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Free Michael Ross: 25 Year Sentence for a Murder he Did Not Commit

The murder of Shamsuddin Mahmood on 2nd June 1994 was tragic and horrific. Nothing like this had ever been seen on the islands of Orkney, either before or since. The conviction of Michael Ross, to many people in our community, is also tragic. It's a blight on our landscape and we can't allow this miscarriage of justice to be swept under the carpet. On 20 June 2017, Michael Ross will have spent 9 years in prison, wrongly convicted of murder. There is a huge number of people in Orkney, Scotland, the UK and worldwide that are uneasy about the way that this conviction was obtained and the more that we delve into the facts, the more information we discover that casts further doubt on the police investigation into the murder and the subsequent targeting of Michael Ross and his family by police.

In 2016, the world was gripped by the American Netflix series 'Making a Murderer'. In our view, a similar manipulation of events occurred in this case. Our goal is for this case to be exposed as the travesty of justice that we know it to be. This case is now over 20 years old. Its complex and people find it difficult to follow. Michael was a teenager at the time of this murder, but by the time he came to trial, he was a grown man of 30 and had been a serving soldier; a sergeant in the Black Watch regiment, decorated for bravery. He has, at times, acted out of desperation and perhaps not helped his case for innocence in the eyes of many. Despite this, we must remember that he was a child of 15 at the time of the original crime and there is not one single aspect of the weak circumstantial case against him that cannot be discredited. Our campaign group has grown over the last few years and since the conviction in 2008, public support has increased dramatically. Some of us that work hard on this campaign did not know Michael or the Ross family prior to becoming involved in this cause. We believe this conviction to be an outrage.

Crowdfunding Goals: Michael's legal defence has been funded through legal aid to date. On hindsight, the case was so complicated that it would have been a near impossible task for his legal aid lawyers to unpick the detail in the period allowed for pre-trial preparation. At the time of Michael's trial, the evidence was 14 years old and many of the witnesses called to give testimony had been children when their original statements were taken. The guilty verdict was a huge shock and there was a sense of disbelief that Michael had been convicted with so little evidence presented. An appeal against the conviction was rejected in 2012 and a 3 year review completed by the Scottish Criminal Cases Review commission failed to refer the case back to the appeal court in 2015, although the case made for miscarriage of justice was strong and highlighted multiple issues with the police investigation and conviction.

Michael has been unrepresented legally in recent years, which has allowed him to access some of his own case files. Our campaign group wish to try to raise money to appoint an experienced and respected human rights lawyer to take his case forward, and we hope that this fundraising page will be the catalyst that will turn this situation around. Michael has exhausted all legal options that were available to him, therefore legal aid in his case would be minimal. We believe that Michael has a huge amount of support and many people have told us that they would gladly donate to his cause to give him the chance to clear his name and gain his freedom. We have set an initial target of £10,000 and if this can be raised, we will then stretch the target by a further £25,000. The total amount we need to raise is £35k. The initial sum will allow Michael's appointed legal firm to begin working on his case, and the further sum will allow us to progress with planned case work. If we raise the money we need, this would be used to fund the following: Further detailed investigation into several aspects of the police investigation: Legal work required to submit a detailed complaint to the Police Investigations and Review Commissioner in Scotland (PIRC): Legal work required to submit an updated case to the Scottish Criminal Cases Review Commission, with a view to gaining a referral to the Court of Appeal: Members of J4MR will continue, on a voluntary basis, to fight in every way possible to raise awareness and further this cause; however, we cannot do this alone any longer and we need your help to provide Michael with the best legal representation available. This approach will give Michael the best possible chance of having his conviction quashed. There are no guarantees, but the goodwill and support Michael Ross has received over the last 9 years has been incredible and it inspires us to push forward.

Campaign Publicity: Over recent years we have worked hard to keep this case in the public eye, and some of our media successes can be viewed on the campaign website. Ironically, the conviction of Michael Ross was achieved after 14 years of biased media coverage implying his guilt of the crime, and we now rely on our friends in the media to counteract what has gone before. The Hillsborough campaigners have been an inspiration to us and we hope that we will succeed in presenting the truth to the world eventually, as they did. If this Crowdfunding campaign proves to be a success, it will give hope to Michael and other people fighting wrongful conviction. Public support and scrutiny sadly appear to be the only method of highlighting and eventually overturning miscarriages of justice. Michael is lucky to have strong backing from members of the public, many friends and ex-colleagues. He has also received public backing from the MP for Orkney and Shetland, Alistair Carmichael: The campaign is having an impact far and wide. We have achieved over 2000 signatures on a petition which can be viewed here: https://www.change.org/p/michael-ross-wrongly-convicted-of-murder-sign-for-justice-sign-for-truth

