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Foreign National Criminal - Situation in Which Deportation is No Longer Permissible

KD (Jamaica) -v- SSHD - 1. This is an appeal against an Upper Tribunal decision allowing a foreign criminal to remain in this country. This is a case in which, if successive Secretaries of State had exercised their powers and complied with the Immigration Rules, the foreign criminal could and should have been deported many years ago. The issue in this appeal is whether the series of delays and administrative errors by officials has led to a situation in which deportation is no longer permissible.

2. The appellant before this court and respondent before the tribunals is the Secretary of State for the Home Department. The respondent in this court and appellant before the tribunals is Mr Dennis. To refer to the parties as appellant and respondent would be confusing; I shall refer to the parties as Mr Dennis and the Secretary of State. I shall refer to the Borders, Citizenship and Immigration Act 2009 as "the 2009 Act". I shall refer to the European Convention on Human Rights as "ECHR". Article 8 of ECHR provides: • "1. Everyone has the right to respect for his private and family life, his home and his correspondence • 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

39.Did the Upper Tribunal have proper regard to the high public importance of deporting foreign criminals? In relation to this issue, Ms Bretherton cites a long line of authorities which post-date the Upper Tribunal's decision. Clearly the judge cannot be criticised for failing to cite (or perhaps I should say foresee) those particular authorities. The most relevant authority upon which Ms Bretherton relies is MF (Nigeria) v SSHD [2013] EWCA Civ 1192; [2014] 1 WLR 544. The Court of Appeal handed down judgment in MF 2 weeks before the Upper Tribunal hearing in the present case. In MF, Lord Dyson MR, giving the judgment of the court, said this at paragraphs 40 to 44:

"40. Does it follow that the new rules have effected no change other than to spell out the circumstances in which a foreign criminal's claim that deportation would breach his article 8 rights will succeed? At this point, it is necessary to focus on the statement that it will only be 'in exceptional circumstances that the public interest in deportation will be outweighed by other factors'. Ms Giovannetti submits that the reference to exceptional circumstances serves the purpose of emphasising that, in the balancing exercise, great weight should be given to the public interest in deporting foreign criminals who do not satisfy paras 398 and 399 or 399A. It is only exceptionally that such foreign criminals will succeed in showing that their rights under article 8(1) trump the public interest in their deportation.

41. We accept this submission. In view of the strictures contained at para 20 of Huang [2007] 2 AC 167, it would have been surprising if the Secretary of State had intended to reintroduce an exceptionality test, thereby flouting the Strasbourg jurisprudence. At first sight, the choice of the phrase 'in exceptional circumstances' might suggest that this is what she purported to do. But the phrase has been used in a way which was not intended to have this effect in all cases where a state wishes to remove a foreign national who relies on family life which he established at a time when he knew it to be 'precarious' (because he had no right to remain in the UK). The cases were helpfully reviewed by Sales J in R (Nagre) v Secretary of State for the Home Department [2013] EWHC 720 (Admin). The fact that Nagre was not a case involving deportation of a foreign criminal is immaterial. The significance of the case law lies in the repeated use by the European Court of the phrase 'exceptional circumstances'.

42. At para 40, Sales J referred to a statement in the case law that, in 'precarious' cases, 'it is likely to be only in the most exceptional circumstances that the removal of the non-national family member will constitute a violation of article 8'. This has been repeated and adopted by the European Court in near identical terms in many cases. At paras 41 and 42 he said that in a 'precarious' family life case, it is only in 'exceptional' or 'the most exceptional circumstances' that removal of the non-national family member will constitute a violation of article 8. In our view, that is not to say that a test of exceptionality is being applied.

Rather it is that, in approaching the question of whether removal is a proportionate interference with an individual's article 8 rights, the scales are heavily weighted in favour of deportation and something very compelling (which will be 'exceptional') is required to outweigh the public interest in removal. In our view, it is no coincidence that the phrase 'exceptional circumstances' is used in the new rules in the context of weighing the competing factors for and against deportation of foreign criminals.

43. The word 'exceptional' is often used to denote a departure from a general rule. The general rule in the present context is that, in the case of a foreign prisoner to whom paras 399 and 399A do not apply, very compelling reasons will be required to outweigh the public interest in deportation. These compelling reasons are the 'exceptional circumstances'.

44. We would, therefore, hold that the new rules are a complete code and that the exceptional circumstances to be considered in the balancing exercise involve the application of a proportionality test as required by the Strasbourg jurisprudence. We accordingly respectfully do not agree with the UT that the decision-maker is not 'mandated or directed' to take all the relevant article 8 criteria into account (para 38)."

39. With these words ringing in my ears, I have read and re-read the Upper Tribunal decision. In a series of passages the judge fully recognised and took into account the high public importance of deporting foreign criminals (see in particular paragraphs 51 to 57 and 71 to 77).

40. Now let me return to paragraph 43 of MF. The test of "exceptional circumstances" according to that paragraph means that very compelling reasons are required in order to outweigh the public interest in deporting Mr Dennis. In the present case, both the First-tier Tribunal and the Upper Tribunal have found very compelling reasons to outweigh the high public interest in deporting Mr Dennis. I therefore find that the Upper Tribunal's error of law is not material.

41. In other words, if the Upper Tribunal had applied the test set out in paragraphs 390 to 399A of the relevant rules, it would inevitably have come to the same conclusion as it did reach under the old rules.

42. The next point to consider is this. Suppose my finding is wrong and the Court of Appeal remit this case to the Upper Tribunal. Two and a half years have now elapsed since the last Upper Tribunal hearing. Yet more time will elapse before the re-hearing in the Upper Tribunal. By then Mr Dennis will have been in this country for an even longer period. His case based on family life and his roots within the community will be even stronger. I see no prospect of the Upper Tribunal on any future occasion rejecting Mr Dennis' article 8 claim.

43. For all of these reasons, I have come to the conclusion that the Upper Tribunal's decision of 6 November 2013 must stand and that the Secretary of State's appeal

should be dismissed

Unrepresented Defendants Crowd Criminal Courts *Law Gazette*

The number of unrepresented defendants in criminal courts is increasing – but no one knows how big the problem is. That is the conclusion of research published in a week when the lord chief justice complained that civil courts are having to abandon the adversarial system to deal with the increasing number of litigants in person. Charity Transform Justice's study, Justice Denied? The experience of unrepresented defendants in the criminal courts, says that while there are no authoritative statistics on the numbers of defendants lacking a lawyer, 'the strength of perception of those working on a daily basis in the courts is compelling'. Magistrates' and district judges' estimates of the proportion of unrepresented defendants in non-trafffic cases ranged from 15% to 40%. But the report's author, former magistrate Penelope Gibbs, said the lack of data means unrepresented defendants in the magistrates' courts 'are invisible in policy terms'. Courtroom data on whether defendants were legally aided is 'not systematically collected or collated', she said.

Law Society president Jonathan Smithers said the means test income threshold of £22,325 is rendering thousands ineligible for legal aid but unable to afford legal advice, 'leaving them no option but to represent themselves'. It is 'deeply concerning' that people are facing serious criminal charges without the support of a solicitor. He called for the upper income limit for legal aid to be set at the 40% tax band. Meanwhile, lord chief justice Lord Thomas of Cwmgiedd told peers that district judges in family cases are having to become 'much more inquisitorial' to cope with litigants in person. 'It is impossible in a family situation to expect the adversarial system to work,' Thomas told the House of Lords Constitution Committee. Similarly, in the small claims courts, 'there is much more of a judge moving nearer to an inquisitorial role,' he said. 'I think this trend is inevitable if we cannot equip the citizen to do it or the state will pay.' Concerns about the role of McKenzie friends assisting unrepresented litigants in the family courts dominated the annual conference of family law body Resolution last week.

