. It fitted the findings, and it might have been true that the arms were anchored in this position at some stage but equally the arms might have been positioned across the front and/or back without being tied. But even at its highest, the theory could not demonstrate that the basis of plea account was therefore wrong, because the wrists could at some stage have been tied behind the back. Dr Heath said no more than that he found no evidence of the hands being thus tied, which is not at all the same as him saying that it could not have happened. Similarly he said that the pressure marks he found on the wrists and forearms were not such as would be left by ordinary thin electrical flex, but could be consistent with larger-dimension cable: once again he was cautious and did not purport to say that the findings necessarily refuted the basis of plea.

It was not, therefore, these differences of opinion which bore significantly on the question whether the basis of plea could be correct. The evidence which got closest to this was Dr Heath's view of the suggestion that Hasani must have rolled into polythene. He was relatively cautious in his response to this possibility. He said that he did not see the pattern of blanching across the face and neck

6,959 illegal phones and sim cards were found in English and Welsh prisons.

In a speech last year, Justice Secretary Chris Grayling said the Government wanted to introduce tougher penalties for those caught with mobiles. The Government subsequently passed legislation authorising prison governors to use technology to disrupt the use of phones in prisons. But documents from the MoJ states the technology is "prohibitively expensive", although a spokesman for the department insists they have used signal jammers in trials across the country. Officials have now commissioned a research project costing up to £70,000, during which prisoners will be interviewed to find out why they use smuggled phones.

Where prisoners are found to use their phones for low risk calls, such as contacting relatives and friends, they could avoid being targeted by the authorities. This is because the focus is set to fall on offenders using their mobiles for "dangerous" criminal activity. There is no suggestion that if they are caught using a mobile to contact their family they will avoid punishment.

Once they have carried out the research, officials will consider cheaper alternatives to the "jamming" technology. The details are contained in a document sent out by the MoJ advertising the research project to companies. The publicly available advertisement says the effort and resources dedicated to finding phones in prisons varies in each jail. It states: "Since a net increase in resources is not feasible, it seems logical to target existing resources at the mobile phone usage that poses the greatest risks (eg organised crime). This research project will help us to understand what mobile phones are used for, and therefore what proportion falls into this higher risk category. This will help NOMS to build a policy around reducing / eradicating the potentially most dangerous mobile phone usage at a time of scarce resources. According to the MoJ paperwork, inmates from at least 15 prisons are expected to be interviewed as part of the research, which starts this month.

Despite Prisoner Amnesty Russia Escalating Harassment Of Dissenters

The world’s attention has been captivated in recent days by Russian President Vladimir Putin’s announcement that he will pardon businessman Mikhail Khodorkovsky. This came a day after parliament adopted an amnesty that will free the two imprisoned Pussy Riot band members’ and charges were dropped against the Artic 30 Greenpeace activists, and a handful of anti-government protesters awaiting trial.

The release of these well-known victims in the government’s campaign to silence outspoken critics is very good news. At the same time, however, the authorities are escalating their harassment and intimidation of other activists and dissenting voices: namely those expressing criticism of the government’s preparations for the 2014 Winter Olympic Games in Sochi.

Officials in and near Sochi have targeted journalists, environmental activists, minority rights activists, and others. Just this week, investigators and ‘anti-extremism’ authorities in Krasnodar Region, where Sochi is located, detained and questioned at least 11 activists for Circassian minority rights. Officials also conducted extensive searches of many of their homes and confiscated computers, phones, and other materials. All of the activists were released and none were charged. But they have been put on notice.

The pretext for this shakedown is the supposed search for a suspected terrorist, who is alleged to be hiding in each of these men’s homes. But no one is fooled. Many of the Circassian activists have long been critical of the Russian government’s decision to host the Olympic Games in Sochi. Many Circassian people and other ethnic minorities in the area assert that Sochi is part of their historical homeland from which they were expelled during tsarist Russia’s conquest of the Caucasus in

the 19th century. At least one environmental activist was also subjected to intrusive, baseless searches of his home and dacha by 'anti-extremism' officials in May of this year. Other environmental activists are facing politically motivated charges that carry potential prison terms. One scientist and vocal critic of the Olympic preparations and other construction in Sochi, Suren Gazaryan, felt compelled to flee Russia or risk imprisonment.

Still others engaged in scientific research and publications on environmental problems related to the Sochi Olympics preparations have been under threat of having their offices shut and independence compromised by government interference their work. Authorities have also singled out some Sochi-based journalists and journalists visiting for intimidation and harassment. One local journalist has faced multiple spurious criminal and legal charges. Another quit after her editors repeatedly quashed her stories on evictions and environmental concerns, citing calls from local officials 'forbidding' publication of certain topics.

And, just last month, local authorities monitored and repeatedly detained and questioned over the course of three days two journalists from Norway's TV2 – an Olympic broadcaster. Officials grilled the veteran reporter and cameraman about their plans and local contacts, asking them not to report on anything critical about the Olympic preparations.

The government has also made clear in several instances that Sochi residents concerned about impacts of Olympics preparations should refrain from voicing those concerns in public spaces. Residents of the Kudepsta region of Sochi repeatedly came out in their community to protest a proposed construction of a power plant in a residential area. And just this week, a court sentenced to 50 hours of community service the editor of a Sochi blog. The blogger had used social media networks to encourage residents to gather to express their upset at ongoing mass disruptions of electricity and water supply in many Sochi neighbourhoods as a result of Olympic construction. The protest he encouraged did not even happen.

The International Olympic Committee recently announced that the Russian government plans to set up 'protest zones' for people who want to demonstrate publicly during the Olympic Games in February. President Thomas Bach said the IOC welcomed the Russian decision to create the zones "so that everybody can express his or her opinion". One zone has so far been designated, some 15 kilometers from the Olympic venues, well out of sight of the media and others.

If Bach genuinely believes that protest zones are a solution to Russia's assaults on free speech, then he really doesn't understand the nature of the problem. What the IOC can and should be doing is insisting that Russia fully meet its obligations as an Olympic host to ensure press freedom and end its campaign against its critics. The upcoming amnesty for imprisoned critics is long overdue but its significance is deeply diminished when those criticising Russia's Olympic Games are pressured into silence.

Mental Health Nurses to be Posted In Police Stations *Haroon Siddique, The Guardian,04/0/14*

A £25m pilot scheme designed to ensure people receive the treatment they need and cut reoffending rates; will see Mental health nurses are posted in police stations and courts. The government scheme, which will initially run in 10 areas and be rolled out across the rest of the country by 2017 if successful, was welcomed by mental health campaigners, confident that it would prove its worth. The majority of people who end up in prison have a mental health condition, a substance misuse problem or a learning disability and one in four has a severe mental health illness, such as chronic depression or psychosis.

Too often people with mental health illnesses who come into contact with the criminal

Dr Heath had conducted the post mortem. Accordingly he gave evidence first. By the time the trial was pending, it was known that he faced the disciplinary enquiry. That fact was disclosed to the defence, and the Crown instructed, unusually, a second pathologist, Dr Shorrock, for precisely this reason. Thus the jury heard from three pathologists in all, Dr Heath and Dr Shorrock called by the Crown and Dr Borek called on behalf of the defendant.

The gravamen of this appeal is that in the course of his evidence Dr Heath expressed the view that the pathology was not consistent with the account proffered by the defendant in his written basis of plea document. We accept that he did. The question for us is whether, in all the circumstances, the subsequent findings at Dr Heath's disciplinary hearing not only put his own evidence in this case in doubt, but also render the conviction of the defendant unsafe. That involves an assessment of the significance of the pathology evidence in this case.

Unlike other cases in which the evidence of Dr Heath has since been considered, there was no dispute about the cause of death. It is, however, true that there were some differences of opinion between the pathologists. We should examine them seriatim.

First, Dr Heath had found no visible injury in the groin whereas Dr Borek, on performing a second post mortem some time afterwards, had found what dissection led her to describe as a very insignificant small bruise. The existence of the bruise might be consistent with the kick to the groin mentioned by Ahmed in the basis of plea document. On one view the fact that Dr Borek had noted such a bruise before the basis of plea document was put forward may tend to support the contention that Ahmed had very carefully tailored the document to the evidence as it was by then known. But whether that is so or not, the absence of the bruise would not go to show that there was no kick, nor did Dr Heath suggest that it did. His evidence that he saw no bruise was entirely neutral on the veracity of the basis of plea. Nor has the kick, if it happened, anything to do with the mechanics of death, or with the difference between murder and manslaughter.

Second, the pathologists gave slightly differing opinions about whether the deceased might have fallen and struck his head, as asserted in the basis of plea. There was some bruising under the skin in the region of the forehead and left temple. Dr Borek thought it was consistent with trauma.

Dr Heath believed that what he had seen were petechial haemorrhages which had coalesced into a larger area of bruising, and thus that they were connected with asphyxiation rather than a bang on the head.

Dr Shorrock did not address exactly what form the bruising took, because he said that petechiae, if that is what they were, either in this position or elsewhere, were not necessarily the product of asphyxiation and might have developed after death; he made it clear that in his view no conclusions could safely be drawn from them, and Dr Borek agreed.

But what Dr Shorrock did say was that because there was no external injury at all, he did not think it likely that any bang to the head would have been severe enough to have caused Hasani to lie motionless, apparently semi-conscious.

Dr Borek, for her part, whilst she said that the temple/forehead condition could (but not must) have been caused by a bang on the head, effectively had to agree that it would not have been a severe one. The furthest that she would go was to say that there may have been a blow sufficient to make Hasani 'feel slightly dazed'. In one of her reports she had made it clear that it was not possible from the appearance of the injury to say whether or not the deceased could have been rendered unconscious as a result of any impact.

Thus the only significance of Dr Heath's evidence on this point was to reinforce the conclusion that there had been asphyxia, but that was not in any way in dispute. It was Dr Shorrock who cast

the factory, because fibres on his clothing, and cloth ties by which his feet were bound together, matched material at the factory; (4) that Ahmed's van was seen repeatedly on CCTV on Saturday night, near the place at which the body was dumped; (5) that the body had been in this van, because Hasani's blood was found in it; (6) that Ahmed had persuaded his staff at the factory to lie for him, and to say that Hasani had not been there; and (7) that both before the week of 11 November, and during it, Ahmed had, far from being conciliatory towards Hasani, plainly demonstrated his hostility towards him; he had threatened that he would kill him and had spoken of teaching him a lesson; thus he had both motive and inclination.

In the face of that evidence, Ahmed produced for the first and last time an account of events. He tendered a plea of guilty to manslaughter and accompanied it by a written basis of plea. The basis of plea document was not the conventional short statement of the legal basis of plea, for example: lack of intent, provocation or so on. It was a substantial narrative consisting of 40 paragraphs beginning at the start of October. In effect it was his proof of evidence, or would have been had he entered the witness box. But he gave no evidence, and nothing in the document was ever supported by any sworn evidence at all. This was a tactic within the law. But the document resembled nothing more than the long outlawed unsworn statement from the dock.

The account given in this document was this. During the week, Ahmed had advanced Hasani money on account of his wages, but Hasani wanted more. This generated an argument on the evening of Friday 15th. In the course of the argument Hasani kicked out at Ahmed and in return Ahmed kicked Hasani in the groin. Ahmed then punched Hasani twice in the face. These blows knocked Hasani down and as he fell he struck his head on a workbench and lay initially motionless on the floor before recovering, moving and speaking. To teach him a lesson, Ahmed tied his ankles and his hands together, the latter behind his back, using electrical flex. He also gagged him with a strip of cloth. He left him overnight in the storeroom, thus bound, as a lesson. When he came back on Saturday morning, he found the lifeless body of Hasani, not where he had left it, but near the door. He had polythene over his face. He must have rolled into the polythene-covered clothing which hung on rails along the side of the factory. Ahmed then panicked and disposed of the body.

At the trial, the Crown elected to put this document into evidence and the pathologists were invited to express their views as to whether the pathology was or was not consistent with this account of events. We recognise that that may well have been the only realistic approach, particularly since no one knew whether the defendant might give evidence in accordance with it. We are not in any way critical of the way it was treated, which meant that the document represented some limited evidence of its contents, albeit unsworn and untested. The question of what the status of this essentially self-serving document would have been if not adduced in this manner is therefore not before us and we say nothing about it.

The judge put the issue to the jury in a helpfully concise and focussed way: "7. The Crown's case is that Ahmed planned and carried out the murder – that Ahmed's plan was to kill Hasani in order to prevent his association with Sadhia, Ahmed's daughter – that Hasani was bound in such a way that he could not resist – that polythene or some such material was deliberately applied to his upper airway, so that he could not breathe, and he died of asphyxia between 7 and 8 pm on Friday 15 November 2002. 8. Ahmed's defence is that Hasani was tied up on the Friday night having been rendered dazed or semi-conscious in a fall – that he was left overnight tied up and gagged but alive in order to teach him a lesson – and that at some time during the night he moved across the floor and became asphyxiated by polythene into which he rolled causing his death."

justice system are only diagnosed when they reach prison," said care and support minister Norman Lamb. "We want to help them get the right support and treatment as early as possible. Diverting the individual away from offending and helping to reduce the risk of more victims suffering due to further offences benefits everyone.

The money will be made available over the next year to bridge the gap between the police, courts and mental health services in Avon and Wiltshire, Coventry, Dorset, Leicester, London, Merseyside, South Essex, Sunderland and Middlesbrough, Sussex and Wakefield. The Department of Health said it would ensure people receive the treatment they need "at the earliest possible stage". It has been estimated that police officers spend 15% to 25% of their time dealing with people with mental health problems. Policing minister Damian Green said: "Officers should be focused on fighting crimes and people with mental health conditions should get the care they need as early as possible. These pilots will not only ensure that happens but in the longer term will help drive down reoffending by individuals who, with the right kind of treatment, can recover fully."

The scheme comes nearly five years after the landmark Bradley report said too many offenders with mental health difficulties and learning disabilities were ending up in prison without access to appropriate treatment. One of its recommendations was that all police stations and courts "should have access to liaison and diversion services".

Andy Bull, deputy chief executive of the Centre for Mental Health, said: "The fact that this is a new investment in a new form of service – or one that is patchy at present – is hugely encouraging. This will genuinely help a lot of people." But he said it was crucial that services were available when mental health issues had been identified.

Paul Jenkins, chief executive of Rethink Mental Illness, said there had been some frustration at the amount of time it had taken to implement such a scheme since the Bradley report, but welcomed the "really significant initiative", which he said would easily demonstrate its worth. "There's immense potential to divert people away from expensive prison sentences," he said. "But in the short term we might just see it be less hassle for the police in terms of processing people, which will also save money."

Mushtaq Ahmed CCRC Referral Circa December 2010 / Appeal Dismissed

This case hasd been referred to us by the Criminal Cases Review Commission. The basis for doing so is justified concern about the standing of one of the pathologists who gave evidence at the trial in October 2003. He was Dr Michael Heath. Subsequently, at a disciplinary hearing in the Summer of 2006, Dr Heath faced charges relating to his reports in two cases, named Fraser and Puaca.

The complaints about those cases had been laid by other distinguished forensic pathologists in July 2002 and February 2003. At the disciplinary hearing Dr Heath was found to have given unreliable and over-dogmatic evidence as a forensic pathologist in both those cases. The tribunal found that he had unreasonably deduced conclusions from evidence, either at post mortem or at the scene of the death, which whilst it could support his conclusions did not enable other possibilities to be excluded. He had persisted in his conclusions without any proper regard for the contrary and reasoned opinions of several other pathologists.

The tribunal tellingly described his evidence in Puaca as: "…vigorously advancing forensic pathological conclusions based on an unacceptable level of speculation without evidential foundation and demonstrating a degree of inflexibility when confronted with reasoned contrary opinions by col-

leagues which might be dangerous to the objective presentation of expert testimony."

Dr Heath was also found to have been at fault in the conduct of both post mortems, because he had not preserved samples for subsequent histological analysis if necessary; that failure had had the effect of hampering subsequent checks on the accuracy of his conclusions. The complaint was not of lack of honesty or integrity, but the findings mean that his reliability on those occasions examined fell well short of what has to be expected of any expert witness, and specifically of a Home Office Approved Pathologist.

In both the cases under investigation, the issue was whether the cause of death was assault or an innocent cause. In one he said smothering, whereas others showed that the possibility of drug overdose and fit could not be excluded. In the other case he said assault with a sharp-edged instrument, whereas others showed that the possibility of injury falling down stairs could not be excluded.

This court has had to consider the consequences of deficiencies on the part of Dr Heath in 4 cases. The first was Puaca itself, in which the conviction was quashed on a basis of conclusions about his evidence very similar to those subsequently arrived at by the Disciplinary Hearing. This court found that in that case Dr Heath had:

(a) originally expressed his conclusions without drawing attention to factors which might point in another direction, thus failing to honour the essential duty of objectivity required of an expert; (b) given evidence of conclusions which he subsequently accepted were not justified, and which he withdrew; in particular, and very strikingly, he had given evidence of the suggested significance of certain findings as supporting his conclusion of asphyxia, when he conceded late in his evidence that they were equally consistent with the alternative, and innocent, conclusion of drug overdose; (c) introduced into his evidence potentially prejudicial information, which he then withdrew; in particular he had referred to the presence of urine staining and added as a generalised observation that one saw that principally when the deceased had been in fear of something, but subsequently accepted not only that she had been using diuretics but that he drew no conclusions at all from the incontinence at the time of death.

A similar conclusion that the conviction was unsafe in the light of flawed evidence on a crucial topic by Dr Heath was reached in Boreman & others [2006] EWCA Crim 2265 and in Laverick [2007] EWCA Crim 1750. In Boreman there were a number of reasons why the conviction was unsafe. One was that Dr Heath's evidence on a vital topic had been undermined.

Another was that the jury had been left to consider a route to verdict which the Crown now conceded was not open to it. In Laverick the evidence of Dr Heath amounted to a vigorous assertion that the fatal blow with a knife must have been a deliberate, powerful blow when there was no movement between the two men confronting each other, rather than a moderate impact consistent with possible accident. True it was that the judge had directed the jury that they might well decide that the only safe conclusion was the alternative view of the blow advanced by the other pathologist, Dr Cary, but still the court was satisfied that the manner in which Dr Heath gave his evidence was on that occasion so forceful that the jury may not have exercised the caution which the judge advised.

That said, it does not follow that every conviction arising in a case in which Dr Heath appeared is unsafe. Sir Igor Judge P (as he then was) went out of his way to make this clear O'Leary [2006] EWCA Crim 3222, in a case in which the Crown conceded that the conviction was unsafe: "11.We want to make it as clear as we can….that it does not necessarily follow from these criticisms that every case resulting in a conviction in which Dr Heath gave evi-

dence for the Crown should or will be treated as unsafe. We expect the Crown to do what the Crown has done here, which is to analyse the precise nature and importance of Dr Heath's evidence to the conviction in the light of the particular circumstances of the individual case and the issues which arose at trial 12. Even if Dr Heath's evidence was challenged at trial, it does not follow that the convictions will all be unsafe. Some will remain safe, even if his evidence lent support to the Crown's case. Some of course, and this is one, will not."

That was a case where the conviction was unsafe because Dr Heath had purported to draw conclusions about whether the admitted fatal blow was or was not struck in self defence, when such conclusions were unjustified.

Ahmed was convicted by the jury of the murder of a man going by the name of Hasani. Ahmed lived near Barking and was the owner of a small factory in the clothing trade about a mile and a half away. He had a sixteen year old daughter. The deceased was the girl's boyfriend. He was an Albanian asylum seeker of 22. The defendant Ahmed plainly disapproved strongly of Hasani and of the relationship. The young couple ran away together twice during October 2002. On the second occasion they had departed together to Bournemouth, where they had gone so far as to make enquiries about work, housing benefit, immigration legal advice, and marriage. They were, however, found there by a member of Ahmed's family, and persuaded to return, which they did on Thursday 7th November 2002.

On their return, the girl was brought back to live at the family home. The defendant appeared to be conciliatory and offered Hasani work in his factory. Hasani began work there on Monday 11th November. But, as the evidence eventually proved, by the night of Friday/Saturday 15/16 November, at the end of that same week, he had met his death in the factory.

Hasani's body was found near Stratford, East London, at about 1100 on the morning of Sunday 17th November. It was trussed up in a tarpaulin and had plainly been brought there and dumped. There was never any dispute amongst the three forensic pathologists who considered the case that he had been asphyxiated by obstruction of his upper airway.

The police made preliminary enquiries of Ahmed, amongst others, soon after the body was found. He made a witness statement on the following Wednesday (20 November). He said that he had no idea how Hasani had met his death. He made no mention of Hasani having worked for him, and he said that he had not seen him on Friday 15th. The fact that Hasani had worked for the week in question at the defendant's factory was not then known to the police, and it later became clear that the defendant had gone to some lengths to prevent them from finding out. He told his various workers at the factory not to tell anyone that Hasani had ever been there, and for a while they obeyed his instruction. Just over a fortnight after the weekend of Hasani's death, Ahmed was arrested and interviewed on 4 December. Beyond saying that his original witness statement was true, he declined to answer any questions.

Ahmed had still said nothing at all to anyone in authority about Hasani's death when the case reached the Plea and Directions Hearing in the Crown Court on 18 July 2003. By now it was eight months since the death and the trial was about 2 months away. By now the Crown evidence had been served on Ahmed, no doubt some little time beforehand, and his solicitors had obtained for him a second, independent report of a forensic pathologist, Dr Borek. By now, the evidence was known to show:

(1) that Hasani had died by asphyxia; (2) that he had been working at the factory that week, and had been there with the defendant on Friday 15 November at sometime around 7 pm or a little later, when another worker had left; (3) that he appeared to have met his death at