These are some quotes from people that have been in touch with us or commented on the petition: "Like many local people here in Orkney I have for many years considered that the police and legal system in Scotland must have been extremely thorough in the investigation of Michael's case. I can now see that I have been extremely naive where this is concerned. Far from there being evidence supporting the prosecution it looks to me that all the presented evidence shows his innocence, not guilt. I believed that someone found guilty in a trial by jury would have had justice served on them, that the jury would not make such a terrible mistake and that the guilty party would be found out in the end. I was wrong. Worse than that I was judging an innocent man while I was not in possession of all the facts. I sincerely hope that this desperate miscarriage of justice can somehow be reversed, and that Michael might win his freedom to be reunited with his family and friends, and that the guilty party is caught and punished. I hope many more people have read (the) website and have thought long and hard as I have."

"I'm an American and a scientist that is very familiar with forensic testing and evidence. I saw a documentary on Netflix entitled 'Witness' about Michael. I cannot find any possible way to determine guilt or innocence based on this very circumstantial evidence and shaky eye witness at best that came forward after years of his face being plastered on the television for 15 years. I find it very strange and if I were family of Mamood or Ross, I'd want more scientific evidence for proper justice of both parties. I served with Michael and there is no way he would have carried out what he has been found guilty off. Time to release him and find who really carried out this shocking crime. Having lived next door to the Ross family for many years, I

will never believe that Michael was the person who committed that crime. He was always a pleasant young man who became a soldier and it was no surprise to me that he was highly respected by his comrades, a credit to the Black Watch regiment." In my opinion this conviction is so flawed that it is totally ludicrous"

Can You Help Us With Our Cause? "If we desire respect for the law, we must first make the law respectable" Louis D Brandeis. The shooting of Shamsuddin Mahmood in cold blood has left a deep scar on our community; however, we cannot continue to turn a blind eye to the many obvious flaws in the case against Michael Ross. Our goal is to get closer to the truth and ultimately see the investigation into Mr Mahmood's murder re-opened. For over 14 years, the focus of the police investigation was Michael Ross. Other more plausible avenues have not been pursued and there were multiple leads not followed through to any conclusion.

Our Fight is for Justice. For Shamsuddin Mahmood and Michael Ross.

Courts Failed People 'Caught up' in UK Riots in 2011

Haroon Siddique, Guardian: Pressures in the criminal justice system meant it failed to distinguish between repeat offenders and people "caught up" in the 2011 English riots, a former chief prosecutor has said. More than 2,000 people were convicted of riot-related offences with harsh sentences doled out. The average custodial sentence for riot-related cases was more than double compared with similar offences in 2010 in magistrates courts, while in crown courts it rose by three-quarters, according to Ministry of Justice analysis. While the majority of defendants had previous convictions, more than a fifth did not. They included a student jailed for six months after pleading guilty to stealing bottles of water worth £3.50, and two men jailed for four years for inciting riots on Facebook, although no disorder occurred.

Nazir Afzal, chief crown prosecutor for the north-west at the time, said the swift response to rioting in Greater Manchester, including expediting cases from magistrates to crown courts, night sittings and "deterrent" sentences, helped quell disorder but blurred the distinction between organised criminals, prevalent in the disturbances, and first-time offenders. "We have to treat people differently otherwise the system's unfair and so there were people who I regret even having anything to do with," said Afzal. "In a different atmosphere, in a different environment, they would have been diverted from the justice system altogether – given conditional discharges, probation, restorative justice, pay compensation. But they got rolled into everything else because we didn't have resources. "I mean 2011 was the beginning of austerity. I was tasked immediately on taking the role to reduce my budget by 25%, which meant I had to release lots of prosecutors, administrative staff. The police were doing the same, police stations were closing. So we just had to work with the limited resources we had and that meant that we were forced to apply the same rules to everybody and less discretion than we would have been able to exercise otherwise." Afzal maintained that his staff did the best they could in the circumstances and said he never met anyone in the community who disagreed with the response. Research suggests most of the public agree offences committed during riots support the imposition of harsher sentences and also the use of deterrent sentences in such circumstances, although support has also been demonstrated for non-custodial sentences for non-violent, riot-related offending. Afzal said ultimately "sending somebody to prison is always a failure of a system … I can't change the system that exists".

Toby Wilbraham, a criminal defence solicitor at Olliers, in Manchester, recalled a court official telling him there was a governmental memo on how to deal with cases, although the judiciary denied yielding to political pressure. "We know the judges fairly well at the courts and the way they dealt with cases changed quite considerably from how they would normally deal with them and they became more

punitive and remanded people more often than they would have done before," said Wilbraham. Mitigation was said to be rare, despite the age of many defendants – around a quarter were 10-17 and a similar proportion 18-20 – with punitive sentences encouraging people to plead guilty.