We Should Assess Prisons by What Happens Once Offenders Are Released

Eleonora Harwich, Guardian: The prime minister's vision of autonomous prisons is ambitious. He has called for prisons to "be held to account with real transparency over outcomes". But the current metrics for prisons are a long way off doing that. It will require a step change in how performance is measured, but getting it right has the potential to transform the prison estate. Official performance measures at the moment focus on evaluating what goes on inside prison walls, but fail to focus on the long-term outcomes that really matter, such as reoffending or sustained employment. Whilst the Prison Service's mission statement says that it should help offenders "lead law-abiding and useful lives … after release", no accountability system has been put in place to make sure this is realised. Failing to include reoffending in prison performance measures ignores its cost to society. The National Audit Office estimates that reoffending costs the economy between £9.5bn and £13bn a year. Offending also disproportionately impacts disadvantaged communities, which for a government committed to improving life chances should be of particular concern.

Reform's new report, Unlocking prison performance [pdf], sets out a new way for measuring performance. One that not only takes into account what happens within a prison but that also looks at what happens once offenders are released. In doing so it provides a blueprint for producing the performance league tables the prime minister has pledged to introduce – and the Ministry of Justice is yet to provide a model for. The report paves the way for an increased understanding of what best practice looks like in the prison system. It finds a wide variation in performance both in terms of what happens within and outside of a prison's walls.

Even when using the comparator groups developed by the National Offenders Management Service, wide variations remain. Some prisons clearly outperform their "peers" in providing, for example, courses addressing offending behaviour or substance misuse – interventions that are likely to reduce an inmate's chance of reoffending. Closing the gap between the best- and worst-performing prisons, therefore, presents a sizeable opportunity to deliver greater value for money. The diversity and quality of current data, however, presents a major obstacle to really identifying best practice. Better data would mean a more accurate and meaningful understanding of performance at a prison level, which in turn would enable greater accountability. For example, measuring whether a prisoner has accommodation on release is an inadequate outcome metric. It fails to differentiate between those offenders who have a place to call "home" and those who have just secured housing for one night. Better measures of reoffending are also needed, and Reform has recommended comparing proven reoffending rates with a particular prison's predicted rate. Exposing both successes and failures should, ultimately, lead to better prison outcomes. The prize is not just better value for money, but improved lives and safer communities.

Italian Court Rules Theft Of Food To Survive Is Not A Crime *Scottish Leagal News*

Italy's highest appeal court has ruled that stealing small amounts of food to satisfy hunger is not a crime. Judges in the Court of Cassation overturned Roman Ostriakov's conviction for theft, which he gained after stealing cheese and sausages worth €4.07 (£3) from a supermarket. Mr Ostriakov, a homeless man from Ukraine, took the food "in the face of the immediate and essential need for nourishment", the court said. As such, he had not committed a crime. In 2011, a fellow customer told the supermarket's security that Mr Ostriakov had tried to leave the store in Genoa without paying for the cheese and sausages. Last year he was convicted of theft and sentenced to six months' imprisonment and a €100 fine.

Howevert the Court of Cassation stated in its judgement: "The condition of the defendant and the circumstances in which the seizure of merchandise took place prove that he took possession of that small amount of food in the face of an immediate and essential need for nourishment, acting therefore in a state of necessity." Italian newspaper La Stampa said that, for the judges, the "right to survival prevails over property" and that the court's judgment "reminds everyone that in a civilised country not even the worst of men should starve". Statistics in Corriere Della Sera meanwhile indicated that 615 people are added to Italy's poor everyday, saying it was "unthinkable that the law should not take note of reality". It also condemned the fact the case had to go as far as it did before being thrown out. Italiaglobale.it said the ruling was "right and pertinent" and stems from a concept that "informed the Western world for centuries - it is called humanity".

Judge in Undercover Policing Inquiry Rejects Blanket Anonymity *Rob Evans, Guardian*

The senior judge leading a public inquiry into the covert police infiltration of political groups has decided that undercover officers will not be given blanket anonymity during the hearings. The ruling by Lord Justice Pitchford follows an attempt by the police to have large parts of the inquiry held in private. They have argued that none of the undercover officers should be identified to the public to protect them from harm. Pitchford said he still had to determine how much of the inquiry would be heard in secret, and he would decide at a later date how many applications for secrecy to approve. This would be done on a case-by-case basis, he said. He has received 33 applications from undercover officers and those who were the targets of the police operations for different degrees of secrecy.

Individuals who were spied on have argued that the inquiry should be heard in public to enable a proper examination of the conduct of the undercover officers. The inquiry will examine how more than 100 undercover officers infiltrated hundreds of political groups from 1968 onwards. The inquiry was set up by the home secretary, Theresa May, after what she called the "very real and substantial failings" of undercover officers were disclosed. It has been revealed that undercover officers deceived women into having long-term relationships with them, spied on grieving families fighting for justice, and stole the identities of dead children. In his ruling, Pitchford said there would be "no blanket solution" to the question of whether information about the covert deployments would be made public during the inquiry.

In a key stance, police have routinely argued that they can neither confirm nor deny the identity of an undercover officer. Pitchford concluded that this "neither confirm nor deny" stance could not in itself be a reason for granting an application to conceal the identity of an undercover officer. However, he added that he may take into account this stance when deciding whether to grant an application for secrecy. "The weight, if any, to be afforded to it will depend upon the precise risk of harm or damage its application seeks to avoid or reduce," he said. In legal submissions, police said they would be "applying for much of the detail of past or current deployments" to be heard in the absence of the general public and the targets of the surveillance, in order to preserve the covert techniques. The police said it was likely that "in the overwhelming majority of instances" the Met would argue that "the fact of or details of an undercover police deployment" must not be disclosed in the open sessions of the inquiry.

Investigative Competence: the CCRC and Innocence Projects *Andrew Green*

Until we read the recent remarks by Richard Foster, chair of the Criminal Cases Review Commission (CCRC, or the Commission for short), published in the Justice Gap, members and directors of innocence projects and other similar projects based in UK universities (IPs) thought they were developing a good relationship with the CCRC. (In answer to a question about the value of university innocence work, he said: 'If you think that you have a terminal illness, would you rather have your case considered by medical students in the bar on Friday night – or would you rather send it to a consultant oncologist?)

After all, most of our work leads to the submission of applications to the Commission on behalf of our clients, so it's in our interest to co-operate and be on good terms with its staff. However, with throwaway remarks comparing CCRC staff to consultant doctors and members of IPs to drunken students, Richard Foster has decided to characterise IPs and their members as less competent than the CCRC's 'highly skilled, qualified and experienced workforce', backed by an annual budget of over £5 million and 'far reaching statutory powers to obtain casework material'. On that basis he advises IPs in somewhat condescending tones to limit our work to reviews of defence files and clarifying what our clients appear to be telling us.

