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Oliver Campbell Case: New Appeal Over 1990 Murder Conviction

Cad Taylor and Nic Rigby, BBC News: A man with severe learning disabilities convicted of murder nearly 30 years ago hopes a new appeal will clear his name. Oliver Campbell, 50, who lives near Woodbridge, Suffolk, was jailed for the murder of shopkeeper Baldev Hoondle, 42, in Hackney, east London, in 1990. Campbell, who suffered a brain injury when he was eight months old, has always protested his innocence. He welcomed the appeal to the Criminal Cases Review Commission (CCRC). The Met Police said it did not wish to comment. Campbell, who was released from prison on life licence in 2002, said: "Since 1990 I have been trying to clear my name. This has gone on for a very long time, a whole lot of my life. "I am just fighting this miscarriage of justice and trying to clear my name every day."

Campbell's case featured in a 2002 edition of the BBC television documentary Rough Justice, which pointed out a number of concerns about the case. It highlighted the fact witnesses described two men who were about 5ft 10in (1.77m) or 5ft 11in (1.8m) in height as having been involved in the fatal robbery, when Campbell was 6ft 3in (1.9m) tall. The programme also spoke to Eric Samuel, who admitted being with the man who shot Mr Hoondle in the botched robbery of an off-licence. Samuel was recorded saying Campbell was innocent.

'Incredibly vulnerable' After Rough Justice was broadcast an application was made to the CCRC, but it decided there was no case to appeal over the outcome of the case. In 2019 the then MP for Ipswich Sandy Martin raised the case in the House of Commons and the CCRC has agreed to take another look at the case. Campbell said: "I have been used as a scapegoat. "The case has gone on longer than the Birmingham Six. They got cleared after 18 years. It's the 30 year anniversary [of my conviction} in November." Campbell's solicitor Glyn Maddocks, from Gabb and Co, said his client's confession "was a nonsense". Mr Maddocks said Campbell told police he had hired a gun but could not say where from and said he had practiced firing the gun in a wood but could not say where. "How they could not have spotted that he was incredibly vulnerable, I do not know," said Mr Maddocks. The Metropolitan Police and Ministry of Justice said they did not wish to comment.

JUSTICE Launches Timely Report on Urgent Reform for Major Inquests and Inquiries

When a catastrophic event or systemic failure results in death or injury, the justice system must provide a framework to understand what happened and to prevent recurrence. This Working Party of JUSTICE, seeks to address the erosion of public trust in the response of the justice system to deaths giving rise to public concern. These are major incidents causing multiple fatalities, or arising from a pattern of systemic failure. If it is to enjoy the confidence of the public, the justice system must provide a response that is consistent, open, timely, coherent and readily understandable. Unfortunately, these systems are too often beset with costly delay and duplication, with insufficient concern for the needs of those affected by disasters. Instead of finding answers through the legal process, bereaved people and survivors are often left feeling confused, betrayed and re-traumatised. The lack of formal implementation and oversight following the end of an inquest or inquiry makes the likelihood of future prevention limited.

Having sat for a year, the report records 54 recommendations of the Working Party directed at remedying such shortcomings by building on the strengths of the present system of inquests and public inquiries: • The framework - We propose new State and independent bodies to provide oversight and facilitate information-sharing - a Central Inquiries Unit within Government, a full-time Chief Coroner and a special procedure inquest for investigating mass fatalities as well as single deaths linked by systemic failure, able to consider closed material and make specific recommendations to prevent recurrence. • Opening investigations - Greater collaboration between agencies, building a cross-process dossier, would reduce the multiple occasions that bereaved people and survivors have to recount traumatic events and ensure that they are fully informed throughout the process. • Procedure - Processes for appointing inquiry chairs and panels, for establishing the terms of reference and for providing information and relevant documents to core participants need to be more structured and transparent. Drawing on previous JUSTICE working parties on accessibility, we recommend that bereaved people and survivors are placed at the heart of the process - in choice of hearing space; improved communication and questioning by professionals and signposting to support services. Aside from the legal formalities, we also call for widespread use of commemorative "pen portraits" and therapeutic spaces for bereaved and survivor testimony.

• A statutory duty of candour, including a rebuttable requirement for position statements, would help foster a "cards on the table" approach. Directing the inquiry to the most important matters early on could result in earlier findings and reduced costs. • Accountability and systemic change - We conclude that an independent body should lead oversight and monitoring of the implementation of inquest and inquiry recommendations, whose review could aid scrutiny by parliamentary committees.

Chair of the working party, Sir Robert Owen, said: A system cannot provide justice if its processes exacerbate the grief and trauma of its participants. Our recommendations seek to ensure that inquests and inquiries are responsive to the needs of bereaved people and survivors, while minimising the delay and duplication that impede effectiveness and erode public confidence. We think that this set of proposals, if implemented, will provide a cohesive and cost-effective system, with the prospect of a reduction in duplication and delay, and which in turn should serve to increase public trust.

JUSTICE's Director, Andrea Coomber said, Our work began before the pandemic, but the current corona virus crisis reinforces the importance and timeliness of this project. Our recommendations, in particular our proposal for a special procedure inquest, aim to equip the justice system with a means of effective investigation less dependent on the mercy of successive governments. Further, they aim to ensure that the implementation of recommendations is monitored - a crucial objective if we are to understand how the virus has killed so many and how to avoid future recurrence.

Alarm Raised Over Police Detention of Vulnerable Suspects in England and Wales

Amelia Hill, Guardain: Police officers detained and interviewed hundreds of thousands of vulnerable suspects last year in England and Wales in breach of mandatory safeguards, according to the body that sets standards for those who support vulnerable adults in police custody. The failure by officers to provide an appropriate adult (AA) to people with mental illness, autism or learning disabilities leaves those people at risk of miscarriages of justice, suicide and self-harm, the National Appropriate Adult Network (Naan) says in a report published on Monday. Using data obtained by freedom of information requests, the charity found that although clinical interviews show 39% of

adult suspects in police custody have a mental disorder, the police recorded a need for an AA to be present in only 6.2% of detentions and 3.5% of voluntary interviews. Local variation was found to be huge, with rates at some police forces at just 0.1%.

The chief executive of Naan, Chris Bath, said this meant vulnerable people could have been detained and interviewed 327,000 times without the support the government had agreed was necessary to ensure fairness and protect the legal rights of interviewees and vulnerable suspects. Bath said: If officers fail to secure the support of AAs, they risk making evidence unreliable. When this is raised in court by lawyers, prosecutions can be abandoned, at significant waste of time and expense. "Our report reinforces calls for the Home Office to create a statutory duty on local authorities, or another independent body, to provide help for vulnerable adults in police stations,."

In August 2018 the Home Office made significant updates to rules regarding vulnerable suspects and the presence of appropriate adults, after asking Naan to look into the issue. The charity has now completed its assessment of whether the changes have improved the situation, and Bath said the finding were disappointing. "The sad fact is that the changes have made no significant difference at all." The report also found that less than one in five people identified by NHS liaison and diversion (L&D) services, who operate in police custody to identify vulnerable people, had been given an AA by police. "Among the 55,301 adult L&D clients who did not have an AA, 68% had one or more mental health issues while 15% were at current risk of suicide or self-harm," Bath said. "It is hard to understand why anyone that vulnerable is not deemed to be in need of an AA."

Martyn Underhill, the Dorset police and crime commissioner, who speaks for the Association of Police and Crime Commissioners on police custody, said he would write to ministers to raise awareness of Naan's report and seek action. "This latest report from Naan is a sobering and disappointingly familiar read," he said. "Unfortunately, the evidence collected by Naan clearly demonstrates once again how vulnerable people entering police custody are still not receiving the necessary support. "This is neither in the interests of police, suspects, nor victims and can undermine public confidence in policing and the wider justice system. There is still a clear need for the government to determine through legislation, a responsible agency to deliver appropriate adults for vulnerable people aged 18 and over, and to provide ringfenced funding for the delivery of this resource." A Home Office spokesperson said: "The government is clear that all vulnerable people in police custody should receive the support they need and existing legislation sets out the roles and responsibilities for this."

Brook House IRC Not To Hear Witnesses Until Four Years After Abuse Uncovered

Zohra Nabi, Justice Gap: Zohra Nabi, Justice Gap, https://is.gd/gI4IqM The public inquiry into mistreatment of detainees at an immigration centre near Gatwick airport uncovered by a Panorama investigation three years ago is unlikely to hear from witnesses until next year. The Brook House inquiry, chaired by Kate Eves, is the first public inquiry to investigate immigration detention, and covers abuses exposed by undercover footage obtained by a former detainee custody officer which showed employees of government contractor G4S physically and verbally abusing patients, with one member of staff throttling a detainee and threatening to 'put [him] to fucking sleep.'

In a virtual preliminary hearing on Friday, lead counsel Cathryn McGahey QC admitted that oral evidence would njot be heard until June 2021. Whist G4S is no longer involved in the running of Brook House, former detainees are determined that 'lessons should be learnt', and that there be no repeat of the abuses they suffered. Nick Armstrong QC described the delay in the progress of the Inquiry as 'disappointing and dispiriting.' Representing core participant BB,

Armstrong highlighted that the inquiry was in breach of its obligations under article three under the European Convention on Human Rights prohibiting inhuman or degrading treatment or punishment. BB was one of two former detainees who featured in the Panorama to have taken the Home Office to the High Court over alleged abuse at G4S-run Brook House immigration removal centre.

The inquiry was established not only with the purpose of investigating the abuses suffered by detainees of the detention centre but looking at the extent to which the policies and staffing practices at Brook House caused or contributed to that mistreatment. In her opening statement, Kate Eves stated that she will look not only at the treatment of detainees at Brook House, but consider 'the current practice, policies and procedures which operate in immigration removal centres now.' The Brook House inquiry has already been subject to numerous delays. Multiple factors were cited, including evidence amassing hundreds of thousands of pages, as well as setbacks in collating and submitting documents and the loss of dedicated office and hearing space during the pandemic. Additionally, the need for interpreters, and the questioning of witnesses, meant that oral evidence cannot be heard virtually.

Whilst the inquiry is still inviting both former employees of G4S and former detainees to come forward with information they may have on the abuses that took place, Kate Eves heard arguments as to whether undertakings should be given by the Attorney General and the Home Secretary with representatives of core participants highlighting concerns surrounding giving evidence in cases where citizenship or freedom might be in the balance. Although the employees shown in the documentary no longer work for G4S, as of yet, charges have not been brought by Sussex Police.

Kate Eves acknowledged 'unavoidable delays in collating and submitting evidence' and promised core participants that she was 'fully committed to carrying out this Inquiry at all due pace, while ensuring that it is thorough and rigorous in its approach'. 'Over the past months, the inquiry team has been gathering critical evidence and we have been pleased to hear from additional witnesses,' Eves said in a statement ahead of last week's hearing. 'We hope that still more people will come forward to help make sure that we can build a clear picture of what happened in Brook House in that time in 2017. I would like to encourage anyone with information to contact the Inquiry and we will make sure you have the right support to do this safely.'

Communication, Education and Speech Difficulties in the Criminal Justice System

Ella PG-Gannon: The level of educational achievement by incarcerated offenders in the UK is far lower than the average. In addition, 40-50% of prisoners assessed in John Rack's research for the Dyslexia Institute (2005) were at or below levels of literacy and numeracy expected of an 11-year old. In 2007, the Prison Reform Trust reported that prison populations who showed serious deficits in literacy and numeracy reached up to 60% with a 30% dyslexia rate. This literacy problem extends to oral speech. People in the Criminal Justice System are ten times more likely to have a Speech and Communication Difficulty than members of the public. Research shows that 60% of young male offenders have a communication deficit as opposed to 3-10% of the general population (Available evidence for young female and adult offenders shows similarly high levels of speech-difficulties.) In the UK, low socio-economic status (SES), speech difficulty and school exclusions are co-morbid factors for offending. Having a speech difficulty also makes it near impossible for anyone with significant communication difficulties to navigate a legal system built upon excessive jargon without help. The criminal justice system must make structural interventions to protect the rights of persons with Speech and Communication Difficulty.

Solitary Confinement: In-depth studies have been done on the effect of lower socioeconomic status on Speech Difficulties. Roy et al. (2014)found that children from low SES backgrounds are at disproportionate risk of language delay. A high proportion of children from low SES neighbourhoods enter preschool without the most basic speech, language and attentional skills expected for their age. K Bryan found that in low socioeconomic areas, children in this category are as many as 50%. This affects literacy and ultimately leads to children falling further and further behind in education. By contrast, Roy's research found that children in the mid-high SES bracket found core language tasks effortless.

This pattern can lead to what Bryan calls the 'compounding risk model' where children who lack oral language skills are at higher risk for poor literacy, at a detrimental effect to their success in school education. This, in turn, increases their risk of behavioural and mental health difficulties, and youth offending. The link between Speech-Difficulties and school exclusions is clear. According to Clegg et al. (2009), over 60% of children facing school exclusion have a Speech, Language or Communication difficulty (SLCN). School exclusion compounds the risk of offending in young people. There are high levels of earlier school exclusion among young offender populations; 88% of boys and 74% of girls in custody have been excluded from school. Finally, Roy et al. found that in young offenders' institutions, 36% of boys and 41% of girls were 14 or younger when they ceased to attend school.

It is easy to see that education has a protective effect on young people that excluded children quickly loose. In addition to increasing the risk of offending, communication difficulties are a substantive barrier to access to justice. From the first point of contact with the Criminal Justice System, from arrest, through interrogation and into court, people who have SLCN are disadvantaged. Multiple conditions can obstruct a person's communication with police or legal professionals (such as autism, receptive language aphasia or severe learning difficulty). Changing one's story mid-interrogation, not answering a question, or slurring one's words are often interpreted as signs of guilt when they are due to communication difficulty. The RCSLT's open course, The Box, goes into this in depth.

Meanwhile, court cases involve excessive jargon that is often intelligible to most of the general public, and that much more so for people with low levels of literacy or communication difficulties. The Bradford Youth Offending (2006) found that there was a poor recognition and explanation of some of the most common words spoken in court (e.g. jury, defendant) and all participants identified difficulty in understanding. It is important that people on all levels of the justice system are educated about the role communication and literacy plays in conviction, or one of the UK's most vulnerable groups of people will continue to be at higher risk of unjust imprisonment.

Abdul Rashid V Chief Constable West Yorkshire Police

1. This is an appeal against the judgment of Mr Recorder Nolan QC handed down on 20 September 2019, dismissing the Claimant's claim for damages for wrongful arrest, false imprisonment and trespass.

2. The Claimant was arrested on 7 March 2012 at his home in Bradford. The arresting officer was DC Mark Lunn. The Claimant was taken to a police station, where he was interviewed. He was released on bail later in the day. Three of his premises were searched, pursuant to warrants. He was interviewed again on a number of occasions. In June 2013 the Crown Prosecution Service decided that no charges should be brought against him and he was released from bail.

3. The Claimant's arrest formed part of an investigation called Operation Thatcham, which resulted in 45 individuals being convicted of fraud-related offences relating to fraudulent

claims against motor insurers for compensation for alleged whiplash injuries sustained in fictitious or exaggerated road traffic accidents. That operation commenced in April 2011, following the conviction of Nadeem Khaled and his brother Khazeem for mortgage fraud. Nadim Khaled was the ringleader of the organised crime group. He ran a claims management company known initially as Advance Claims and later as Concept Claims. Like the Recorder, I will refer to it as Advance Claims. It made many fraudulent claims. The Recorder found it to be a corrupt and dishonest organisation inextricably linked to the organised crime group.

4. The Claimant was a GP who provided medical reports for Advance Claims' clients. The Recorder found that: (1) The Claimant first came to the police's attention when a hand-written appointments diary was found in the car of one of the conspirators, Frank El Habbal, showing appointments for the Claimant to examine potential claimants. Similar diaries were found in Advance Claims' offices. (2) The Claimant would examine up to 50 potential claimants in a day, booked 10 minutes apart over a continuous 8 hour period. (3) He charged his instructing solicitors £470 for each claimant he examined and reported on. (4) A Dr McAvoy advised the police that medical examination of claimants in such cases should take between 20 and 30 minutes and that a reasonable fee for the examination would be between £250 and £300. (5) A Dr Tedd commented adversely on the quality of the Claimant's reports, saying, for instance, in a note dated 29 November 2011, "I still don't believe that the person doing these reports is qualified, unless he/she is just taking the mickey." (6) The Claimant made regular payments to Advance Claims, including payments totalling £24,865 in the period from 28 June 2010 to 20 September 2011. (7) Nadeem Khaled and others were arrested on 10 October 2011. A restraining order was imposed on the account into which the Claimant had been paying this money. On 3 November 2011 the Claimant was told in an email about the frozen bank account. On 21 November and 11 December 2011 the Claimant made payments of £825 and £2,550 respectively into the account of NK Business Consultants, which was controlled by the organised crime group.

5. The claim was tried over 10 days. The central issues in the case were whether DC Lunn and his fellow officers (a) honestly, and (b) reasonably believed: (1) that there were reasonable grounds for suspecting that an offence had been committed by the Claimant; and (2) that it was necessary to arrest the Claimant to allow the prompt and effective investigation of the offence.

6. There were also issues as to: (1) Whether the search warrants had been obtained lawfully and by due process. (2) Whether the Claimant would have been lawfully arrested by another officer, if he had not been arrested by DC Lunn. This was referred to as the "Lumba/Parker issue", by reference to Parker v Chief Constable of Essex Police [2019] 1 WLR 2238. (3) Whether the ex turpi causa doctrine applied.

7. DC Lunn did not give evidence. He had left the police force following an allegation of misconduct made in 2012, which concerned his proposing to set up in business as a private investigator.

8. Taken at its highest, the Claimant's case was that DC Lunn decided to arrest the Claimant, not because he genuinely suspected the Claimant of any crime, but because he wanted to further his own career as a private investigator by being able to boast of having arrested a GP as well as having been part of Operation Thatcham. The Claimant also contended that other officers either did not properly investigate, or covered up, DC Lunn's activities, which may have gone so far as his receiving £183,000 from an insurance company to finance his proposed business, and which certainly appear to have created a potential conflict between his duties as a police officer and his interest in furthering his proposed business.(8)(a) Reasonable Grounds: Second and Third Reasons

88. Miss Checa-Dover acknowledged that the second and third reasons were really two ways of saying the same thing. Moreover, given that the police had search warrants, the only evidence which could necessitate an arrest of the Claimant would be evidence concealed on his person, which in practice meant his mobile telephone.

89. It is clear from the Operational Order and the Interview Notes that the intention to arrest the Claimant was formed before DC Lunn and his colleagues attended at the Claimant's home. That is perhaps difficult to square with the requirement of section 32(5) of PACE, under which the power to search the Claimant on arrest could only arise if the officer had reasonable grounds for believing that the Claimant might have concealed on him anything for which a search was permitted. The arrest took place at 6 am, when the Claimant answered the door in his night clothes. The search record shows that his I-phone was seized from his bedside table. The custody search record shows that he did not have a mobile telephone on him when he was searched at the police station. These factors certainly cast doubt on the question whether section 32(5) was satisfied.

90. In addition, however, Mr Pennock submitted that, with a suspect who was expected to be cooperative, an arrest could not reasonably be thought necessary unless the suspect refused to cooperate or gave the appearance of refusing to cooperate. In other words, as in Commissioner of Police for the Metropolis v MR, DC Lunn could have asked the Claimant for his telephone and would only have had reasonable grounds for believing that it was necessary to arrest the Claimant if the Claimant appeared to be failing to comply with that request.

91. Given the particular circumstances of this case, I accept that submission. I conclude that there were no reasonable grounds for believing that it was necessary to arrest the Claimant and that his arrest was therefore unlawful.

92. As I have said, grounds 9 and 10 in the grounds of appeal concern what the Recorder said about issues which did not arise for decision, given his primary conclusion. The Recorder did not give reasons in paragraphs 44 and 45 of his judgment for his conclusions on these issues, and I agree with Miss Checa-Dover that the Recorder did not in fact go so far as to say in paragraph 45 that he would, if necessary, have held that the ex turpi causa doctrine applied. He merely made findings as to the nature of the Claimant's conduct.

93. In any event, however, it follows from my conclusion that there were no reasonable grounds for believing that it was necessary to arrest the Claimant that: (1) it cannot be said that, if DC Lunn had not arrested him, another officer would have arrested the Claimant lawfully; and (2) there is no scope for the application of the ex turpi causa doctrine, since the conduct on the part of the Claimant referred to in paragraph 45 of the Recorder's judgment merely provided the occasion for his arrest, but did not cause him to be arrested unlawfully.

94. It follows that this appeal should be allowed.

95. Since I am disagreeing with him, I need not say much about ground 1 in the grounds of appeal, which alleges that the Recorder failed to give any, or any adequate, reasons, for the findings which are challenged by grounds 2 to 4 and 6 to 10 in the grounds of appeal and for his decision not to draw an adverse inference from the Defendant's failure to call DC Lunn.

96. As I have said, the Recorder did not give reasons for his alternative conclusions. As to the reasons which the Recorder gave for his primary conclusion, a judgment does not have to address every piece of evidence relied on or every argument advanced during the trial. I accept that it could be said that, viewed in isolation, page 22 of the judgment is terse, but it has to be read in the context of the 21 pages which precede it. I have had occasion in this judgment to look in some detail at some of those earlier pages, where it can be seen that

the Recorder has considered and rejected various submissions made on behalf of the Claimant, but has accepted the evidence of the Defendant's principal witness and has accepted that the principal documents relied on by the Defendant were genuine contemporary documents.

97. Looking at the judgment overall, it cannot be said that the Recorder failed to give sufficient reasons for his primary decision. In short, the judgment said enough to tell the Claimant why he had lost.

98. I allow this appeal. I quash the Recorder's decision and substitute for it a judgment that the Claimant's arrest was unlawful for the reason which I have given.

Jon Venables Denied Parole Over Child Abuse Images

One of the killers of toddler James Bulger has been refused parole for possessing child abuse images. Jon Venables had applied for parole after being jailed for having child abuse images on his computer in 2017. He served eight years for the murder of James Bulger in 1993 and was freed on licence, along with Robert Thompson, and given lifelong anonymity in 2001. His parole bid can be reviewed within two years, the Parole Board said. James Bulger was tortured and killed by Venables and Thompson, both aged 10 at the time, after they took the two-year-old from a shopping centre in Bootle, Merseyside. In 2010, under his new name, Venables was jailed for having child abuse images on his laptop. He was released after serving three years and given a second new identity. In 2017 he was sent back to prison for 40 months after more abuse photographs were discovered on his computer. His application to be freed has been rejected by the Parole Board following an assessment of his case. The date of the next review will be set by the Ministry of Justice, the Parole Board said.

Bloody Sunday: No Further Charges Against Former Soldiers

Julian O'Neill, BBC News: The Public Prosecution Service has stuck to its original decision to bring charges against no more than one soldier in relation to Bloody Sunday. It followed a review of the cases of 15 veterans, who it determined there should be no action against last year. Thirteen people were killed and 15 were wounded when the Army opened fire on civil rights demonstrators in Londonderry in January 1972. One man, Soldier F, remains the sole individual facing court. The reviews were requested by the families of some of the victims.

Their solicitors say they are likely to challenge the outcome by way of a judicial review. No new evidence was submitted for the reviews and solicitors for the families sent detailed submissions to the PPS setting out why they believed the decisions were wrong. They believe about 10 other soldiers should be facing prosecution for murder and attempted murder. The PPS said the reviews were undertaken by its senior assistant director, Marianne O'Kane, who was not previously involved in the cases. She looked at the deaths of 10 victims who died on Bloody Sunday, as well as 10 others wounded. "I have concluded that the available evidence is insufficient to provide a reasonable prospect of conviction of any of the 15 soldiers who were the subjects of the reviews." Accordingly, the decisions not to prosecute these 15 individuals all stand.I know that today's outcome will cause further upset to those who have pursued a long and determined journey for justice over almost five decades. I can only offer reassurance to all of the families and victims of Bloody Sunday, and the wider community, that my decisions were conducted wholly independently and impartially, and in accordance with the Code for Prosecutors."

Kate Nash, whose brother William was among those killed, said she would not give up. "I'm deeply disappointed that after a further review the correct decision's still not been

reached," she said. "I intend to carry on what I've been doing." Her solicitor Darragh Mackin said they would now be seeking a judicial review of the decision. "The issue of joint enterprise and conspiracy remains entirely up in the air and a decision has allowed to be taken premised on the actions of individuals and soldiers falling between the gaps of the grey area as to who actually fired the fatal shot," he said. "As we all know in the issue of joint enterprise, where two or more individuals act collectively in a specific act, the charge can be brought."

The families also argue Soldier F, as he was known at the Bloody Sunday public inquiry, should be facing more charges. He is to stand trial accused of murdering James Wray and William McKinney in Derry in 1972 and is further charged with five counts of attempted murder. Four of the attempted murder charges relate to the wounding of Joseph Friel, Michael Quinn, Joe Mahon and Patrick O'Donnell. The fifth relates to persons unknown.

Bloody Sunday Families Reject Decision to Charge Only One Soldier

Owen Bowcott, Guardian: The families of those who died in the 1972 Bloody Sunday killings in Derry are to challenge a legal decision not to prosecute any more former soldiers in connection with the shootings. Relatives expressed dismay after a review by the Northern Ireland Public Prosecution Service (PPS), published on Tuesday, confirmed that only one former member of the Parachute Regiment, known as Soldier F, should face charges. Kate Nash, whose brother William was shot dead during the civil rights demonstration 48 years ago, said prosecutors should have considered whether up to 15 soldiers could have been charged under joint enterprise laws.

In March last year, after examining evidence from police inquiries after the Bloody Sunday Inquiry, the PPS announced that only one soldier would be charged. Relatives of the victims then exercised their right for a review of that process. On Tuesday, having carried out an internal reassessment, the PPS upheld the original decision. Marianne O'Kane, a senior assistant director, said: "The available evidence is insufficient to provide a reasonable prospect of conviction of any of the 15 soldiers who were the subjects of the reviews. Accordingly, the decisions not to prosecute these 15 individuals all stand. "I can only offer reassurance to all of the families and victims of Bloody Sunday, and the wider community, that my decisions were conducted wholly independently and impartially, and in accordance with the code for prosecutors." Soldier F is one of the 15 whose cases were reviewed. Kane said: "The prosecution that commenced against him in 2019, which relates to two charges of murder and five charges of attempted murder, continues."

At a press conference in Derry afterwards, Ciarán Shiels, a solicitor, said: "The families are left with no alternative now but to consider judicial review proceedings in the high court in Belfast." A total of 26 unarmed civilians were shot, 14 of whom died, during the protest march against internment without trial. Mickey McKinney, whose brother Willie was shot dead on Bloody Sunday, said: "This is part of a process which will hopefully get us a judicial review and hopefully we will get a result that more soldiers will be prosecuted." John Kelly, whose brother Michael was killed on 30 January 1972 when members of the Parachute Regiment opened fire on protesters, said: "It's been a long road, up to nearly 50 years, we're all getting old, a lot of people are dying but as long as we're able to walk, we'll go after them and we certainly will not stop until we see justice for our loved ones."

Nash said: "The PPS have failed to consider the collective actions of the soldiers, and, instead, allowed each of them to act with impunity based on the fact they cannot be sure which one of the three fired the fatal shots. This is no excuse when all three acted as a joint enterprise in committing murder." The police investigation had failed to consider misconduct within their original investigation, she added. Her solicitor, Darragh Mackin, said: "The concept of joint enterprise is a well-trodden

path. Soldiers are not exempt from this legal principle and as such we have received formal instructions to challenge the decision by the PPS not to prosecute Soldiers J and P for the murder of our client's brother in circumstances in which they acted in a joint enterprise."

The local SDLP MP Colum Eastwood said the PPS decision would cause more pain for those who had endured already endured "unimaginable loss". The Sinn Féin assembly member Martina Anderson condemned it as another "deeply disappointing day for the Bloody Sunday families". But the DUP MP Gregory Campbell told the BBC: "The issue now will be, is there now going to be a judicial review which is going to entail further cost – remember there's already been almost £200m spent on the public inquiry, the most expensive in legal history in the UK.

Data Retention by Metropolitan Police Service of 16 Year-Old Child Unlawful

The Court on the 24th Setptember. that the retention of data by the Metropolitan Police Service on a 16-year-old child (known as II) from the age of 11 was unlawful and a disproportionate interference with his right to private life; namely, that it was a breach of his Article 8 right under the European Convention on Human Rights, as well as sections 35 and 39 of the Data Protection Act 2018. Whilst the police case was closed in June 2016 due to no counter-terrorism concerns and no evidence of radicalisation, the Metropolitan Police Service nonetheless decided to retain the data. This resulted in the data being held across 10 separate databases, accessible to not only the police, but also local authorities and the Home Office. The Metropolitan Police Service argued that the retention would have "minimal impact" on II, with no prospect of it being shared. However, the Court found that they had "underestimated the impact of the interference with the Claimant's privacy rights entailed in retaining data about his alleged views and statements when he was 11 years old" and went on to conclude that "as long as the Claimant's personal data is retained, he will continue to fear that it may be disclosed to third parties, particularly universities" as there is no guarantee that it would not be disclosed.

This is an important judgment that illustrates the unlawful exercise of police powers under the Prevent Strategy, which has been in existence since 2011. Bharine Kalsi of Deighton Pierce Glynn, solicitor for the Claimant, said: "The Court today has found that there was 'no policing purpose' for the retention of data concerning II; data which alludes to radicalisation, but which our client has always maintained is untrue. Today's judgment means this data will no longer cast a worrying shadow over II's bright future, particularly as there was no guarantee that it would not be shared with other organisations and institutions. It is now time for the authorities to look at their exercise of power under the Prevent Strategy, which continues to unjustly target innocent individuals, in particular children from the Muslim community by wrongly labelling them as extremists."

Deaths From Natural Causes in English and Welsh Prisons 'Unacceptably High'

JamieGrierson, Guardian: The number of deaths from natural causes on the prison estate is "unacceptably high", a watchdog has warned, urging ministers to do more to allow inmates to be allowed out to die. The average age of an inmate dying a "natural death" is 56, compared with 81 in the general population, the Independent Advisory Panel (IAP) on Deaths in Custody said. The number of such deaths in prison has also increased from 103 in 2009 to 179 in 2020, the panel said in a letter to justice and health ministers in which they called for improved access to healthcare for inmates to avoid preventable deaths. Along with the Royal College of Nursing, the panel has made recommendations including overhauling the compassionate release process, and ensuring prisoners can attend all medical appointments in the community by making an escort available.

Juliet Lyon, chair of the IAP, said that many so-called natural deaths in prison "can and should be avoided"and that end-of-life care needed to be "managed with dignity and compassion". "During Covid-19, the struggle to identify prisoners who, for clinical reasons, would have been shielded in the community and the failure to effect safe temporary release for all but a few, has thrown the challenges presented by the poor health of the prison population into sharp relief," she said. There are around 79,000 prisoners in England and Wales. At the start of the pandemic up to 1,000 people in custody were identified as medically vulnerable and thereforeeligible to be considered for temporary compassionate release. To date, fewer than 60 have been safely released under this scheme.

The RCN and IAP have written to Lucy Frazer, the prisons minister, and Nadine Dorries, minister for patient safety, suicide prevention, and mental health. Other recommendations to reduce natural deaths in prison include improving the transfer of information when someone enters and leaves custody to ensure their care continues, and providing specialist services for prisoners with long-term conditions such as cancer or dementia with an appropriate workforce. Ann Norman, the RCN's professional lead for criminal justice, said: "We are seeing a growing number of natural deaths in custody and this has now reached an unacceptably high level. "These deaths may be prevented if there is adequate care, particularly for those prisoners with long-term chronic conditions. The government must act now to make sure that prisoners' health is properly managed, as it would be in the community." A government spokesperson said: "An ageing prison population poses particular challenges and we are developing a strategy that specifically addresses the needs of this group."

Thousands of Women Pointlessly Arrested Every Year, Say MPs

Kaya Kannan, Justice Gap: Women suffering from poverty, mental health illnesses and victims of domestic and sexual abuse are being arrested unnecessarily and criminalised, according to MPs. The All Party Parliamentary Group on Women in the Penal System (APPG) published a report arguing that police resources were being 'wasted' as women were inappropriately held in custody before being released without being charged. The study drew on data from five police forces in the UK covering 600 arrests of women which found 40% of arrests resulted in no further action. It cited examples of women being arrested for non-violent offences including a woman arrested for begging outside a supermarket and another woman for repeatedly walking into a main road.

Almost 100,00 arrests of women were made during the year in 2019. Out of 43,000 arrests for alleged violent offences, 19,000 led to no further action being taken, the APPG report finds. The report found that many of the women who were arrested were victims in a domestic abuse incident. Almost three-quarters of the women arrested were previously known to the police due to being victims of sexual violence. The report stated that forces do not always have to arrest in situations like these, and that positive action should be taken, such as finding alternative accommodation or a safe place for the woman to go. You can read the report on the website of the Howard League for Penal Reform.

'Forces should investigate whether the duty to take positive action in alleged domestic violence incidents is unnecessarily driving up arrests of women,' the APPG said. 'Officers do not have to arrest and can take alternative positive action, such as finding somewhere safe for the woman to go, where she is not in the same house as the other party.' The MPs noted arresting such women does not solve the problem and, in some instances, might 'even drive women further into the criminal justice system if they end up with fines which they have no means to pay'.

The report found that women's centres were 'key' in delivering gender-specific services for women but provision was a 'postcode lottery'. Police forces such as Avon and Somerset, Surrey, Thames Valley and West Yorkshire had developed close links with their local

women's centres and were diverting women there for assessment and support. 'But, in some areas of the country, there were either no local women's centres or police officers were unaware of the services offered,' the group said.

The APPG's co-chair Jackie Doyle-Price MP said 'diverting women to support services instead of arresting them was 'a smarter use of police resources that helps to reduce crime'. There have been findings where other police forces diverted distressed women to women's centres and this has been a better use of time. However, the report also found that in some areas of the UK, there were either no women centres local to police forces or the forces and officer were not aware of the services offered.

CCRC Refer Sexual Assault Conviction of Ahmed Mohammed

The Criminal Cases Review Commission has referred the sexual assault conviction of Ahmed Mohammed.In February 2004, at Kingston-upon-Thames Crown Court, Mr Mohammed was convicted of indecently assaulting two women in separate incidents in Tooting, South London, in the summer of 2001. Mr Mohammed denied having anything to do with the indecent assaults. The central issue in proceedings against Mr Mohammed was whether or not he had been correctly identified as the attacker.

In 2002, a jury decided that, because of mental health issues, Mr Mohammed was not fit to plead in a full criminal trial. A trial of the facts was therefore held in which Mr Mohammed played no active part. In spite of alibi testimony from a member of Mr Mohammed's family, the jury in the trial of the facts concluded that he had carried out the indecent assaults. The judge made a hospital order, with restrictions under s41 of the Mental Health Act 1983. The effect of that order was to have Mr Mohammed detained in hospital. His name was also added indefinitely to the Sex Offenders Register.

Mr Mohammed's legal representatives applied to the Court of Appeal for leave to appeal against the verdict in the trial of the facts, but the application was refused. In 2004, when Mr Mohammed's mental health had improved, he faced a full criminal trial for the offences. He pleaded not guilty but was convicted. The judge imposed another hospital order with restrictions. No attempt was made to appeal against the conviction.

In 2017 Mr Mohammed applied to the CCRC for a review of the jury's finding at the trial of the facts in 2002. The CCRC began a review of that finding. At that stage, the CCRC had not been informed that the trial of the facts in 2002 had been followed by the full criminal trial and conviction in 2004. In 2019, when it became clear that a subsequent criminal conviction had superseded the finding at the trial of the facts, the CCRC focussed its attention on the conviction at the full trial.

During its review the CCRC used its section 17 powers extensively to obtain material from the police, the Crown Court, the Court of Appeal, National Offender Management Service (NOMS), NHS records and the Forensic Archive. The Crown Prosecution Service no longer had any papers and the defence solicitors had gone out of business and their files destroyed.

The CCRC contacted members of Mr Mohammed's family as well as defence counsel in both the 2002 trial of the facts and the 2004 full trial, but details about the investigation and proceedings, and particularly the full trial, were scarce. The CCRC also explored forensics in the case. Neither the police nor the Forensic Archive had retained any objects relating to the offences, such as a mobile phone which had featured in the police investigation and been swabbed for DNA but produced no usable evidence. However, the CCRC identified a potential forensic opportunity in using modern DNA techniques, if any samples extracted from the swabs had survived even though the phone itself had not.

The Forensic Archive did locate the samples and the CCRC arranged for DNA testing. The test yielded one male DNA profile, which was submitted for a one-off speculative search of the National DNA Database. The search yielded one good match with an SGM+ profile on the DNA database. When the CCRC investigated that person's background, it was found that he had been local to the area in which the attacks occurred. Further, contemporary police records suggested that he was a good match, and arguably a better match than Mr Mohammed, for the descriptions that the victims had given of the offender. He also had a conviction for a different kind of sexual offence committed in Tooting in 2003.

It should be stressed that the new DNA evidence found by the CCRC does not prove that this man committed these or any offences. However, the CCRC has reached the conclusion that the new information in relation to the DNA extracted from the mobile phone, and around the identification of Mr Mohammed as the attacker, raises a real possibility that the Court of Appeal will now quash his conviction. Accordingly, the CCRC has referred the case for appeal.

Court Dismisses Appeal Against Downstream Monitoring Of Police Interviews

Downstream monitoring - Suspects and their legal representatives must be made fully aware if remote monitoring of the interview is to take place. The following minimum standards apply, in accordance with Home Office Circular 50/1995 Remote Monitoring of Interviews with Suspects (as agreed between ACPO and the Law Society): • the remote monitoring system should only be able to be operational when the tape recorder has been turned on • a light, which automatically illuminates upon activation of remote monitoring, should be visible to all in the interview room • all interview rooms with remote monitoring equipment should prominently display a notice referring to the capacity for remote monitoring and to bring attention to the fact that the warning light will illuminate to signify that remote monitoring is taking place • at the beginning of the interview, the contents of the notice must be explained to the suspect by the interviewing officer (the explanation itself should be recorded on the tape) • the suspect's custody record should include reference to the fact that an interview, or part of an interview, was remotely monitored. It should include the names of the officers monitoring the interview and the purpose of the monitoring, ie, for training or to assist with the investigation.

Summary of Judgment: The Divisional Court today, Wednesday 30th September, dismissed an appeal against the downstream monitoring of police interviews concluding that a Position Statement issued by the Association of Chief Police Officers had given the necessary quality of law to give rise to foreseeability in respect of the practice. Risteard O'Murchú and Arlene Shannon ("the applicants") were arrested in connection with criminal offences. In each case the investigating officer indicated that it was proposed that there should be downstream monitoring ("downstreaming") of their interview as a result of which persons who were not in the interview room would both see and hear what was occurring. No additional recording of the interview was involved in this process. The applicants were both concerned that other people could be viewing or listening and both claimed they had previously been approached about becoming an informant. In each case their solicitor contended that downstreaming was not in accordance with law. As a result of that objection judicial review proceedings were lodged although the PSNI ("the respondent") decided to proceed with the interviews without downstreaming.

Codes of Practice relevant to interviews: Articles 60 and 60A of the Police and Criminal Evidence Order 1989 ("PACE") impose a duty on the Department of Justice to issue a code of practice in connection with the tape-recording and visual recording with sound of interviews of persons suspected of the commission of criminal offences which are held by police officers at police stations. Article 65 of PACE requires the Department to issue codes of practice in respect of the arrest, detention and questioning of persons by police officers. The codes deal with some aspects of what happens in the interview room and the arrangements for the retention of the recordings. The codes of practice do not touch upon downstreaming. The relevant codes under PACE and the Terrorism Act 2000 provide that before the interview commences each interviewer shall identify themselves and any other persons present to the interviewee. Code E provides that access to interview recordings must be strictly controlled and monitored to ensure that access is restricted to those who have been given specific permission to access materials for specified purposes when this is necessary. That includes police officers and prosecution lawyers as well as persons interviewed if they have been charged or informed they may be prosecuted. In England and Wales the Home Office updated its codes of practice following a statutory consultation process in 2018. Code E 2018 relates to the audio recording of interviews and contains the provisions relating to the use of remote monitoring.

Policy and Guidance: The respondent indicated that downstream monitoring has been used by police forces in the United Kingdom since the 1990s. The Court referenced the development of the policy and guidance in paragraphs [8] to [11] of its judgment. It noted that the Association of Chief Police Officers of England and Wales and Northern Ireland ("ACPO"), now known as the National Police Chief's Council, issued a position statement entitled "The remote monitoring of suspect interviews" setting out guidance on remote monitoring of interviews. It was noted that remote monitoring can improve the quality of an investigative interview and should be viewed as an essential when investigating major crime and an integral component part of any suspect interview strategy. The decision to remotely monitor an interview should be made by a senior investigating officer. The fact that an interview or part of an interview was to be remotely monitored should be recorded in the suspect's custody record which should also state the purpose of the monitoring and the names of everyone monitoring it. The College of Policing first published guidance on investigating interviewing in October 2013 and has continued to modify it up to 18 March 2019. It includes guidance on downstream monitoring.

Reasonable expectation of privacy: It was argued by the applicants that each had a reasonable expectation of privacy in respect of the conduct of the interviews. It was further submitted that the downstreaming and monitoring of their interviews was not in accordance with law. The Court said there was a distinction between this jurisdiction and England and Wales where the Home Office had updated Code E to provide the necessary legal basis. The respondent argued that the applicants could not establish a reasonable expectation of privacy relating to the use or intended use of downstream monitoring because each was already held in a custodial environment where CCTV monitoring and recording applied throughout the periods of detention. No challenge was made to that CCTV monitoring and recording and the only persons to use downstream monitoring or intending to do so did so with the intention of monitoring the respective interviews. All had direct professional involvement in the investigations and would in any event have been lawfully entitled to examine the content of those interviews.

The Court considered the reasonable expectation of privacy test in paragraphs [14] to [21] of its judgment. The first question is to determine whether a reasonable expectation of privacy is established. If there could be no reasonable expectation of privacy, or legitimate expectation of protection, it would be hard to see how there could nevertheless be a lack of respect for Article 8 rights. The Court agreed that the question of engagement is different from the issue of justification and said the authorities remind the court not to confuse these separate issues. It

considered, however, that the reasonable expectation of privacy question and the issue of justification are not distinct silos in that matters related to the factual and legal background may be relevant to both. The Court said this case is an example of such a situation.

"Although the parties approached the case on the basis that the engagement question was distinct from the quality of law issue with the latter arising only at the justification stage we consider that [the case law], leads to the conclusion that in this case the quality of law issue is material to the engagement question and should be considered at that stage. That is because the respondent's essential submission is that the safeguards provided by the guidance documents are part of the background to be taken into account in determining the applicant's reasonable expectation of privacy has been engaged."

Quality of law: There was no dispute about the relevant principles applying to the "in accordance with the law" test. The impugned measure should have some basis in domestic law requiring that it should be accessible to the person concerned who must be able to foresee its consequences for him and the measure must be compatible with the rule of law. The applicants pointed to the contents of the amended Code E in England and Wales describing the range of safeguards which should be applied in respect of downstreaming. The safeguards satisfy the tests of accessibility and foreseeability and can only be used for proper police purposes as set out in section 32 of the Police Act (Northern Ireland) 2000. The Court said it was difficult to see that a failure to comply with the safeguards would of itself render the contents of any interview inadmissible but such a failure could be material in determining whether or not there had been a breach of Article 8 since any interviewee would have a reasonable expectation that the protections in respect of the conduct of each interview would be observed.

The Court noted that the promulgation of guidance in respect of remote monitoring of recorded interviews was first published by circular from the Home Office in September 1995. The purpose of the circular was to make sure that suspects and their legal representatives were fully aware of what was happening and that there was no possibility of privileged conversations being listened to. The procedural safeguards were then set out. Those procedural safeguards are replicated in the ACPO Position Statement, the Guidance from the College of Policing on remote monitoring and the amended Code E in England and Wales. The 1995 Home Office Circular did not expressly apply to Northern Ireland and there was no indication that downstream monitoring was a feature of investigations in this jurisdiction at that time. The Court said, however, that the PSNI is a member of ACPO. The ACPO Position Statement set out guidance on the remote monitoring of interviews with suspects and the 1995 Home Office Circular was expressly incorporated into it and each of the protections contained in the Circular are expressly repeated.

The Court held: "This was not a discussion document or a recommended course of action. It was a commitment made by the relevant professional bodies tasked with the conduct of the interviews of suspects in their jurisdictions as to how downstream monitoring would be carried out. The Position Statement was plainly challengeable by way of judicial review and its promulgation gives rise to legal consequences in that it created a legitimate expectation that downstream monitoring would be carried out in accordance with the Statement. We are satisfied, therefore, that the ACPO Position Statement had the necessary quality of law to give rise to foreseeability in respect of downstream monitoring."

Conclusion: The Court commented that the interview of suspects under caution after arrest gives rise to an obvious interference with the ability to engage in one's everyday activity but also involves a considerable adverse reflection on character. It said this is particularly so in cases where the background of the allegation is connection to terrorism. Case law required the court to take into account the protections offered by the codes of practice concerning the conduct and recording of interviews and the controls on access to those recordings. The Court said that the ACPO Position Statement must be added to that list: "The circumstances of the detention and interview of each applicant arose from the proper interest of police in the investigation of crime but at the time of each interview neither applicant had been charged with any offence. Each was subject to state detention which would give rise to anxiety in any reasonable person. The issue of the engagement of Article 8 should not be confined to the narrow issue of the downstreaming of the interview. It is not necessary for us to determine whether in those circumstances Article 8 is engaged but if it is engaged we are satisfied that the ACPO Position Statement has the necessary quality of law." The Court dismissed the application.

Police Investigate Alleged Harvesting of Body Parts at Birmingham Private Hospital

West Mercia Police confirmed to the newspaper that they are investigating an allegation of breach of statutory licensing requirements under the Human Tissue Act 2004 following a referral from the Human Tissue Authority. It is reported that thousands of patients may have been involved. The Independent reports that it has seen a leaked internal report which states that surgeon Derek McMinn harvested the bones of patients removed during hip surgery at the BMI Edgbaston Hospital. Staff at the hospital reportedly knew about and assisted in the collection and storage of joints.

The hospital had been alerted to its responsibilities under the Human Tissue Act following an audit between 2010 and 2015 which identified the storage of femoral heads, the Independent reports. The newspaper says that BMI Healthcare's parent company Circle Health says patients had not been informed because no significant harm had taken place. The Care Quality Commission has told The Independent that it had not been aware of the size of the issue. The BMI report suggests at least 5,224 samples had been taken, says the Independent. Mr McMinn remains registered to practise, although the General Medical Council has been informed about BMI, says the Independent. McMinn also reported to have operated on patients at Spire Healthcare's Little Aston Hospital in Birmingham. It is reported that the bones were being collected for research in Mr McMinn's retirement.

Leigh Day head of clinical negligence Suzanne White responded to the allegations. She said: "These allegations are staggering. It is reported that more than 5,000 patients have been affected by this industrial scale harvesting of organs. If proven, this is a degrading treatment of patients which is hard to contemplate, that a surgeon would consider keeping for his private research his patients' body parts without their consent and that staff would collude with these actions. Once more this highlights why, in the wake of the Paterson Inquiry, there is an urgent need to raise and guarantee safety standards in the private clinical care sector."

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