Beth O'Reilly, a barrister in London, described the courts as like a "conveyor belt heading towards prison", adding: "There were young people who may have dabbled in just minor, very low level stuff, but then found themselves being charged with really serious offences, riot, violent disorder, with disproportionately long sentences if convicted." Adrian Langdale QC, represented young rioters convicted for involvement in firebombing a Nottingham police station, after they had served their sentences. He said some "were caught up in the moment and the excitement of it and the adventure of it, perhaps not totally realising what was going to be the end result … And some of those unfortunately having tasted fairly lengthy prison sentences have, when they've been released, gone on to organised crime. "I've represented an individual who was released and has since been convicted of a shooting, I've been involved with one who was released and involved in large scale drug supply." Langdale secured one of the few acquittals in riot-related cases as did now-retired London barrister Terry Munyard, who nevertheless remains angry at the harsh sentencing. "Nicking something very minor should not see you in prison," he said. "I think people's individual circumstances weren't taken sufficient account of because the state – in the form of the CPS (Crown Prosecution Service), the police and judges – wanted to try to stop further uprisings of oppressed members of the public."

Terry Smith: Police Resignations and Transparency in the CCRC

Dear Ms Pitcher, By way of introduction, I do not know how long you have been the Chair at CCRC, but I have just read an article by Jon Robbins "Justice Gap" and republished in the MOJUK Newsletter 851, entitled: "CCRC Calls for the Law Commission to Review Criminal Appeals Process" This is in response to the recommendations made by the Westminster Commission that the threshold for cases sent back to the Court of Appeal are too restrictive. vAs a subscriber to the Westminster Commission, it was very interesting to read in the article that the CCRC said it: v"welcomes transparency and the more transparent we can be with our reasons the more people can have confidence in our decision-making".

I spoke to my pro bona barrister David Martin Sperry on his mobile who agreed with me it would be a good idea for me to write to you and to illustrate the lack of transparency, consideration and investigation into my application and Statement of Reasons, ref. 00389/2019 and 00256/2020 where the latter was prematurely closed-down during the Covid 19 pandemic period. Please allow me to explain. After I was wrongly convicted and sentenced to IPP with a minimum tariff of 12-years in February 2010. I lodged a detailed formal complaint to the now re-branded IPCC about the manufacture and omission of evidence at my trial and retrial. This was passed onto the PSDs of BTP vand Essex Police. Subsequently, I was unceremoniously booted out of the police complaints process, and three BTP detectives and three senior Loomis managers went onto resign from the Police Service and their post en bloc after the complaint. These resignations and retirements were confirmed through FOIA and SAR provisions in November 2012 and adduced as evidence in my second application 00256/2020 to the CCRC.

I waited over ten years to exhaust all domestic legal avenues of redress at the Court of Appeal so that I could present my application to the CCRC, who often crow that they have the power and authority to consider, examine and investigate the reasons why the rogue BTP

detectives and equally miscreant Loomis managers resigned from their employment only for the CCRC to: 1. Spectacularly ignore the key resignation points in the original application ref. 00389/2019. 2. Due to the omission of the key point, Alan Burcombe of WellsBurcombe Solicitors suggested I make a stand-alone fresh application on the resignation point. 3. I tendered a re-application form dated 3 March 2020. CCRC response none. 4. Letter to the CCRC dated 17 March 2020. 5. Re-application form to CCRC on the same point dated 28 March 2020. CCRC response none. 6. Re-application form and supporting materials dated 31 May 2020. CCRC response none. 7. Letter to CCRC dated 01 June 2020. 8. On 06 August 2020. I received a Statement of Reasons; Re-application signed-off by Commissioner D. Brown, who said regarding the BTP and Loomis staff resignations: "The CCRC notes your assertion that we omitted to address the issue of the retirement/resignations of the BTP officers and Loomis managers in your previous application. Please be aware that the CCRC is not required to provide a fully reasoned response to each individual submission you made in your original application" (Ref.00256/2020, p. 3, last para). Furthermore, the documentation you have provided in support of this issue only confirms by 2012 the BTP officers had retired, and the Loomis managers were no longer employed by the company. The documentation does not indicate when the people you refer to left their employment or, in the case of the Loomis managers, on what grounds. The material you have provided does not support your assertion that the BTP officers and Loomis managers all left their employment "en bloc" as a result of your complaint about them to the IPCC" (Ref.00256/2020, p.3, para 5).