Predictably angry responses from those of us who work in IPs has led Foster to restate his position in more tactful terms. He reminds us of what we know only too well, that the CCRC has the power to obtain material which is essential to support a successful referral to the Court of Appeal, Criminal Division (CACD) – material which IP members can lay their hands on only as a result of a struggle, if at all. For that reason, IPs should leave full case reviews to the CCRC. He repeats the advice given by David Robinson, a case review manager from the CCRC, to the conference hosted by Sheffield University School of Law in 2013, that IPs should mainly interpret and put in order clients' 'muddled and confused accounts'. We may also develop alternative case theories and

offer 'concise, informed and insightful submissions to the Commission.' In disagreement with this proposition that IPs should play no more than a supportive role of this kind, I will explain why innocence projects are unlikely to restrict themselves to a simple review of defence files and a visit to a prisoner, and would indeed be wrong to accept such a restriction, despite the fact that the culmination of our work on a case must normally be an application on behalf of the client to the CCRC.

Possibilities open to IPs - David Robinson advised IPs to do what 'a good legal representative' might do. IPs may not have much money, but they do have resources and opportunities which enable them to support clients' applications to a far greater extent than most legal advisers. They have far more person hours available than any law firm struggling to survive on the limited funds available to assist clients dependent on legal aid. They are able to take advantage of being embedded in academic institutions whose facilities we use and whose staff we can consult. They can often obtain help from the same experts that the CCRC might use, who are willing to work with us pro bono, and draw on advice from highly experienced solicitors and counsel who are also willing to advise pro bono. They carry out objective reviews of cases, being no more participants in an adversarial system than the CCRC is.

David Robinson advised IPs to 'be realistic about what you are going to be able to actually do on a case – in most cases it is going to be impossible for you to get your hands on the kind of undisclosed material that we rely on so often in order to find reasons to refer cases. In our experience, the non-disclosure of material that might have assisted the defence or undermined the prosecution case is the single largest cause of wrongful convictions but it is also, without any doubt, one of the most difficult areas to investigate.' IPs are very well aware that our main task is to work out what important material has been withheld from the defence and then to obtain it. For us, persuading the CCRC to actually make use of its section 17 powers is a last resort. We can make better submissions to the Commission if we have already seen the material we need and integrated it into our submissions.

The UKSC decision in the Nunn case provides support for our requests for undisclosed material. 'Miscarriages of justice may occur, however full the disclosure at trial and however careful the trial process. A convicted defendant clearly has a legitimate interest, if continuing to assert his innocence, to such proper help as he can persuade others to give him… Quite apart from the defendant's interest, the public interest is in such miscarriages, if they occur, being corrected. There is no doubt that there have been conspicuous examples of apparently secure convictions which have been demonstrated to be erroneous through the efforts of investigative journalists, or of solicitors acting on behalf of convicted persons or, sometimes, of other concerned persons (para 36).'

The police and prosecutors ought to exercise sensible judgment when representations are made on behalf of convicted persons. If there appears to be a real prospect that further enquiry will uncover something which may affect the safety of the conviction, then there should be co-operation in making it. It is in nobody's interests to resist all enquiry unless and until the CCRC directs it (para 41). This judgment follows the House of Lords in ex parte Simms and ex parte O'Brien (1999), which overturned refusals by prison staff to permit journalists to interview prisoners. Lord Steyn's view was: 'It has been demonstrated on the hearing of the present appeals that in recent years a substantial number of miscarriages of justice have only been identified and corrected as a result of painstaking investigation by journalists… [The prisoners] seek to enlist the investigative services of journalists as a way to gaining access to justice by way of the reference of their cases to the Court of Appeal.'

The reasons given for the need for the contributions made by journalists were given by the

very experienced and successful defence and criminal appeal lawyer Gareth Pierce, quoted approvingly by Lord Steyn in his speech. They include the following:

There is no legal aid for investigations (except in very limited and exceptional circumstances). Although the CCRC was expected to be able to conduct investigations into cases far more pro-actively than the Home Office had been able, it finds itself seriously under resourced and underfunded. The report of its Chairman this year to the House of Commons Home Affairs Committee spoke of incoming cases being required to wait at least two years before they can be assigned to a case worker. The cases with the best opportunity remain those which have arrived at the Commission fully researched and investigated with new evidence compellingly presented (emphasis added).

The Commission may regard this view expressed 17 years ago as no longer valid, but the same view was held by Nunn's legal team in 2014 'that in order to demonstrate to the CCRC that this is a proper case in which it should launch a review, the claimant needs, via his solicitors, to re-investigate the several matters which they have identified and perhaps more'. The UKSC did not dispute the usefulness of thorough investigation by representatives and others preceding the making of an application to the CCRC and designed to persuade the CCRC to conduct a thorough review of the issues raised by the applicant and of the case in general.

The need to persuade the CCRC - Why would lawyers, journalists and, in turn, organisations such as Innocent which support and advise prisoners who claim to have been wrongly convicted and their families and personal supporters, and subsequently IPs, take the view that it is necessary to persuade the CCRC to conduct thorough reviews of cases by seeking fresh evidence themselves before compiling applications? One reason is that applicants are advised in clear terms that they cannot apply to the CCRC unless they have fresh evidence.

The application form states: 'For us to send your case to the appeal court we usually have to show them something new and important which will make them think in a different way about your case. It normally needs to be something that has not been heard by a court before. We will be unable to help you if you only repeat the same points that were made at your trial or appeal.' On the basis of this and the appellate and administrative court decisions (ex parte Pearson in particular) lawyers routinely advise potential applicants that they must have fresh evidence before they can apply to the CCRC.

Potential applicants who have no idea of what significant undisclosed evidence might exist are likely to give up at this stage. Those who do persist are likely to seek further investigation of issues already considered at their trials. They do so because they believe that these issues were never previously investigated fully. For example, in two cases reviewed by the MJRC, a key issue for the applicants was that illegitimate pressure and coaching by the police had caused prosecution witnesses to change their evidence. There was evidence available at the trials to show significant additions had been made in the course of making witness statements separated by a long period. Witnesses had no doubt been cross examined on any inconsistencies between previous statements and their oral testimony, but clients had information giving them reasons to allege impropriety on the part of the police, which had not been considered by their defence teams. These cases had been previously investigated by the CCRC, and clearly the Commission could have interviewed the witnesses concerned, and obtained police interview notes and other records. But the applicants did not know what to ask the Commission to do, and the applications were dismissed without any investigations being carried out. The MJRC now has the task of finding additional material which we can use to persuade the CCRC to do what we think they should ahve done in the first place.

We understand that the Commission does not wish to waste resources investigating cases that have no hope of success. But we are asked to investigate cases like the two mentioned above, and when we find out precisely what clients are trying to say, we are also able to find that there is enough substance in their claims to warrant interviewing the witnesses. It would clearly be pointless to refer these cases on the issues already considered by the Commission and rejected as apparently exhausted in the trial or appeal processes, without finding significant fresh evidence which supports our clients' claims. It is significant that in these and other cases which are under review by innocence projects, applications have been made to and refused by the CCRC. The cases of six individuals in which applications have been previously refused by the CCRC are or have been under review by the Sheffield Miscarriages of Justice Review Centre (MJRC), and in each of these actual or at least strong indications of the existence of fresh, including previously undisclosed, evidence have been found. In that respect, the MJRC may succeed where the CCRC has failed.

Criticisms of the CCRC - In 2012 I agreed to present the views of various campaigning and support organisations at a meeting organised by the Innocence Network UK (INUK) to review critically the work of the CCRC. These organisations made a number of allegations against the Commission arising from the experiences of their members. South Wales Against Wrongful Convictions stated that: '[The CCRC] reject about 90% of applications very quickly because they don't raise anything new – this creates the situation where much of the investigation has to be done by the applicant or their representatives if they are fortunate to have any. The CCRC do not investigate unless a good chunk of the work is already done for them.'