For the record, I had confirmation from a BTP PSD Investigating Officer's Report that the BTP Disclosure Officer in the case DC 1053 Martin Hand had retired within weeks of my formal complaint on 05 December 2011. I only found out about the BTP and Loomis resignations en bloc in November 2012 after a newspaper investigative journalist told me the SIO Det Chief Supt Michael Field had retired from the Police Service. I then discovered other BTP detectives had also resigned from the force prematurely too. bThe critical point I am making here is far from investigating the resignations and retirements en bloc; the CCRC have gone out of their way to maintain and sustain a monstrous miscarriage of justice through: b(i) Firstly, ignoring the vital issue of the application in the original application. b(ii) Secondly, disregarding several re-applications and letters regarding the same issue. b(iii) Thirdly, when the CCRC did confront and address the issue in the Statement of Reasons (00256/2020). They opted to pick holes in the application instead of doing their job "transparently" and investigating this serious matter; and, b(iv) Fourthly, when the pro bona barrister David Martin Sperry emailed the CCRC (10/09/2020) and urged the CCRC to extend time limits so that he could visit the Applicant face-to-face and make representations after the Covid 19 lockdown, this was refused, and the CCRC closed-down the critical application forthwith 25/09/2020.

As a consequence, I will end this letter in the same way that it began. With all due respect, I do not know how long the Chair has been getting to grips with the CCRC. However, in regards to "transparency" and accountability when it comes to the consideration, examination and the investigation of police officers et al, who resign rather than face disciplinary hearings and/or prosecution, the CCRC would rather throw applicants under the bus than do its job professionally and transparently. bOn that basis, I urge the Chair to re-open my application and properly investigate the resignations of the BTP detectives and Loomis managers as this appalling injustice will not go away until it has been sufficiently exposed and rectified. Many thanks in advance. Terry Smith, A8672AQ, HMP Warren Hill

Missed Opportunities Contributed to Death of Adam Stanmore

Adam Stanmore, a 37 year old man of mixed heritage from Oxford, was found dead on 13 June 2019. He had a history of self-reported depression and had type 1 diabetes. An inquest concluded that multiple failures by the *police, paramedics and mental health services* contributed to his death, including the decision of paramedics to delete records which indicated that Adam had taken an overdose of insulin to kill himself.

Adam was then taken into Abingdon Police station. On arrival he was barely conscious and his blood sugar levels were critically low. He again told police that he wanted to kill himself. South Central Ambulance Service was called to convey Adam to the hospital for physical and mental health assessment and treatment. No further action was taken in relation to his arrest. The evidence of the paramedics was that they were not made aware that Adam had told police officers that he wanted to kill himself. During the journey in the ambulance, Adam told the paramedics that he had overdosed on insulin to try and kill himself. This information was recorded. It later was deleted and only came to light during the Inquest. Adam was allowed to leave the ambulance before it reached the hospital. No mental health capacity assessment was carried out and Adam refused any additional treatment or checks of his blood sugar levels. Paramedics then provided information to police and central control that Adam was fully recovered.

Police located Adam a few hours after he had left the ambulance but were reassured by a lack of markers in their own system and by the information provided by the paramedics. Oxford Mental Health street triage decided that they would not perform a face to face mental health assessment on the basis of the information from police officers that Adam seemed fine. He was last captured on CCTV at around midnight, after police had left him. Adam's body was found on 13 June. He had a ligature around his neck and was surrounded by insulin boxes. It was likely that he died near the time he was last seen.

The inquest jury have today concluded that Adam died of suicide by hanging and/or hypoglycaemia. They found that the circumstances which contributed to Adam’s death were that: He did not have appropriate psychiatric follow-up and there were risks of self-harm and suicide which were not appropriately assessed and managed by the Adult Mental Health Team. There was an inappropriate handover of information between SCAS control and the paramedics dispatched to Abingdon Police Station and between police custody and paramedics at Abingdon Police Station. There was some lack of clarity in the handover between healthcare and paramedics at Abingdon Police Station. The attending paramedic should have carried out a formal mental capacity assessment and additional risk of self-harm assessment when Adam informed them that he had taken an overdose of insulin with the intention to kill himself. This information should have been escalated when Adam refused to have his observations checked or be conveyed to hospital. Deletions from the ambulance electronic patient record meant that significant information was not visible to healthcare professionals. These issues impacted on the perception and assessment of presenting risk to Adam’s physical and mental health. The failure of the attending paramedic to share information on more than one occasion contributed to Adam’s death. There were issues with information sharing about Adam on 18 May between various agencies which in combination contributed to his death.

Laura Klee, Adam’s ex- partner, said: “The conclusion marks the end of what has been an agonizing two year wait for answers surrounding the death of our dear Adam. It is with great sadness that we face the end of this inquest without Adam’s mother, Sandra, who passed away only 8 weeks ago, and who will never know the answers she so desperately sought regarding the death of her son. While we were already aware that there had been failings in Adam’s care, we were not fully

prepared for some of the evidence that came to light. We have been truly shocked and saddened by the blatant disregard shown towards Adam in his final hours by those who could have saved him, in particular the ambulance crew. We can only conclude that a great number of people involved in Adam's care that day simply did not care. We truly believe that there was no part of Adam that wanted to end his own life that day, but due the psychosis he was experiencing, felt he had no choice. As a family, this has never been about blame or finger pointing, but about finding answers to something that has been incredibly difficult to process. We hope mostly that learning will be done and from this and other's lives may well be saved. While the stigma surrounding mental health is slowly lifting among the population, we as a county have a long way to go in ensuring that our emergency services are able to understand mental health and offer the support that people require, in particularly with regards to the understanding of mental health within the police force. We cannot bring Adam back to us, but we sincerely hope that his death will not be in vain. His daughter faces growing up without her father, but we will always be sure to tell her about what a hero her Daddy was."

Chanel Dolcy of Bhatt Murphy solicitors, who represent the family, said:" Adam made repeated efforts to get help even when he was in the throes of a mental health crisis. Those whose duty was to give him that help repeatedly turned him away and failed him. His admission that he had taken an overdose of insulin in an attempt to kill himself was ignored. The catalogue of errors by various agencies who came into contact with Adam is shocking and disheartening. Adam's sad case has very clearly shown the stark defects in the systems that are in place to protect the most vulnerably in society." Selen Cavcav, Senior Caseworker at INQUEST, said: "It is utterly shameful that Adam was left to die in these circumstances and basic standards of care necessary to protect those in distress fell by the wayside as they did. This inquest highlighted yet again systemic issues around how the agencies respond to people with mental ill health."

'Racism in Policing Remains an Issue, 20 Years After Macpherson Report'

Nadine White, Independent: "Persistent, deep-rooted" racial inequalities persist in policing, 22 years on from the publication of the Macpherson report that followed the inquiry into the racist murder of Stephen Lawrence, MPs have warned. The Home Affairs Committee is calling for urgent action to tackle racial disparities in law enforcement and a "worrying decline of confidence" in the police among some ethnic minority communities Among its findings, the report found that adults from black and mixed ethnic backgrounds are less likely to have confidence in the police than adults from white or Asian backgrounds – and that this confidence gap has widened.

It also warned forces will not be representative of the communities they police for another 20 years if current recruitment patterns continue – nearly a quarter of a century after the Macpherson report first raised concern over the issue. By 2020 Bame officers represented just 7 per cent of the police service across England and Wales, far below the 14 per cent of the population in England and Wales who identify as minority ethnic. Levels of under representation are most marked among senior ranks – only 4 per cent of officers at or above the rank of chief inspector are from minority By 2020 Bame officers represented just 7 per cent of the police service across England and Wales, far below the 14 per cent of the population in England and Wales who identify as minority ethnic. Levels of under representation are most marked among senior ranks – only 4 per cent of officers at or above the rank of chief inspector are from minority backgrounds.

Publishing the report, the chair of the Home Affairs Committee, Yvette Cooper MP, said the current state of affairs is "unacceptable" and needs to be addressed. "The Macpherson report into the racist murder of Stephen Lawrence and the terrible denial of justice to his family had

a huge impact on policing and tackling racism when it was first published. However we have found that in too many areas progress has stalled and for too long there has been a lack of focus and accountability on race equality in policing. There are still persistent, deep rooted problems and unjustified racial disparities in key areas where Sir William Macpherson made recommendations over 20 years ago. Without clear action to tackle race inequality we fear that, in 10 years' time, future committees will be hearing the very same arguments that have been rehearsed already for over 20 years. That cannot be allowed to happen." The use of stop and search is more disproportionate across police forces now than it was two decades ago, the report found, with no adequate explanation for the nature and scale of racial disparities, including on drug possession searches where in 2019 black people were 2.4 times more likely than white people to be searched, even though in the last year they were less likely to use drugs.

The committee makes several recommendations, among them that a new statutory race equality commissioner for policing, as well as a new race equality steering group to be chaired by the home secretary to respond to the commissioner's reports. MPs also called for new minimum targets to be set immediately for current recruitment so that all forces in England and Wales reflect the ethnic diversity of their local populations and a national target of at least 14 per cent by 2030. Policing minister Kit Malthouse said the Macpherson report has "left an indelible mark" on policing, adding: "Good progress has been made since its publication. Our police are more diverse than ever before, forces have worked hard to improve community engagement and we have seen major improvements in the way the police deal with racist crimes. However we know there is much more to do – that is why attracting more officers from a wide range of ethnic and socio-economic backgrounds is a core ambition of our drive to recruit an extra 20,000 officers. Stop and search along with other preventative activity set out in the Beating Crime Plan is also vital to ensuring we create safer streets and neighbourhoods."