The universal view of these grass roots organisations was, as I reported to the conference: 'The CCRC is left with the easy option of doing no more than desk top reviews, processing cases quickly, and as a result giving the appearance of being an efficient organisation. Rarely will a case review manager work proactively on a case, looking for leads and fresh evidence that could substantiate an applicant's claims (as former commissioner Laurie Elks [who spoke at the same conference] confirmed this morning). On one occasion, asked to interview a police officer, the case review manager refused because he predicted the officer would lie to him!' The grass roots organisations called for reviews that are proactive and for more and better training of CCRC staff, and for additional state funding that would enable the CCRC to provide a better service.

IPs and support organisations are not the only critics of the CCRC. Bob Woffinden, citing the cases of Andy Malkinson and Jong Rhee, commented 'If the CCRC is not referring these, then it is simply not fulfilling the role that the public expect of it. It has rejected not only these two, but hundreds of other wrongful convictions.' Recently Eric Allison wrote in the Guardian, 'On paper, the CCRC provides a safety net for the wrongly convicted.

But it has disappointed those who hoped the CCRC would deal swiftly and surely with miscarriages of justice. The quango is under-resourced and seemingly unable to carry out the in-depth investigations required when prosecutions are questioned.' The criticisms listed above concern mainly the CCRC's failure to review, or to review adequately. To them we can add examples of bad practice by the CCRC when it does carry out in depth investigations.

The case of Susan May was referred by the CCRC to the appeal court which handed down its judgement in December 2001. The CCRC continued to work on the case, in which the only significant evidence consists of three marks on the wall adjacent to the victim's bed, said to be made at the time of the murder, to be fingerprint marks identified as May's, and to consist of the victim's blood. Unfortunately the CCRC concerned itself with seeking possible inno-

cent explanations for why the marks might have been deposited at or after the time of the murder. Working with an independent fingerprint expert and following a careful review of defence files, corresponding with the defence expert at trial, and obtaining significant previously undisclosed material, the Sheffield Innocence Project (subsequently MJRC) was able to show that the apparently incriminating marks were in fact old and predated the murder, and that the court which tried May had been misled on this issue.

In another murder case reviewed by the MJRC, a witness had come forward whose evidence was read at the trial, because she had not attended the court. Our client's solicitor passed her fresh evidence to the CCRC, who instructed the original investigating police force to re-interview the witness. This was an inappropriate way of approaching the witness, who refused to co-operate. The MJRC was left to deal with this problem. And in yet another murder case, the MJRC's client's defence was that it was not he but another man who was responsible, whom he named. This client had also made a previous application to the CCRC, who discovered that the firm of solicitors instructed by him were at the same time acting for the man alleged to be the actual culprit. But the CCRC accepted the solicitors' assurance that our client's interest had not suffered despite what appears to be a blatant conflict of interest likely to have affected the preparation of the case for trial. Since the MJRC can find no fresh evidence relating to this issue, we can only assume that the CCRC will refuse to entertain a further application on it. The MJRC is proactively investigating other issues in this case neglected by the CCRC in its previous largely reactive review of it.

The experiences of innocence projects, lawyers, journalists and prisoner and family support organisations have caused them to choose the difficult task of investigating cases as far as they possibly can before submitting applications to the CCRC, rather than simply assisting applicants to express themselves more clearly.

Delays - Richard Foster repeats the criticism of IPs that they process cases too slowly. All IP directors agree that they should speed up their review processes, and are developing systems to improve efficiency. But delays are inherent in any criminal case investigation and review process, for many reasons, as CCRC staff must know from their own experience. Bob Woffinden added, a further criticism of the CCRC, which is that, 'even when it reaches correct decisions, it takes an eternity to do so. Eddie Gilfoyle was wrongly convicted in July 1993 and his case has attracted intermittent publicity ever since.

Merely the most recent cycle of publicity about his wrongful conviction can be traced back to February 2008, when The Times published a major article. More than seven years later, the CCRC has still not pronounced upon the case (see the Justice Gap here). Both he and Eric Allison, journalists who have long experience of investigating miscarriage of justice cases, observe that the CCRC itself is responsible for delays in reaching decisions on cases. In one MJRC case (Susan May), the CCRC was already actively renewing the case when we sent the Commission an expert report we had commissioned and which we believed proved our client's innocence.

The CCRC did not pause, but immediately appointed its own expert to check up on ours. The CCRC's expert agreed with ours. That was more than a year ago. We are still waiting to hear their decision. It might improve the CCRC's efficiency and reduce expenditure if they could simply accept such expert reports, once they had satisfied themselves that the expert concerned was a genuine expert, and truly independent. After all, experts working pro bono are not doing so in expectation of further paid commissions from unfunded orgnisations.

Innocence projects are not claiming to be in some general way more competent than the CCRC. They admit to many mistakes and face difficulties in providing the service to clients that they wish to provide. They also know that the CCRC can work to a very high standard, that they must collaborate with the CCRC and have a good and mutually supportive relationship. Recent contact with the CCRC has been (Richard Foster's recent comments excepted) very positive. The efficiency of case reviews has clearly improved greatly under Richard Foster's stewardship, despite the reductions in funding. IPs would ignore past mistakes by the CCRC if it were prepared to ignore theirs, concentrate on future improvements, and treat them with respect rather than condescension.

Whistleblowing Is Not Just Leaking — It's an Act of Political Resistance

Edward Snowden: One of the challenges of being a whistleblower is living with the knowledge that people continue to sit, just as you did, at those desks, in that unit, throughout the agency, who see what you saw and comply in silence, without resistance or complaint. They learn to live not just with untruths but with unnecessary untruths, dangerous untruths, corrosive untruths. It is a double tragedy: What begins as a survival strategy ends with the compromise of the human being it sought to preserve and the diminishing of the democracy meant to justify the sacrifice. But unlike Dan Ellsberg, I didn't have to wait 40 years to witness other citizens breaking that silence with documents. Ellsberg gave the Pentagon Papers to the New York Times and other newspapers in 1971; Chelsea Manning provided the Iraq and Afghan War logs and the Cablegate materials to WikiLeaks in 2010. I came forward in 2013. Now here we are in 2016, and another person of courage and conscience has made available the set of extraordinary documents that are published in The Assassination Complex, the new book out today by Jeremy Scahill and the staff of The Intercept. (The documents were originally published last October 15 in The Drone Papers.)

We are witnessing a compression of the working period in which bad policy shelters in the shadows, the time frame in which unconstitutional activities can continue before they are exposed by acts of conscience. And this temporal compression has a significance beyond the immediate headlines; it permits the people of this country to learn about critical government actions, not as part of the historical record but in a way that allows direct action through voting — in other words, in a way that empowers an informed citizenry to defend the democracy that "state secrets" are nominally intended to support. When I see individuals who are able to bring information forward, it gives me hope that we won't always be required to curtail the illegal activities of our government as if it were a constant task, to uproot official lawbreaking as routinely as we mow the grass. (Interestingly enough, that is how some have begun to describe remote killing operations, as "cutting the grass.")

A single act of whistleblowing doesn't change the reality that there are significant portions of the government that operate below the waterline, beneath the visibility of the public. Those secret activities will continue, despite reforms. But those who perform these actions now have to live with the fear that if they engage in activities contrary to the spirit of society — if even a single citizen is catalyzed to halt the machinery of that injustice — they might still be held to account. The thread by which good governance hangs is this equality before the law, for the only fear of the man who turns the gears is that he may find himself upon them. Hope lies beyond, when we move from extraordinary acts of revelation to a collective culture of accountability within the intelligence community. Here we will have taken a meaningful step toward

solving a problem that has existed for as long as our government.

Not all leaks are alike, nor are their makers. Gen. David Petraeus, for instance, provided his illicit lover and favorable biographer information so secret it defied classification, including the names of covert operatives and the president's private thoughts on matters of strategic concern. Petraeus was not charged with a felony, as the Justice Department had initially recommended, but was instead permitted to plead guilty to a misdemeanor. Had an enlisted soldier of modest rank pulled out a stack of highly classified notebooks and handed them to his girlfriend to secure so much as a smile, he'd be looking at many decades in prison, not a pile of character references from a Who's Who of the Deep State.

There are authorized leaks and also permitted disclosures. It is rare for senior administration officials to explicitly ask a subordinate to leak a CIA officer's name to retaliate against her husband, as appears to have been the case with Valerie Plame. It is equally rare for a month to go by in which some senior official does not disclose some protected information that is beneficial to the political efforts of the parties but clearly "damaging to national security" under the definitions of our law. This dynamic can be seen quite clearly in the al Qaeda "conference call of doom" story, in which intelligence officials, likely seeking to inflate the threat of terrorism and deflect criticism of mass surveillance, revealed to a neoconservative website extraordinarily detailed accounts of specific communications they had intercepted, including locations of the participating parties and the precise contents of the discussions. If the officials' claims were to be believed, they irrevocably burned an extraordinary means of learning the precise plans and intentions of terrorist leadership for the sake of a short-lived political advantage in a news cycle. Not a single person seems to have been so much as disciplined as a result of the story that cost us the ability to listen to the alleged al Qaeda hotline.

If harmfulness and authorization make no difference, what explains the distinction between the permissible and the impermissible disclosure? The answer is control. A leak is acceptable if it's not seen as a threat, as a challenge to the prerogatives of the institution. But if all of the disparate components of the institution — not just its head but its hands and feet, every part of its body — must be assumed to have the same power to discuss matters of concern, that is an existential threat to the modern political monopoly of information control, particularly if we're talking about disclosures of serious wrongdoing, fraudulent activity, unlawful activities. If you can't guarantee that you alone can exploit the flow of controlled information, then the aggregation of all the world's unmentionables — including your own — begins to look more like a liability than an asset.

Truly unauthorized disclosures are necessarily an act of resistance — that is, if they're not done simply for press consumption, to fluff up the public appearance or reputation of an institution. However, that doesn't mean they all come from the lowest working level. Sometimes the individuals who step forward happen to be near the pinnacle of power. Ellsberg was in the top tier; he was briefing the secretary of defense. You can't get much higher, unless you are the secretary of defense, and the incentives simply aren't there for such a high-ranking official to be involved in public interest disclosures because that person already wields the influence to change the policy directly.

At the other end of the spectrum is Manning, a junior enlisted soldier, who was much nearer to the bottom of the hierarchy. I was midway in the professional career path. I sat down at the table with the chief information officer of the CIA, and I was briefing him and his chief technology officer when they were publicly making statements like "We try to collect everything and hang on to it forever," and everybody still thought that was a cute business slogan. Meanwhile I was designing the systems they would use to do precisely that. I wasn't briefing the policy side,

the secretary of defense, but I was briefing the operations side, the National Security Agency's director of technology. Official wrongdoing can catalyze all levels of insiders to reveal information, even at great risk to themselves, so long as they can be convinced that it is necessary to do so.Reaching those individuals, helping them realize that their first allegiance as a public servant is to the public rather than to the government, is the challenge. That's a significant shift in cultural thinking for a government worker today.

I've argued that whistleblowers are elected by circumstance. It's not a virtue of who you are or your background. It's a question of what you are exposed to, what you witness. At that point the question becomes Do you honestly believe that you have the capability to remediate the problem, to influence policy? I would not encourage individuals to reveal information, even about wrongdoing, if they do not believe they can be effective in doing so, because the right moment can be as rare as the will to act. This is simply a pragmatic, strategic consideration. Whistleblowers are outliers of probability, and if they are to be effective as a political force, it's critical that they maximize the amount of public good produced from scarce seed.

When I was making my decision, I came to understand how one strategic consideration, such as waiting until the month before a domestic election, could become overwhelmed by another, such as the moral imperative to provide an opportunity to arrest a global trend that had already gone too far. I was focused on what I saw and on my sense of overwhelming disenfranchisement that the government, in which I had believed for my entire life, was engaged in such an extraordinary act of deception.

Change has to flow from the bottom to the top. - At the heart of this evolution is that whistleblowing is a radicalizing event — and by "radical" I don't mean "extreme"; I mean it in the traditional sense of radix, the root of the issue. At some point you recognize that you can't just move a few letters around on a page and hope for the best. You can't simply report this problem to your supervisor, as I tried to do, because inevitably supervisors get nervous. They think about the structural risk to their career. They're concerned about rocking the boat and "getting a reputation." The incentives aren't there to produce meaningful reform. Fundamentally, in an open society, change has to flow from the bottom to the top. As someone who works in the intelligence community, you've given up a lot to do this work. You've happily committed yourself to tyrannical restrictions. You voluntarily undergo polygraphs; you tell the government everything about your life. You waive a lot of rights because you believe the fundamental goodness of your mission justifies the sacrifice of even the sacred. It's a just cause. And when you're confronted with evidence — not in an edge case, not in a peculiarity, but as a core consequence of the program — that the government is subverting the Constitution and violating the ideals you so fervently believe in, you have to make a decision. When you see that the program or policy is inconsistent with the oaths and obligations that you've sworn to your society and yourself, then that oath and that obligation cannot be reconciled with the program. To which do you owe a greater loyalty?

One of the extraordinary things about the revelations of the past several years, and their accelerating pace, is that they have occurred in the context of the United States as the "uncontested hyperpower." We now have the largest unchallenged military machine in the history of the world, and it's backed by a political system that is increasingly willing to authorize any use of force in response to practically any justification. In today's context that justification is terrorism, but not necessarily because our leaders are particularly concerned about terrorism in itself or because they think it's an existential threat to society. They recognize that even if we had a 9/11 attack every year, we would still be losing more people to car accidents and heart disease, and we don't see the same expenditure of resources to respond to those more significant threats. What it

really comes down to is the political reality that we have a political class that feels it must inoculate itself against allegations of weakness. Our politicians are more fearful of the politics of terrorism — of the charge that they do not take terrorism seriously — than they are of the crime itself. As a result we have arrived at this unmatched capability, unrestrained by policy. We have become reliant upon what was intended to be the limitation of last resort: the courts. Judges, realizing that their decisions are suddenly charged with much greater political importance and impact than was originally intended, have gone to great lengths in the post-9/11 period to avoid reviewing the laws or the operations of the executive in the national security context and setting restrictive precedents that, even if entirely proper, would impose limits on government for decades or more. That means the most powerful institution that humanity has ever witnessed has also become the least restrained. Yet that same institution was never designed to operate in such a manner, having instead been explicitly founded on the principle of checks and balances. Our founding impulse was to say, "Though we are mighty, we are voluntarily restrained." When you first go on duty at CIA headquarters, you raise your hand and swear an oath — not to government, not to the agency, not to secrecy. You swear an oath to the Constitution. So there's this friction, this emerging contest between the obligations and values that the government asks you to uphold, and the actual activities that you're asked to participate in. These disclosures about the Obama administration's killing program reveal that there's a part of the American character that is deeply concerned with the unrestrained, unchecked exercise of power. And there is no greater or clearer manifestation of unchecked power than assuming for oneself the authority to execute an individual outside of a battlefield context and without the involvement of any sort of judicial process.

Traditionally, in the context of military affairs, we've always understood that lethal force in battle could not be subjected to ex ante judicial constraints. When armies are shooting at each other, there's no room for a judge on that battlefield. But now the government has decided — without the public's participation, without our knowledge and consent — that the battlefield is everywhere. Individuals who don't represent an imminent threat in any meaningful sense of those words are redefined, through the subversion of language, to meet that definition. Inevitably that conceptual subversion finds its way home, along with the technology that enables officials to promote comfortable illusions about surgical killing and nonintrusive surveillance. Take, for instance, the Holy Grail of drone persistence, a capability that the United States has been pursuing forever. The goal is to deploy solar-powered drones that can loiter in the air for weeks without coming down. Once you can do that, and you put any typical signals collection device on the bottom of it to monitor, unblinkingly, the emanations of, for example, the different network addresses of every laptop, smartphone, and iPod, you know not just where a particular device is in what city, but you know what apartment each device lives in, where it goes at any particular time, and by what route. Once you know the devices, you know their owners. When you start doing this over several cities, you're tracking the movements not just of individuals but of whole populations.

Unrestrained power may be many things, but it's not American. - By preying on the modern necessity to stay connected, governments can reduce our dignity to something like that of tagged animals, the primary difference being that we paid for the tags and they're in our pockets. It sounds like fantasist paranoia, but on the technical level it's so trivial to implement that I cannot imagine a future in which it won't be attempted. It will be limited to the war zones at first, in accordance with our customs, but surveillance technology has a tendency to follow us

home. Here we see the double edge of our uniquely American brand of nationalism. We are raised to be exceptionalists, to think we are the better nation with the manifest destiny to rule. The danger is that some people will actually believe this claim, and some of those will expect the manifestation of our national identity, that is, our government, to comport itself accordingly.

Unrestrained power may be many things, but it's not American. It is in this sense that the act of whistleblowing increasingly has become an act of political resistance. The whistleblower raises the alarm and lifts the lamp, inheriting the legacy of a line of Americans that begins with Paul Revere. The individuals who make these disclosures feel so strongly about what they have seen that they're willing to risk their lives and their freedom. They know that we, the people, are ultimately the strongest and most reliable check on the power of government. The insiders at the highest levels of government have extraordinary capability, extraordinary resources, tremendous access to influence, and a monopoly on violence, but in the final calculus there is but one figure that matters: the individual citizen. And there are more of us than there are of them.

Exonerated, Dead and Still On Trial - A Judge Gets In A Last Kick.

In "Case in Point," Andrew Cohen examines a single case or character that sheds light on the criminal justice system. It was no surprise last month when a Louisiana appeals court affirmed a trial judge's denial of compensation for the estate of the late Glenn Ford. Ford was the soft-spoken black man who spent 30 years on death row for a murder he did not commit, convicted by an all-white jury following a trial in which he was represented by an oil and gas attorney who had never before tried a case. Ford's case became internationally known, and the subject of a "60 Minutes" piece, when the prosecutor who sent him away, Marty Stroud, loudly apologized for his role in "destroying" Ford's life. For decades, both before and during the national attention, the Louisiana courts had been hostile to Ford's claims that he had been a victim of police and prosecutorial misconduct. This was so even after contemporary Caddo Parish prosecutors conceded that someone other than Ford had murdered Isadore Rozeman, a jeweler slain in Shreveport in 1983. And it was so even after Ford was exonerated of murder and released in 2014 from the Louisiana State Penitentiary at Angola carrying the cancer that soon would kill him.

But within the past four weeks, as the Louisiana courts have ensured that Ford's family would not be compensated for his decades in solitary confinement, three extraordinary things have happened. First, in early April, a state legislator named Cedric Glover, astutely predicting how poorly the court case might turn out for the Ford family, introduced a bill that would help provide compensation to the family by broadening the state's restrictive compensation statute. The family seeks $330,000 for Ford's decades on death row and argues that the current law's requirement of a finding of "factual innocence" has been misinterpreted by state attorneys and judges. Glover authored the original law setting up compensation awards for exonerees and now says he wants to make it easier for exonerees to prove their "innocence." The measure stands little chance of passage in a budget-crunched Louisiana legislature but Glover's effort did not go unnoticed by the court. The introduction of the bill and the national attention it received must have spooked at least one of the other judges handling the Ford case.

On April 13th, the Louisiana appeals court rendered its decision, denying Ford's executors the compensation they had sought. No surprise there. But one of the judges on the appellate panel, Judge D. Milton Moore III, while agreeing with the outcome of the case, unexpectedly lamented the ambiguity of the state's current compensation law and the fact that "there is something lopsided or inequitable in this result." He suggested that the legislature

"should revise the test for awarding compensation for exonerated individuals." He did not mention Glover's bill specifically but seemed open to the idea of such a legislative fix.

But — and here's the third thing, the most surprising of all — the introduction of the bill and the national attention it received must have spooked at least one of the other judges handling the Ford case. Five days after issuing the original decision denying Ford relief, the appeals court, led by Judge Joe Bleich, a former prosecutor, advised the parties in Ford's case that two "ad hoc" corrections would be appended to the original decision.

The April 18th memo is one of the most remarkable examples of judicial activism I have ever seen in nearly 20 years as a legal analyst. The first part of the "correction" focuses on the language of the Louisiana compensation statute, refuting both Judge Moore's position and the the legislative amendment proposed by Glover. In other words, instead of waiting for a bill to become a law subject to judicial review, the court tried to preemptively scuttle the legislation by claiming that the amendment would impose "automatic financial liability" on Louisiana "without the opportunity to defend against such." The other component of the "correction" is the addition to the original ruling of a "summary" of Ford's purported role in the circumstances of Rozeman's death. It's essentially an ad hominem attack on Ford in which assertions that were never proven at trial, or which were later refuted by state prosecutors, are leveled at a man no longer alive to defend himself. The "summary" labels Ford a "sinister guardian of the killers," for example. Not even the state lawyers fighting to deny compensation to Ford's family have made that allegation.

What prosecutor Stroud initially argued at trial was that Ford and two others had killed Rozeman. There were no eyewitnesses to the murder. There was no murder weapon found. When Ford learned the police were looking for him he went to the police station and cooperated for months. He was not charged until a girlfriend of one of the other suspects incriminated him. (Her credibility almost immediately dissolved on the witness stand when she conceded that police had helped her come up with her story.) Ford told the police that he had been given jewelry and asked to pawn it. What the state had argued during the compensation fight, on the other hand, was that Ford was not "factually innocent" of any crimes relating to Rozeman's murders because he was involved in an armed robbery plot against Rozeman and subsequently fenced items stolen from Rozeman's store. But Ford in 1983 was not charged with conspiracy or with being an accessory to armed robbery. In fact, shortly before Ford was released from prison in 2014, prosecutors told a judge in support of their agreement to set him free that "Glenn Ford was neither present at, nor a participant in, the robbery and murder of Isadore Rozeman." No reasonable conclusion can be reached that Ford's involvement in the circumstances surrounding the brutal murder of Mr. Rozeman was incidental, minor, or insignificant. This is clear from the evidence at the compensation hearing which Ford did not explain or refute. Ford was intricately involved in every facet of this case with the exceptions of entering the house and pulling the trigger.