Responding to the committee's report, Sam Grant, head of policy at human rights group Liberty, said: "Feeling safe in our communities and being treated equally is something we all want. Yet, as, the select committee's report demonstrates, we are far from that ideal with current policy making in policing and criminal justice. he widely criticised government proposals put forward this week were the latest in a growing list of headline-grabbing policies, that do more harm than good. Politicians repeatedly prioritise posturing over the long-lasting systemic change that is so desperately needed and has been repeatedly called for, most recently in the Black Lives Matter protests. The government must stop ignoring evidence, listen to communities affected by discriminatory policing and work with them on solutions. Priorities should be investment in services such as health, education, housing and social welfare to develop strategies for keeping all of us safe." Jo Noakes, director at the College of Policing, said: "Today's report is a challenging and comprehensive summary of the evidence that requires effective action. While we know policing has undergone significant changes and improvements in the last 22 years, there is still more to be done including continuing to build confidence in the police, especially among black and minority ethnic communities.

Nineteen Deaths in or Following Police Custody Over Last 12 Months

There were 19 deaths in or following police custody last year with 12 of that number of fatalities having been restrained, according to the latest figures from the police watchdog. The Independent Office for Police Conduct also recorded that there have been 92 other deaths following contact with the police, however deaths are only included in this category when the IOPC has conducted an independent investigation. The 19 deaths in 2020/21 is a slight

increase from last year (18)and is in line with the average figure from the last decade. The charity INQUEST report that since the end of the IOPC statistics reporting period on March 31, there have been a further five deaths in or following police custody and contact.

'Last year the world responded to the death of George Floyd and mobilised against deaths in police custody and racial injustice,' said Deborah Coles, director of INQUEST. 'Yet once again the data on deaths in police custody and contact in England and Wales repeat the same patterns, nothing changes. This is despite the lifesaving recommendations from multiple inquests and the Angiolini review.' 'The focus of this Government however is denying structural racism and inequality, appearing tough, ignoring evidence and repeating failed policies focused on criminalisation. Ultimately to prevent further deaths and harm, we must look beyond policing and redirect resources into community, health, welfare and specialist services' Coles continued. Zaki Sarraf, Justice Gap, https://is.gd/uK89fC

Scotland: Court Backlog set to Reach 50,000

Figures from the Scottish government show. Overall, there are 42,451 outstanding trials and a further 6,542 cases deemed likely to come to trial. The backlog is double that of pre-pandemic levels. There were 18,355 outstanding trials at the end of the 2019/20 year. A Scottish government spokesperson said: "To mitigate the court backlog caused by necessary public health restrictions, innovations such as remote jury centres in cinemas have been used for the most serious criminal trials, while most civil work is being dealt with online or virtually. "In addition, we will see an increased court capacity from September, which includes the expansion of remote jury centres and a daily increase of four additional High Courts, two additional Sheriff Solemn Courts and up to ten Sheriff Summary Courts. We committed to investing £50 million this year to the Justice Recover, Renew and Transform programme to drive further reform and help increase the throughput of court cases, which is the single biggest way to reduce remand numbers."

HMP Greenock Indicative of Scotland's Prison Crisis

Calls have been made for HMP Greenock to be replaced as soon as possible after a leaking roof forced the closure of 40 cells. The prison was built in 1907 and operates at only 75 per cent capacity because of the poor condition of its buildings. A replacement, however, is still a decade away, Wendy Sinclair-Gieben, HM chief inspector of prisons said. She also said the Scottish government had a "real crisis on its hands" when it came to prisons. She told Good Morning Scotland that while Greenock, which was the subject of a report, was a "very good wee prison" its condition was unacceptable. There are two stark choices for government; one is to reduce the prison population so Greenock is not necessary and the other is to consider some form of building that can be achieved within a shorter time. I think the Scottish government has a real crisis on its hands with a rising prison population and an estate with so many prisons that are not fit for purpose." The report by HM Inspectorate of Prisons for Scotland (HMIPS) praised the jail for its response to the pandemic; it had no confirmed cases a year into the crisis. The report said: "The primary concern is the ageing infrastructure of HMP Greenock and the unsuitable environment created by the fabric of the building." However, it described it as "ill-suited to a modern prison system and accordingly in urgent need of replacement. A robust permanent solution must be found in the interim for a number of issues; to prevent further ingress of water into healthcare settings and accommodation areas to minimise the risk of transmission of infection."

When Complaints Must be Referred to the Independent Office of Police Conduct

Cecily White, UK Police Law Blog: In R (Rose) v Chief Constable of Greater Manchester Police [2021] EWHC 875 (Admin), a businessman successfully challenged a decision not to refer his complaint to the Independent Office of Police Conduct (IOPC) under the mandatory referral criteria. The High Court concluded that the chief constable had failed to review the conduct alleged and consider whether, if substantiated, it would constitute serious corruption as defined in the (then) Independent Complaints Commission (IPCC) Statutory Guidance on the handling of complaints. Instead, he had performed an assessment of the merits which had rendered the decision not to refer the complaint unlawful. The case makes clear that complaints engaging the mandatory criteria, especially that of "*Serious Corruption*", must be referred to the IOPC.

In 2014, the Claimant, Mr Rose, reported to the police that his staff were stealing from his business. An investigation resulted in a decision of the Crown Prosecution Service (CPS) in 2016 not to prosecute. Mr Rose believed that the investigation had been influenced by the fact that some of the suspects were related to a serving police officer, and that evidence had been deliberately withheld from the CPS due to police nepotism and corruption. The 2016 complaint, which related to the alleged withholding of evidence including CCTV and witness statements, was sent to the IPCC (now IOPC), which forwarded it to the defendant Chief Constable. A chief inspector reviewed the 2014 investigation and concluded that the complaint should be closed with no further action. Dismissing Mr Rose's appeal, an appeals officer found that the complaint had been suitable for local resolution because the conduct complained of would not justify criminal or disciplinary proceedings.

Mr Rose made a second complaint, in 2018, to the IPCC, this time complaining about the manner in which the chief inspector had reviewed the 2014 investigation, making allegations of bias, and accusing him of seeking to protect the officers involved. Again, the complaint was forwarded to the defendant, addressed through the local resolution process, and closed without further action. Mr Rose appealed, arguing that this complaint met the criteria for mandatory referral to the IOPC. The appeals officer rejected the appeal, concluding that local resolution had been appropriate. Whilst awaiting the outcome of this appeal, Mr Rose lodged a third complaint in 2019, which the defendant concluded did meet the criteria for mandatory referral and which led to a local investigation. The 2019 complaint was not upheld and the IOPC rejected Mr Rose's appeal. Mr Rose contended that it had been wrong not to refer the 2018 complaint to the IOPC because it met the mandatory referral criteria.

Decision: The regime which applies to complaints against police officers is: - Part 2 and Schedule 3 of the Police Reform Act 2002 (PRA); - The Police (Complaints and Misconduct) Regulations 2012 (PCMR) (now the PCMR 2020). Para 4(1) of Schedule 3 PRA provides that the chief constable of the relevant police force has a duty to refer a complaint to the IOPC if the complaint is of a specified description within the PCMR reg 4(2)(a)(iii), which includes complaints of "serious corruption" as defined in the IPCC's Statutory Guidance on the handling of complaints. At para. 8.13 "serious corruption" was defined as conduct including "any attempt to pervert the course of justice or other conduct likely seriously to harm the administration of justice, in particular the criminal justice system".

The Administrative Court (HHJ Eyre QC) concluded, at para. 44: "I am satisfied that the Claimant's interpretation of these provisions is correct. The appropriate authority is to look at the conduct which is alleged in the complaint and consider whether that conduct, if substantiated, would constitute serious corruption as defined in the Guidance. If it would then the criteria for mandatory referral are met. The appropriate authority is not at that stage to consider the merits of the complaint but instead to focus on the nature of what is being alleged. Whether

the conduct alleged falls within the definition is a matter of objective interpretation of what is being alleged by reference to the definition. It will not be sufficient for a complainant simply to say that "serious corruption" is alleged but once a complainant goes beyond that and alleges particular conduct then the assessment is to be whether such conduct if substantiated would fall within the scope of the definition in the Guidance."

The Chief Constable mounted a "strenuous" defence to the effect that the definition of "serious corruption" required him to assess whether the complaint "had substance", which involved an assessment of the gravity of the alleged conduct (paras. 48-49). It was suggested that the IOPC's mandate was limited to the investigation of only the most serious complaints against the police (para. 50) and that the complaint was not to be taken "at face value": instead, an element of judgment, including consideration of the circumstances, was required (para. 58).