Ford helped orchestrate the robbery which led to the murder. Although motive need not be proved, Ford was angry at Mr. Rozeman for not providing him money he had requested earlier (sic) the week of the murder. Ford created the opportunity for entry into Mr. Rozeman's home. Despite Mr. Rozeman's employer-employee relationship with and trust of Ford, this trust was misplaced. Ford orchestrated the opportunity for an unauthorized entry into Mr. Rozeman's home, which had been meticulously secured. Before and during the murder/robbery, Ford operated as the sinister guardian of the killers. Ford then financially benefitted from the robbery, cashing in on the sale of Mr. Rozeman's property. Continuing in his criminality, Ford made every effort to dispose of the probable murder weapon and conceal the identity of the trigger man. Any conclusion that Ford was not integrally involved in the circumstances leading to Mr. Rozeman's brutal death is baseless. Such a conclusion defies facts, evidence and logic. Ford's demand for compensation clearly and perversely violates the letter, intent and spirit of the will of the Louisiana legislature. And here is the response from Ford's attorneys: The court's new claims are unfounded. As state prosecutors recognized when they exonerated Glenn, there is no legitimate reason to suspect that Glenn had any part in the crime. In fact, the only witness who ever claimed Glenn had taken part later confessed on the stand that she had lied at the direction of the police. It is unusual for an appellate court to make factual findings that are not based on evidence. It is unheard of for a court to do so in an attempt to influence the legislative process. We haven't seen anything like it in our combined decades of experience.

Having deprived Glenn Ford of his constitutional rights for over 30 years while he was alive and fighting for exoneration from a solitary cell, the Louisiana courts now seek to block a legislative remedy that would help make his family whole. And at least one of the judges on the panel did so by turning Ford posthumously into a murderous mastermind, which even the original prosecutors, relying solely on a witness who later recanted, did not attempt. Ford's lawyers say they have never seen anything like it. Neither have I. But the attitude displayed by the court here, by the aggressive push to endorse a narrative never proven in court, by the manipulation of facts and evidence, underscores the official indifference to justice that characterized this case from its beginning.

Gambler Who Lost £90,000 Bet On Celtic Match Fails In Legal Challenge

A gambler who lost more than £90,000 after placing an online bet on a Scottish football match has failed in a legal challenge over the bookmaker's decision to refuse to pay out. A judge in the Court of Session refused permission for the application for judicial review to proceed after ruling that the petitioner failed to demonstrate that the England-based betting adjudication service - which upheld a decision of the betting company - was subject to the jurisdiction of the Scottish courts. The judicial review arose out of a bet placed by the petitioner Gordon Shearer with the first respondent Betvictor Ltd, a company registered and operating from Gibraltar, subject to regulation by the Gibraltar Gambling Commission but having a licence to provide online betting services to customers in the United Kingdom.

Lord Boyd of Duncansby heard that on 24 December 2011 the petitioner placed an online bet of £92,476 at odds of 1/18 on the outcome of a game between Celtic and Kilmarnock. The dispute between the petitioner and the first respondent was whether the bet was on Celtic to win the match, as the petitioner claimed, or only to win the second half, as the first respondent maintained. Celtic won the match 2-1, but only drew the second half 1-1 and the first respondent therefore refused to pay out the £97,613 the petitioner would have won or refund the stake.

The first respondent's terms and conditions provided for disputes to be adjudicated by the second respondent, the Independent Betting Adjudication Service Ltd, a company registered in England and having a place of business there, whose ruling is final. The petitioner pursued the adjudication with the second respondent, which issued a decision in favour of the first respondent and following a review it adhered to its original decision. He then complained to the Gibraltar Gambling Commission (GCC) but the GCC refused the complaint and an appeal to the Gambling Commissioner was also rejected. The petitioner considered a judicial review of that decision in Gibraltar but was advised that even if upheld all that would be achieved would be a requirement that the first respondent would be bound to enquire into the complaint. He

therefore raised the present petition in the Court of Session seeking reduction of the ruling issued by the second respondent and declarator that the first respondent was "bound to pay out" on the bet because it "did not form part of the contract". In the alternative, the petitioner sought declarator that the contract between the parties was "void" through "lack of consensus", and therefore the first respondent was bound to make return the stake of £92,476 to him.

However, the judge refused permission to proceed. In a written opinion, Lord Boyd of Duncansby said: "I am not satisfied that the petitioner has demonstrated that the second respondent is subject to the jurisdiction of this court. It is a company incorporated in England and having its place of business in England. The adjudication was carried out in England. Rule 2(l) of paragraph 8 of the Civil Jurisdictions and Judgements Act 1982 applies and provides that jurisdiction lies in the courts in the place where the company has its seat, ie England."

Counsel for the petitioner had referred to the decision of the House of Lords in the 2007 case of Tehrani v Secretary of State for the Home Department and suggested that as the petitioner was domiciled in Scotland and the contract with the first respondent was completed in Scotland, the Scottish courts would have jurisdiction, but the judge was not persuaded that Tehrani was of any assistance to the petitioner, as it concerned tribunals established by statute and dealt with immigration.

"This is a private dispute between the petitioner and the first respondent arbitrated privately by the second respondent," he explained, adding that, as Lord Hope of Craighead observed, "a decision taken outside Scotland under the law of another part of the United Kingdom is not subject to the supervisory jurisdiction of the Court of Session even if the effects are felt in Scotland". Lord Boyd said: "I have concluded that because the second respondent is not amenable to the jurisdiction of the Scottish courts that there are no real prospects of success. Even if it were to proceed the petitioner would face some formidable hurdles." Source Scottish Leagal News

HMYOI Glen Parva – A Well-Led Prison But Further Improvements Necessary

Staff and managers at HMYOI Glen Parva should be commended for the improvements they have made, but there was more to do, said Martin Lomas, Deputy Chief Inspector of Prisons. As he published the report of an announced inspection of the young offender institution in Leicestershire. Glen Parva held just under 650 young men, aged mainly 18 to 21 years old. In terms of maturity, vulnerability and risk, managing young men in establishments like Glen Parva is a huge challenge. At its last inspection in 2014, inspectors found a prison with many problems and saw it as an example of a custody model that was not working.

At the time, inspectors noted that the determined efforts of the then newly appointed governor were beginning to improve outcomes but inspectors still felt the need to return quickly to follow up the inspection because of concerns. This more recent inspection found the risks had not diminished but Glen Parva had improved, recognised in two of our four healthy prison tests – respect and resettlement. It was safer, but still not safe enough. The weekend before the inspection had seen concerted indiscipline on one wing but the prison was resilient and recovering well.

Inspectors were concerned to find that: • 17 Recommendations from the last inspection had not been achieved and 21 only partly achieved.• the prison held a greater proportion of violent offenders than other similar prisons, the amount of violence in the jail was high and increasing but staff were doing useful work to try to grip the issue; • self-harm had increased and two young men had taken their own lives since 2014, with a third dying in hospital during the inspection, although in general, young men in crisis felt well cared for by staff; • despite a refurbishment programme in place, some cells remained in a poor condition and too many were overcrowded; • time out of cell had

deteriorated and inspectors found over a quarter of young men locked in their cells during the working day; • arrangements to improve the quality of learning and skills were insufficient and taking too long; and • achievement across learning and skills provision varied greatly but overall it required improvement. • Inspectors made 65 recommendations

Martin Lomas said: "Glen Parva continued to face many challenges but this is an encouraging report in difficult circumstances. The prison was well led and the management team had the right values and was enthusiastic. The staff group were committed and keen to do a good job, the right priorities were being identified and higher expectations were being set. Running Glen Parva well is tough but improvements were clearly evident. The governor and her team were doing a good job and deserve credit for the improvements they had made."

A Guide For People Who Have Been Convicted Of Crimes They Did Not Commit

Source Innocent Sheffield. Presenting Your Case: Many people know every detail of the case they are supporting, but when they try to explain it to other people, they become lost in detail. It's very easy to forget that anyone new to your case doesn't know anything about it – she or he may not even know anything about the criminal justice process. Things that may seem obvious to you can be completely puzzling to anyone else. It is actually quite difficult to write about even the simplest case in a way that will enable other people to understand it.

This is a skill which people like journalists and lawyers have had to learn. You may not agree with what they have said, but look at how they have got the information across: copy them, but put in the facts as you see them.

You might want to use the news reports as a starting point, because the reporters are good at picking out what will grab readers' attention and including the basic facts (even if they do miss out a lot of what you think is important). You might also want to use the summaries of the case which will be in documents such as the summing up, advice on appeal, etc. You may not agree with all that is written in them, but remember lawyers are trained to summarise cases and present briefly all the facts that people need to know.

A] Before you start writing, think about:

1 Your medium - The same principles apply to whatever medium you want to use, but you need to know how much space, how many words or how much time you have available.

1.1 Leaflet - Stick to one or two sides of A4 paper, to keep the leaflet cheap and easy to handle. Under 1000 words. Not solid words: picture, graphic, headings to break up the text and make the leaflet attractive and readable.

1.2 Press release - One side of A4. Include quotes that editors might like to use. Include enough info so that a short article could be written using just your press release. But try to include hints that will entice reporters to contact you and ask for more. Have a good, high resolution picture available, on a web site if possible.

1.3 Web page - Web space is cheap and you can put as much as you like on a web site. The problem is to get people to read it. WordPress provide free basic websites. Many people use Facebook pages. We don't recommend this for articles. The web site should include everything that anyone might ever be interested in – it is a reference point, where anyone who wants to know about the case can find anything she or he might need. Whole documents like judges' summings up can be put on. But what matters most is the

Home page. This should have a very brief and basic account, a strap (see below), the basic facts (see below), a picture if possible, a link to click on saying "read more" now

that you have grabbed readers' attention, and a clear menu so that visitors can find their way to what they want easily.

1.4 Public speaking - This topic merits a whole instruction manual of its own. Think who will be in your audience. Practice speaking it out loud to get presentation and timing right.

Try not to read it all – this can make it dull.

Have a prompt list or prompt cards with notes to remind you about what you want to say.

Relying on your speech to come out naturally without practice or notes is risky – very few people can pull that off.

2 Your readers - Why are you writing an account of your case (what do you want to achieve)? Who do you want to read it? What do you expect your readers to do next? Decide on your target readership. You may be writing for any of these groups, or (more probably) for all of them. Your account must include what they need to know, and what you want them to know. If you are writing your account for everyone to read, then you should still check the list below to make sure all these readers can find what they're interested in, in your account.

2.1 The general public 2.2 Media: newspaper reporters, journalists, TV and radio researchers Some of these people are good, and can be your best friends. But many are lazy and don't want to believe you, so make you case watertight if you can, and make it obvious (see strap, below). Once you get them interested, journalists will want to find out everything, so try to make this easy for them. Why do you want the media to be interested? To make the general public aware. In case there are witnesses who might contact you with useful information. So that journalists, TV researchers etc. will find out evidence that will be useful in an appeal. So that information which has been hidden comes into the public domain. Perhaps important evidence was available at the trial, but your lawyers failed to use it. As a result it may be inadmissible at your appeal. But if it's been plastered over the newspapers, then lawyers and judges may find it hard to ignore. Think of what you are writing as a resource and reference point for journalists and researchers. 2.3 Students - Students of law, journalism and forensic science are often interested in miscarriages of justice. Some are involved in Innocence Projects, which could provide you with practical help. Can you give them some idea of what they might do to help – why they should pick up on your case? 2.4 Lawyers - The few good appeal lawyers are very busy people (for obvious reasons). If you want to attract their interest, make it easy for them, so that they will have a clear guide and the basic facts at their fingertips. 2.5 Judges - Of course judges are never going to admit to reading your publicity material. But they might. If you were an appeal judge, wouldn't you want to check out on the internet the case you were about to hear? So make sure the information is available there that might not be admissible at an appeal, but which you want them to be aware of (see 2.2, last point, above).

B] What should be in your account – in this order: (of course, you may need to break the following rules – they are recommendations rather than rules) Attention-grabbing headline if you can think of one. Strap - "Miss Cat was convicted of murdering Mr Starling on 14 February. She went on holiday to the Seychelles on 15 February. His body was found on 17 February. Now witnesses have come forward who saw Mr Starling alive on 16 February, when Miss Cat was thousands of miles away…" Unfortunately few cases are as clear cut as this, but you will get the idea: the strong, interesting point that will grab the attention of your readers: why they should read more… (we used to call this a strap on which to hang the rest of the story). Picture: put a picture of the wrongly convicted person here if you can.

Basic facts – these are of key importance Name and age of person convicted What the crime was, i.e. what the wrongful conviction is for Name of victim (if there was a victim) Place where it happened (including town/city, county/part of country) Date when crime happened Date of arrest Date of trial, and name of court sentence date of appeal (if heard) What the jury heard, and why they made their decision

Prosecution case - You must give all the points of the prosecution case. There's no point in hiding anything. You can say why they are wrong or misleading later on. Your readers will want to know why the jury reached the conclusion they did. After all, the jury sat through the trial, heard all the evidence, and had the benefit of hearing witnesses speak and could decide for themselves whether they were truthful. Explain how the prosecution case held together – what their story was – and why it seemed convincing to the jury.

Your next task is to convince your readers that the jury was mistaken. Defence case as presented in court The defence answers to all the prosecution points. What the jury did not hear Evidence not used by your defence Evidence that was available, that you think should have been used at the trial. Why wasn't it used? Point by point, explain why unused evidence is important, and how it would have made a difference if the jury had heard it. Fresh evidence Evidence that's come to light since the trial – like Miss Cat's new witness. This might also be evidence that the police did not disclose before the trial. It might include evidence that you think probably exists, but you haven't yet got hold off – 'we are sure there are other suspects' – 'Did the meter reader who visited Mr Starling's house on the day after he is supposed to have been killed see him alive?' What you think really happened (if you know) You might have had nothing to do with the crime and so you know nothing about it. But if you have suspicions, you might want to voice them: "Mr Starling was known to be a drug dealer, and is likely to have been murdered in the course of a robbery by one of his customers.

What is happening now: What stage has the case reached? Is there an appeal pending? Has an application been made to the Criminal Cases Review Commission and/or the European Court of Human Rights? etc. What you want to happen next appeals for witnesses campaign activity: meetings, vigils, tee shirts for sale, etc. What would you like the reader to do? write to the person in prison / sign a petition / attend a meeting, etc. Contact info Whatever you can manage: email is essential, phone number and address if you are prepared to give them out.

C] Like all our advice, the advice in this one is likely to be incomplete, and suggestions for additions and improvements are very welcome. The advice on these page is not legal or other professional advice, but just a guide which we hope is helpful. Now go back over what you have written, and reduce it to the minimum necessary to fit in the space available. If you have a web site, then put a simple account on the home page, and add links to any extra material that supports your case, which will be on other pages.

Hostages: Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, 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 Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, 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.