HHJ Eyre QC disagreed (with emphasis added): "61. At paragraph 36 of his skeleton submissions Mr. Reichhold asserted that the statutory framework and the Guidance "call for some measure of flexibility". He accepted that "referral should be mandatory for the vast majority of complaints that allege 'serious corruption'" but then said that "there must be some flexibility in exceptional cases". Mr. Reichhold said that the 2018 Complaint was such an exceptional case. I was unable to identify any indication in the terms of the Schedule, the Regulations, or the Guidance that there is an exceptional category of case where the appropriate authority is entitled to conclude that the otherwise applicable duty to refer the complaint to the IPCC does not apply. In this context it is relevant to note again the point made at [31] and [46] above that the duty to refer a complaint of serious corruption to the IPCC only arises once the complaint in question has been recorded by the appropriate authority. A complaint which is vexatious, repetitious, or fanciful will not have been recorded. That provision is the safeguard which the Regulations provide by way of filter against patently unmeritorious complaints and there is no basis for implying into the Regulations the flexibility for which [counsel for the Chief Constable] contended. 62. Thus it is not sufficient for a complainant simply to say that he or she is complaining of "serious corruption" for a complaint to be referred to the IPCC. However, once conduct constituting serious corruption as defined in the Guidance is alleged there must be such a referral and there is no scope for the appropriate authority to consider the merits of the allegations before making that referral provided that the complaint has met the requirements for being recorded."

HHJ Eyre QC distinguished the cases of R (Yavuz) v Chief Constable of West Yorkshire [2016] EWHC 2054 (Admin) and R (Shakoor) v Chief Constable of West Midlands Police [2018] EWHC 1709 (Admin), cited by the defendant as demonstrating situations in which an "exercise of judgment" is required, on the basis that they related to different provisions – the certification of an investigation as one subject to "special requirements" under para 19B of Schedule 3 PRA in the case of Yavuz; and whether a complaint involves a "conduct matter" making it suitable for local resolution or local investigation, in the case of Shakoor (paras 56 and 60).

HHJ Eyre QC therefore concluded that the decision not to refer the 2018 complaint had been wrong in law (para 70). The 2018 complaint should have been treated as one of serious corruption, i.e. alleging conduct which, if substantiated, constituted an attempt to pervert the course of justice or conduct likely seriously to harm the administration of justice. The letter of complaint needed to be read as a whole, bearing in mind that it had been drafted by a layperson: it did not make allegations of mere "incompetence or error" but of a "deliberate cover up" and conspiracy by named police officers to protect the culprits of crime and prevent the criminal prosecution of family members of serving police officers (paras 65, 68). HHJ Eyre QC could not be satisfied (for the purposes of section 31(2A) and (2B) of the Senior Courts Act 1981) that it was "highly likely" that the outcome would not have been substantially different had the 2018 complaint been referred to the IPCC (para 91). Although subsequent analysis, performed during the investigation into the 2019 complaint, had revealed that far from seeking to forestall a prosecution, the original officers had been "pressing for one", the error of law had deprived Mr Rose of the IOPC's consideration of his complaint, a decision by the IOPC as to how it should be investigated, and a right of appeal in the event that Mr Rose disagreed with the outcome of the investigation (para. 91). Accordingly, the decision was quashed.

Analysis: Forces frequently find themselves in the position of having to determine whether a complaint satisfies the mandatory criteria for referral to the IOPC, including where (as in this case) one individual makes multiple complaints. Rose confirms that which is apparent from the PRA/PCMR and the Guidance, namely that it is not for the chief constable to perform an assessment of the merits of the complaint or to exercise judgment as to whether the complaint "has substance", but to consider whether the nature of the allegation, if substantiated, falls within any of the mandatory referral criteria – in this case, serious corruption. A decision to refer a case to the IOPC is, of course, separate to decisions taken subsequently about whether an investigation should be performed, if so in what form, and what the findings of such an investigation might be.

What if a complaint merely asserts "serious corruption" without identifying any particular facts in support? HHJ Eyre QC suggested, at para 61, that the mere assertion of serious corruption will not be sufficient to bring a complaint within the mandatory criteria. There must be something more: in this case, there were particular allegations of corruption and cover-up on the part of named officers said to have been connected to the thefts at the claimant's business. It is tempting for those handling large numbers of complaints to make an assessment of those which are likely to be meritorious and those which are not, especially where serious allegations are made. This judgment confirms that an assessment of the merits is not permitted at the stage of determining whether a complaint needs to be referred to the IOPC.

'More Foghorn Than Dogwhistle': Johnson Gets Tough On Crime

When it comes to policy, Boris Johnson's government is reminiscent of visiting a poor quality Wetherspoons. There is nothing original or fresh on the menu, just a motley assortment of options, that have been tried, tested and found wanting, but still just about do enough for it to be worth having one warmed up in the microwave and forcing it down anyway. You know it will do you no good in the long run, but in the short term it will keep the wolf from the door- or in Johnson's case, will help give him another five years in Downing Street.

Serving Prisoners Supported by MOJUK: Derek Patterson, Walib Habid, Giovanni Di Stefano, 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, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, 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, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan