Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Email: mojuk@mojuk.org.uk Web: www.mojuk.org.uk

MOJUK: Newsletter 'Inside Out' No 585 (02/06/2016) - Cost £1

Lifer Fails in HR Challenge Over Failure to Provide Opportunity For Rehabilitation

A man serving a sentence of life imprisonment for murder who claimed that the prison service has failed to provide him with a reasonable opportunity to rehabilitate himself has had a petition for judicial review dismissed by a judge in the Court of Session. Stuart Quinn argued that the Scottish Ministers, acting through the Scottish Prison Service, had failed in their duty to provide an opportunity for him to demonstrate to the Parole Board that he will no longer present an "unacceptable risk to the public" at or about the time his tariff expires. The petitioner's complaint of "systemic failure" and a challenge to the respondent's "prioritisation policy" for rehabilitation courses were previously dismissed as "irrelevant" by Lord Tyre following a first hearing, and Lord Glennie (pictured) has now rejected the petitioner's human rights claim following a second hearing.

Since the 2015 decision of the UK Supreme Court in the case of R (Haney) v Secretary of State, a number of petitions for judicial review raising similar questions had come before the courts in Scotland for a first hearing, but this case was thought to be the first to progress to a second hearing and the first time that the courts in Scotland had heard evidence on the issue. The court heard that progress through the prison estate towards release of a prisoner serving a sentence of life imprisonment followed a general pattern, which could take a number of years. The petitioner, who was sentenced to a punishment part of 18 years in 2001 and will become eligible to apply to the Parole Board's Life Prisoner Tribunal (LPT) in May 2019, averred that first prisoners must undertake and complete necessary rehabilitative coursework, after which they may advance to the National Top End (NTE) where they will embark upon a programme of escorted leave before applying for a first grant of temporary release (FGTR). They will then obtain a work placement and progress to unescorted leave and from the NTE prisoners will advance to the Open Estate. In making its assessment of the risk of releasing a prisoner on licence, the Parole Board will have regard to his successful progression through the prison estate, and in general will only consider a life prisoner for release on licence if he has spent a substantial amount of time in the Open Estate.

The petitioner's evidence was that he was told by the prison at the start of his sentence that he would require to work towards what is known as the "four year window", i.e. the period of four years prior to his parole qualifying date. He was told that he would complete offence focused programmes in time for the start of that period and that, subject to him being of good behaviour, drug free and report free, he would be transferred at that point to the NTE where he would spend two years undertaking Special Escorted Leave (SELs) and a community work placement before being transferred to the Open Estate where he would spend two years getting overnight home leaves. However, he said that he was now three years and eight months away from my parole qualifying date and was yet to complete all his offence focused programmes. He had now entered my "four year window" and should have been transferring to NTE, but was unable to do this as he had not yet started the Self Change Programme (SCP) or the Substance Related Offending Behaviour Programme (SROBP), which could take more than two years to complete, and therefore did not meet the criteria.

"I feel disappointed with the system. I feel let down. For 14 years I have been told by the SPS that everything will be done in time for my last four years. They now seem to have moved the goalposts," he said. On that basis, the petitioner said it was "wholly unrealistic" to contemplate that he could pass through the NTE and the Open Estate in time to be assessed by the LPT in May 2019 with a fair opportunity of persuading them that he is "suitable for release".

In terms of the European Convention on Human Rights, he relied upon the "ancillary obligation" implicit in the scheme of article 5, namely that the state is under a duty to provide an opportunity reasonable in all the circumstances for a life prisoner to rehabilitate himself and to demonstrate that he no longer presents an unacceptable danger to the public. Counsel submitted that a failure before tariff expiry may constitute a breach of that ancillary obligation if it remains uncorrected and if, as a result of it, a prisoner is deprived of that reasonable opportunity, and the "simple fact" was that although the SPS had put the petitioner on a waiting list it had not placed him on the appropriate course in sufficient time to enable him to progress at the appropriate speed within the appropriate timescale.

Lord Glennie accepted that the petitioner would not be in a position at the end of the punishment part of his sentence to satisfy the LPT that he no longer presents a danger to the public and is suitable for release even assuming full engagement and compliance on his part with the SCP and in the NTE and Open Estate, but he was not persuaded that this was sufficient to demonstrate a breach of the Haney duty. "First, because other passages in the judgments in Haney make it clear that resources and the demands of other prisoners are a factor to be taken into account. And secondly because in this case there is no live challenge based on systemic failure nor any live challenge to the prioritisation policy according to which prisoners are placed on the waiting list for rehabilitative courses," the judge explained.

In a written opinion, Lord Glennie said: "The evidence in this case does not seek to attach blame to any particular decision made by the SPS in its handling of Mr Quinn's case. The evidence appears to suggest that the prioritisation policy, by reference to which prisoners are first put on the waiting list for rehabilitative coursework, and the pressure on places on courses such as the SCP (and in time the waiting list for the NTE) will all play their part. "The petitioner was recommended as suitable for the SCP in September 2014 and put on the waiting list then. Had he been put on the SCP immediately thereafter, and not had to take his place on the waiting list, all might have been well. But that may be a problem of resources. "Had he been put on the waiting list earlier, again he might have been found a place on the SCP by now and again all might have been well. But that is a function of the prioritisation policy. "As I have been at pains to point out, these are not matters which arise at this second hearing. Criticism of alleged systemic failures affecting the availability of rehabilitative coursework and of the respondents' prioritisation policy have been rejected." *Scottish Legal News*

Damning Narrative Verdict Finds Neglect Caused Death of Lee Rushton at HMP Liverpool

Lee was a vulnerable 24 year old man. This was his first time in prison. He was remanded to HMP Liverpool and had been there for just 6 days before he died. On Wednesday 28 January at 1.42pm, a prison officer went to collect Lee for his video link court hearing. Lee was found hanging in his cell and after efforts to resuscitate him, Lee was pronounced dead at 2.17pm. After hearing evidence for 7 days, the jury concluded that Lee did not intend to take his own life. In a comprehensive and highly critical narrative verdict, they found that Lee died from an accidental death contributed to by neglect, along with a number of significant failings by the prison and healthcare staff. The jury heard evidence that a real and imminent risk of self harm or suicide was recognised on Lee's reception into prison by the opening of an

Assessment, Care in Custody & Teamwork (ACCT). However, the jury concluded that the risk was not managed adequately and effectively by the prison during Lee's time under their care. The jury found a number of failures in the inadequate and ineffective management of the risk including: ● Failure to discuss Lee at the relevant mental health meetings despite being referred on 2 separate occasions; ● Failure to recognise Lee's level of vulnerability as part of the ACCT process: ● Failure to fully explain the PPU telephone system which removed a major protective factor in him not being able to telephone anybody: ● Ineffective use of the cell share risk assessment, leaving Lee alone at a high risk of self harm / suicide: ● Numerous failures in carrying out the ACCT process, including lack of communication, failure to follow procedures, missed opportunities to increase observations, failure to take a multidisciplinary approach, lack of ownership of issues, missed opportunities to hold review meetings, and failure to record information on documentation: ● Inadequate management of drug dependency including missed treatments, inconsistent treatments, lack of continuity and lack of recording.

The jury considered this more likely than not contributed to Lee's intentions concerning self-harm or not: ● A failure to adequately and effectively assess Lee's mental health in addition to the drug dependency presentation: ● A failure to properly investigate a prisoner assault on Lee a few days prior to his death despite Lee having expressed his fear to the prison staff. The jury considered that it was more than likely that this incident added to Lee's vulnerability given his mental state. The jury concluded that Lee was in a dependent position due to mental illness and incarceration. They stated there was a "failure to provide and procure basic medical attention" and there was a "gross failure" in his mental health care which could have saved or prolonged his life.

The jury listed the following findings which they considered causative: ● Lack of consistent and sufficient mental health assessment: ● Assumption of [steps taken by] others: ● Vulnerable prisoner in a single cell: ● Failure to take action based on observation in ACCT: ● The lack of understanding or sufficient explanation for Lee about the Public Protection Unit (PPU) telephone system: ●The inability for Lee to send a message to his family. The Coroner has compiled a Prevention of Future Deaths report in connection with the issues identified by the jury. Lee's family is devastated by his death but are pleased that the jury recognised the systemic failures in the care that was provided to him. They hope that the prison will now implement changes to ensure these failings are never repeated.

Leanne Dunne, solicitor representing the family, said: "It is important that the failures in the level of care provided to prisoners are recognised and the jury's findings in this case highlight some of these issues Not only do these failures have a devastating impact on families but also link in with the wider social issues regarding the fact that prisoners should at least be provided with the same level of medical care that they would be provided within the community.'

Deborah Coles, Director of INQUEST said: "At a time when prison reform is on the agenda, this case exemplifies everything that is wrong with the prison system. It is deplorable that a vulnerable young man in need of mental health support can die in this way where neglect and gross failures are identified as a contributory factor. Urgent and decisive action is needed now to prevent further deaths. This situation can no longer be tolerated."

INQUEST has been working with the family of Lee Rushton since July 2015. The family is represented by INQUEST Lawyers Group members Chris Topping and Leanne Dunne from Broudie Jackson Canter Solicitors and Ifeanyi Odogwu from Garden Court Chambers.

UK Trains Soldiers For Regimes on its Own Human Rights Abuse Watchlist

Jon Stone, Independent: Britain is providing military training and support to the majority of the countries named on its own human rights abusers watchlist, The Independent can reveal. Sixteen nations on the Foreign Office watchlist for use of torture and sexual violence benefit from military and security support. The Foreign & Commonwealth Office (FCO) designated 30 nations as "human rights priority" countries last year, warning of their conduct on a range of issues from internal repression to the use of sexual violence in armed conflict. But information released by ministers shows that British armed forces trained "either security or armed forces personnel" in 16 of the listed countries since 2014.

According to the Ministry of Defence, British soldiers have trained the armed forces of Afghanistan, Bahrain, Bangladesh, Burma, Burundi, China, Colombia, Egypt, Iraq, Libya, Pakistan, Saudi Arabia, Somalia, Sudan, Yemen and Zimbabwe – despite the human rights records of those countries. The revelation comes days after the Government announced it would step up the level of military training it provided for the armed forces of Oman. Though Oman is not among those nations named on the FCO's watchlist, human rights observers working for Amnesty International say they have identified widespread use of torture and detention in the country. "Methods in use in Oman include mock execution, beating, hooding, solitary confinement, subjection to extremes of temperature and to constant noise, abuse and humiliation," the organisation said in its 2014 report. "These practices are allowed to flourish within a culture of arbitrary arrest and detention in secret institutions."

Defence Secretary Michael Fallon stated that Oman "is our friend" and that the UK was "working more closely than ever with them across military, counter-terrorism and intelligence fields to tackle shared threats to stability." The UK could also build a permanent military training facility in the country, Mr Fallon added. In March, The Independent reported that British commandos are training Bahraini soldiers in using sniper rifles – despite the alleged use of such specialist troops to target protesters during a pro-democracy uprising in 2011. Soldiers from the Gulf monarchy were again hosted at the Infantry Battle School in Wales last week, according to Ministry of Defence publicity.

They visited alongside troops from Nigeria, whose top military generals Amnesty say should be on trial for war crimes. The human rights group produced a 133-page dossier alleging Nigerian forces caused the deaths of 8,000 people through murder, starvation, suffocation and torture during security operations against Islamist militants Boko Haram. A senior military official told Amnesty that Nigerian solders respond to Boko Haram attacks by going "to the nearest place and kill[ing] all the youths" whether they were armed or not. Andrew Smith, of Campaign Against Arms Trade, said Britain should not be "colluding" with countries it was well aware were led by authoritarian regimes. "The UK army has provided training to some of the most authoritarian states in the world," he said. "The fact that many of them are included on the government's own 'human rights priority' list is a sign of how oppressive they are. The UK military should not be colluding with or legitimising human rights abusers."

The Government has faced criticism from campaigners in recent months for continuing to rubber stamp arms sales to repressive regimes, including Saudi Arabia. Saudi Arabia has been accused of committing war crimes during its military campaign in Yemen, something the country denies. The aid organisation Medecins Sans Frontiers states that Saudi war-planes have bombed multiple hospitals in which it operates in the area. Other reports include the bombing of schools and weddings. The British government has however ignored calls for

an arms embargo on Saudi Arabia from both the European Parliament and the House of Commons International Development Committee. Defence minister Philip Dunne confirmed last month that British liaison officers had trained Saudi Arabian troops in using weapons systems supplied by Britain and that they were present in the country's operations centre. A Ministry of Defence spokesman said all training was delivered in line with the UK Government's Overseas Security and Justice Assistance Guidance, "in order to mitigate the risk of contributing to human rights violations". "The fundamental right of all humans to fair treatment is intrinsic to all British Military training activity," he said. "If there is credible evidence that our support is being misused, we will take immediate action."

US Supreme Court Throws Out Death Sentence Given to Black Man By All-White Jury

Feliks Garcia, Guardian: In the 7–1 ruling on Monday 23rd May 2016, US justices ruled in favour of Timothy Tyrone Foster, who was convicted of killing an elderly white woman three decades ago. Chief Justice John Roberts wrote that the court determined prosecutors went against the court's 1986 decision in Batson v Kentucky that laid out rules against racial discrimination in the jury selection process."The focus on race in the prosecution's file plainly demonstrates a concerted effort to keep black prospective jurors off the jury," Mr Roberts said. Mr Foster's defense obtained jury selection notes by the prosecutors through an open records request, USA Today reports. During the selection process, the notes showed the highlighted names of black prospective jurors who had circled "black" on questionnaires. They were identified as "B#1", "B#2", and "B#3". The remaining black jurors were ranked on the top of a list labeled "definite No's", according to the report. Justice Clarence Thomas, the Court's only black justice, was the only dissenting voice. "Foster's new evidence does not justify this court's reassessment of who was telling the truth nearly three decades removed from voir dire," Mr Thomas wrote. Mr Foster will now have a chance to receive a retrial. During the original trial, the Associated Press says, his defense did not contest his guilt, but instead attributed it to a troubled upbringing, mental illness, and drug abuse. They objected to the lack of black jurors at the time, but the trial judge had said they were chosen based on factors other than race.

Brother of UVF Victim Peter Mctasney Loses Legal Challenge Over Police Probe

Belfast Telegraph: The brother of a loyalist murder victim has lost a legal challenge over alleged failures in the investigation into a killing shrouded in suspicions of security force collusion. Catholic voluntary worker Peter McTasney was shot dead by a Ulster Volunteer Force gang at his home on the outskirts of north Belfast 25 years ago. Amid claims that Mr McTasney's killers were led by a Special Branch agent, his brother Thomas issued judicial review proceedings against the PSNI over alleged delays in the inquiries. But a High Court judge dismissed his case after pointing out that suspected UVF commander-turned supergrass Gary Haggarty is now charged with the murder as part of a catalogue of paramilitary crime. Mr Justice Colton said: "For the court to conduct an investigation under the guise of judicial review proceedings at this stage would at best be premature."

Mr McTasney, 26, was gunned down in the living room of his house in Bawnmore, Newtownabbey in February 1991. Loyalists armed with a gun and sledgehammer opened fire in the presence of his three-year-old daughter, who was also injured. A Police Ombudsman report identified the murder as one of 10 linked to a UVF unit operating out of the Mount Vernon estate. Reference was made to an 'Informant 1' arrested and interviewed by Special Branch handlers

before being released without charge. According to legal papers in Thomas McTasney's legal challenge, that informant is widely known to be Mount Vernon man Mark Haddock. The case also featured claims that investigators were removed from investigating alleged criminality committed by Haggarty, a former associate of Haddock. Haggarty, 44, is currently facing a record 212 charges, including five murders and a catalogue of other paramilitary crime. The suspected former UVF commander is now believed to be living in England after becoming a police informer. He is still waiting to discover if he will stand trial for the alleged offences.

Thomas McTasney's legal team claimed some do not want to see Haggarty give evidence in court because of what he might say about former Special Branch handlers. They sought a declaration that the PSNI has unlawfully failed to complete an investigation without undue delay. It was claimed there is growing mistrust in the security forces due to continued suspicions of collusion. However, Mr Justice Colton rejected contentions that the PSNI has unlawfully failed to discharge its obligation to investigate within a reasonable time. He held that it would be disproportionate to carry out a detailed examination of steps taken by police. "It could well impact on the upcoming prosecution and ongoing investigation. It could well result in further delay for both," the judge noted. Stressing his hope that the McTasney family will still get answers on the circumstances surrounding an "horrific murder", Mr Justice Colton confirmed he was refusing leave to seek a judicial review. He added: "I do not believe therefore that any declaration, leaving aside the issues of arguability, is either necessary or appropriate at this stage of the investigation into the activities of Mr Haggarty and in particular the murder of Peter McTasney."

Study of Wrongfully Convicted Scottish Prisoners *Peter Swindon, Herald Scotland*

The traumatic effects of a wrongful conviction on former prisoners is to be studied for the first time by a team of academics who will conduct a series of interviews in Scotland. The project will see leading criminologists from the University of Oxford come to Glasgow and interview victims of miscarriage of justice who are now free. The new study – backed by Scottish charity the Miscarriages of Justice Organisation - will focus on life after release.

The findings will be written up as a thesis and form part of lead researcher Laura Tilt's Doctorate in Criminology. She said: "This will be one of the first studies of its kind in the United Kingdom. Research on wrongful conviction to date has focused on how they occur and are overturned - there is so far very little empirical research on the post-exoneration experience outside the United States. In the UK, legislation has now significantly restricted the possibility of obtaining compensation. In this very dismal climate, the lived experiences of the wrongfully convicted can inform what post-release support is available - or should be available - to repair the harms caused by wrongful conviction. Simply quashing a conviction is not enough." The Miscarriages of Justice Organisation has long campaigned for greater support for former prisoners who were wrongly convicted. Co-Project Manager, Paul Mclaughlin, said: "This study is welcomed because it will look into the post-exoneration experience of persons who have been wrongfully convicted, to explore how such persons cope with their experience and what support they receive to help them to manage the practical and emotional impact of exoneration. We feel the study is vitally important to everyone fighting for justice for the innocent. The study will allow us to produce the evidence required to show the true impact of wrongful conviction, and will be a tool, which will aid all those fighting for the rights of the innocent and wrongfully convicted."

Former teacher James Boyle was sentenced to twelve years in prison in 2005 for historical sex offences against three children. The 60-year-old from Rutherglen served five years before he

was cleared when a second trial ended with a not proven verdict – but he has been unable to return to work. He welcomed the study and will be one of the interviewees. Boyle said: "I think in terms of when someone is released from prison, the legal representation must be made available on the same basis as it was made available to the complainers so that people in my position are able to defend themselves and challenge institutions. That is fundamental because, unless you're an extremely wealthy person, without that access you are immediately hobbled. So, I think we need legal services to be provided to us for as long as we need them.

Half of Children in Youth Custody Have Been in Care System *Guardian*

Children in care are six times more likely to be cautioned or convicted of a crime than other young people, new research has found. A review by Lord Laming for the Prison Reform Trust also found half the children in youth custody came from foster or residential care. The government is being urged to launch a reform programme to help improve improve the lives of children in care. The report is the result of a year-long inquiry that received data from 60% of local authorities and young people who have been in care. It found about half of the 1,000 children in custody in England and Wales have experience of the care system, despite fewer than 1% of all children in England, and 2% of those in Wales, being in care. It costs more than £200,000 a year to keep a young person in a secure children's home and the annual cost of a place in a young offender institution is about £60,000. Cross-bench peer Lord Laming told the Times police were sometimes involved in situations that would normally be dealt with by parents.

He said the police had been called when a child "stole" food from the kitchen of his care home or when a teenager trashed his room. "Most families deal with this sort of challenging behaviour within the family," he said. "Once the police are called, it becomes theft or criminal damage and it goes on the child's record. We must stop having children in care sucked into the criminal justice system for trivial reasons." The report recommends that social services and criminal justice agencies work together better and the police improve practices regarding prosecution of children and young people in care. Juliet Lyon, the director of the Prison Reform Trust, said: "By listening to children in care about how they have got drawn into trouble, this review provides practical and workable solutions to help break the depressing route from chaos to care to custody."

Inside the Special Prison Unit Where Rehabilitation Rules the Roost

Erwin James, Guardian: Free-range chickens, raised flower beds and exercise apparatus on neatly manicured lawns are not what you would normally expect to find in a closed prison. The grounds of Rivendell unit, a special "psychologically informed environment" for female prisoners with personality disorders, feels more like a place of healing than incarceration. But it is a prison within a prison – HMP New Hall, near Wakefield, West Yorkshire, home to around 450 adult women, young offenders and juveniles. "Treat people badly and you're not going to get good results," says Mick Winn, the governor in charge of the unit who is escorting me along the gently winding paths.

I am the first journalist to be invited to visit Rivendell since it was opened 18 months ago. It is one of a number of similar units in prisons designed to provide care and treatment for offenders with complex needs. Formerly known as DSPD (dangerous and severe personality disorder) units, they are now known as Pipes (psychologically informed and planned environments). Rivendell, named after the elvish haven in Lord of the Rings, aims to provide a regime of "growth, enablement and empowerment", which epitomises the government's plans for prisons to be places of rehabilitation as outlined in the prisons bill in last week's Queen's speech. We enter the accommodation block, which

from the outside resembles a large, modern, two-storey detached house – except for the bars on every window. The first thing that strikes me is how quiet the building is inside. It's the lunchtime "bang up" period and the prisoners, 30 in total – made up of around half with a diagnosed personality disorder and half without who have volunteered and then been selected to live on the unit to act as a stable influence – are all locked in their cells.

Studies cited by the Ministry of Justice estimate that between 4% and 11% of the UK population have a personality disorder and between 60% and 70% of people in prison. Although a personality disorder is a mental disorder, until quite recently it was considered untreatable. Winn heads a team of 16 staff, among whom are senior clinicians. In the main observation and control room, where large windows allow the comings and goings of prisoners to be easily monitored, he explains how this specialised environment is designed to help resolve the issues that have driven their offending. But those women in the Rivendell unit are not entirely isolated, joining the other prisoners at HMP New Hall for work, chapel, and in the gym.

"They're different women to when they first came here," Winn says. "Some of our women present in a very childish way because they've learned that if you appear as a child, people care for you. Some were really in your face, loud and aggressive, because that's how they have always learned how you get things. But after a period of time with us, all of that calms down. In our client groups we get lots and lots of self-harm. [It] tends to increase a little bit when they first arrive, maybe for the first six months. They've been displaced, but then all the self-harm rates drop, which is a great indicator of how they are feeling mentally. At the moment, we have no service-users in any kind of crisis that might lead to self-harm." Winn opens a cell door and I see it is exactly like any prison cell, except it has an ensuite toilet and shower room. "A lot of our women have body image issues. Having their own space to shower in private is really important to them." He leads me to what he describes as "the quiet area". There are easy chairs and a sofa, books and magazines, and a fish tank full of brightly coloured fish (paid for by the sale of the eggs from the chickens). The barred windows look out on to where the prison's chickens roam freely, and over the perimeter fence to rolling green fields.

By now the women on the unit have been let out of their cells and a number are waiting to speak to me in a communal room used for creative pursuits such as art, crafts and baking. "What did it feel like when you were diagnosed with a personality disorder?" I ask. There's silence for a minute or two until Lydia speaks up. "I think most people in the country have a personality disorder," she says, "but they manage it. We haven't managed ours very well." Lydia, in her 20s, has been jailed for life under the old joint enterprise law and is hoping for a fresh appeal. Maye is serving life with a minimum tariff of 16 years. So far she has done three. "I'm here because I know I need help, I need to learn how to deal with my emotions and deal with everything I didn't deal with on the out," she says. "I ended up committing offences because I just didn't care. Now I'm here, I feel hope – because I'm getting help. I know I've got a lot of problems, but I don't feel so alone now because I know there are other people walking the same path as me."

Jane joins in. "We've got a voice here. We can speak our minds, in the right way. I've been in prison since 2007. The staff say I've changed since I've been here, but I'm still finding it hard to believe." Maye nods. "We're not just a number here. The staff know us really well. They interact with us more than on normal wings." Then Grace pipes up. "That's how I am. I don't really know who I am, but I've come here to sort myself out. At the moment I feel a bit stuck, that's why I've come here, to find out who I am and start to live again." And then Lucy, serving life with a 15-year tariff, says: "I've been in prison for six years, and I've been in

Rivendell for nearly a year. I've still got another seven years to serve. In the last year I've definitely come out of myself. I used to just stay in my cell all the time, reading. I still read a lot. Now I associate with the girls here more often. For 27 odd years I haven't known who I am. The staff help you to understand yourself better. I didn't have an identity at all. I got into a stupid relationship at 14. I lost a lot of my own identity then. I'm now reclaiming myself. I have a few ups and downs, but I know I'm getting better at coping."

For many victims of serious crime, prison regimes designed to enrich and nourish will be unpalatable at best. But the fragility of the women at Rivendell is all too obvious. Winn and his colleagues are working hard to prevent them causing more harm to themselves and others. If governors of the six reform prisons, proposed by the justice secretary, Michael Gove, can introduce a flavour of Rivendell in each one, then rehabilitation for the many prisoners rather than the few might just be attainable. Winn says: "You get really protective about the women, especially when you get to know their backgrounds. It doesn't take away the seriousness of their criminality, but when you see where they have come from and you hear the stories of what they've suffered, you can understand how they get into drugs, alcohol, violence."

A Judges Lot is Not a Happy One –In Fact it's Bloody Depressing

A judge fired for persistently watching adult material on official IT equipment has appealed his dismissal on the basis that he was depressed. Former judge Warren Grant, 61, claims he was suffering from "severe undiagnosed depression" as a result of marital problems and his employers had discriminated by dismissing him over his habit. He is one of three English judges dismissed last year for watching adult content at work. In a bid to be reinstated to his £128,000 a year post, Mr Grant has taken the Ministry of Justice to an employment tribunal. Mathew Purchase at the MoJ told The Sun: "This wasn't a case of watching pornography one or two times, or even ten or 20 times, but was persistent — several times a day — over 14 months or so."

We'll All Be Murdered in Our Beds: Shocking History of Crime Reporting in the UK

Contrary to what one might imagine, the British obsession with crime and criminals long predates the birth of tabloid journalism. In 1714, one "Captain" Alexander Smith published a journal snappily entitled A Complete History of the Lives and Robberies of the Most Notorious Highwaymen, Footpads, Shoplifts and Cheats of Both Sexes. Smith, who in the great tradition of British crime writing was not above a bit of invention, promised his readers "most secret and barbarous murder, unparalell'd robberies, notorious thefts and unheard of cheats". In those days, of course, there was the additional attraction that most serious offenders ended up on the gallows and executions were a public spectacle, attended by thousands. Even in my youth the prospect of execution gave a murder trial a frisson that all but the most grisly cases lack today. Some crime reporters attribute the decline of their trade to the abolition of the death penalty. There was nothing like a good hanging to boost the sales of evening newspapers.

Duncan Campbell, for many years the Guardian's crime correspondent, has provided an account of his trade through the ages that is by turns amusing, engaging, horrifying and, yes, thoughtful. It is not merely a catalogue of the goriest and most notorious crimes, but a fascinating description of the often corrupt relationship between Fleet Street's finest and the police. With honourable exceptions the picture that emerges is not a pretty one, involving as it did the consumption of huge amounts of alcohol, lots of cash in brown envelopes and endemic misogyny (women were not welcome in this close-knit fraternity). Happily, this way of operating

came to an abrupt end with the disclosure in 2011 that reporters from the News of the World had hacked into the telephone of murdered schoolgirl Milly Dowler. Before long it became clear that the practice was widespread, arrests began and the relationship that tabloid journalists enjoyed with the police was no longer so cosy. They felt let down. "The idea was that we were the force's paper… and look what happened," remarks the Sun's crime editor.

So close was the relationship between the police and the crime-reporting fraternity that they often failed to notice when there was anything wrong with the official version of events. Following the arrest of John Reginald Halliday Christie in 1953, after the discovery of the remains of seven women at his house in Notting Hill, it didn't seem to occur to any of those reporting the trial that Timothy Evans, hanged three years earlier on the evidence of Christie, might be innocent. Unbelievably, the tabloids were even competing to buy up Christie's story. One even offered to pay for his defence. If I have a criticism of this otherwise commendable book, it is that Campbell doesn't devote enough space to how the close relationship between police and reporters neutered the journalists' capacity for independent thought. A brief chapter on miscarriages of justice does not sufficiently convey the enormity of the disaster that engulfed the British criminal justice system in the 70s and 80s. One has to pinch oneself to recall that the police and courts wrongfully put away 18 people for the biggest IRA bombings of the mid-1970s, and only a handful of those reporting the trials, none of them members of the crime-reporting clique, noticed there was a problem.

Prisons Get Urgent £10m to Tackle Suicide and Disorder *Alan Travis, Guardian*

An extra £10m is to be pumped into English and Welsh prisons to tackle a rising tide of violence and suicides, the justice secretary, Michael Gove, has announced. Gove described the most recent suicide figures – more than 100 in the past 12 months – and increasing number of assaults and disorder in jails as "terrible" and cause for "considerable personal concern". The extra £10m is to be made immediately available to prison governors for extra prison staff; more training, including on suicide awareness; additional equipment, including body cameras and CCTV; and on additional drug testing, including for legal highs. "I am well aware that the most recent figures for deaths in custody and violence in prisons, which the [Commons justice select] committee's report highlights, are terrible," he said in a letter to the committee published on Tuesday. "These cause me considerable personal concern, and I have no wish to minimise, excuse, or divert attention away from these increasing problems. I want to assure you and the committee that there is no complacency in dealing with these issues," wrote Gove.

The committee issued a clear warning last week to Gove that an urgent action plan to tackle the sharp deterioration in prisons in England and Wales was needed and could not wait for the minister's ambitious prison rehabilitation and reform plan. "As the justice committee report highlights, there are a number of new threats faced by prisons, particularly the increase in new psychoactive substances (NPS) and a much more volatile adult male population," said Gove in his response to the MPs. "We need to improve our ability to respond to these challenges. I therefore wanted to make you aware that in addition to the £5m which we have committed to rolling out body worn cameras and additional CCTV, I have, with immediate effect, allocated an additional £10m to deal with prison safety issues." The justice secretary repeated his plea to prison governors to make greater use of the temporary release scheme for prisoners in an attempt to start to reverse the 40% fall in its use since 2010.

Shadow justice secretary, Lord Falconer, described the £10m cash injection as a "risibly

small" response to the prisons crisis. "I welcome the announcement today of an extra £10m to spend on safety in prisons. In the face of the scale of the prison crisis the £10m looks risibly small. If the Lord Chancellor is serious about prison reform the first step he must take is to reduce the prison population," he said. The committee reported that ministers had hoped prison safety would stabilise but instead it had deteriorated further. There have been 100 suicides in the past year and a 20% rise in assaults in the second half of 2015 among the 85,000-strong prison population. There were also nearly 2,000 fires in prisons in 2015 – a rise of 57% on 2014. The MPs also revealed that riot squads have been called into volatile jails across England and Wales at a rate of 30 to 40 times a month to deal with serious disorder.

Michael Gove Announces Closure of HMP Kennet

This Government is committed to making sure our prisons become places of reform, where offenders can change their lives and turn away from crime. Alongside giving Governors more freedom to innovate and introducing sharper accountability, we are also investing £1.3 billion in a high-quality, modern prison estate. We have already announced that we will build new prisons that have better education and work facilities and close aging and ineffective prisons. As part of these reforms I can announce today that the National Offender Management Service (NOMS) will not be renewing the lease with Mersey Care NHS Foundation Trust for the site at HMP Kennet. The prison will therefore close by July 2017. The staff at HMP Kennet have been undertaking excellent work with the prisoners from Merseyside and surrounding areas. The prison however does not provide an ideal environment for the rehabilitation of the men it holds. Its design and layout make it difficult to operate, it has the highest levels of crowding in the estate and is one of the most expensive category C prisons in the country. Closing facilities like that at HMP Kennet will enable us to invest the money in a modern prison estate, with facilities for training and rehabilitation that help prisoners turn their lives around.

'Forensically Aware': the Andy Malkinson Case *Bob Woffinden, Justice Gap*

Despairing of the social friction fostered under Margaret Thatcher's premiership, Andy Malkinson left the UK in 1990, shortly after the Poll Tax riots. He travelled the world before settling in the Netherlands where he found the calm and tolerant approach of the populace more suited to his own temperament. In 2003, during one of his occasional trips back to the UK to visit his mother, he was arrested at her home in Grimsby for attempted murder and double rape. The events in which he became entrapped began in north-west Manchester over the night of 19-20 July 2003, the hottest night of the year in that part of the country.

After several hours' drinking at her boyfriend's family's home, Andrea Prestwood [not her real name] rowed with her boyfriend and stormed out at about 2.30am. Her intention was to go back to her own home, about six miles away. Knowing how drunk she was, the boyfriend had sensibly hidden her car keys. So going home entailed a long walk. Further, when she arrived, she would not be able to get in; her house and car keys were on the same fob. A couple of hours later, she said, she was jumped on from behind. She and her assailant tumbled down a brambly bank together. He then straddled her, she said, and grabbed her throat with both hands, so that she lost consciousness. Before doing so, however, she managed to scratch the right side of his face with her left hand. 'I have caused a deep scratch', she told police. Probably about an hour later, she scrambled back up the bank and an early morning dog-walker called the police for her. As she had lost consciousness, she could not say

what had happened to her. It was the medical examiners who formed the opinion that she had been raped both vaginally and anally. A significant feature of the case was that, also, her left nipple was partially severed. She was able to provide a description of her attacker. Amongst the characteristics she noted, she said he had a shiny, hairless chest and a local accent. She was also specific about his height: 5'8" at the most ('two inches taller than me').

Malkinson had flown to the UK from the Canary Islands and at first stayed in the Manchester area with a family he'd met there. After realising that they had a criminal lifestyle, he moved out and stayed for a few days with a colleague whom he'd met at the Ellesmere Centre in Bolton, where he'd taken a temporary job. He didn't fit the description of the attacker but that appeared of little concern to Greater Manchester Police. They took him from Grimsby to face trial in Manchester. He was convicted on majority verdicts, given a life sentence and has been in prison ever since. I became involved in his case after his former partner wrote to me from Holland saying that she knew that Andy was not capable of anything like that. If this had been an honest prosecution, then the case would have been founded on the forensic science evidence of which, in these circumstances, investigators could have expected a great deal. As it happened, there was none at all. The Crown Prosecution Service attempted to fill this hole in its case by asserting that Malkinson was 'forensically aware'. This could be ascertained, they said, by the fact that the attacker had worn a condom.

This was how the judge put it to the jury: The evidence of the [forensic scientist] was that traces of condom lubricant were found in both the vagina and the anus. That evidence, when considered with the findings of the doctor, say the Crown, can only lead to one conclusion: that Andrea Prestwood was penetrated both vaginally and anally by an attacker wearing a condom. At trial, the 'forensically aware' argument actually served a three-fold purpose for the prosecution: firstly, it enabled them to offer a viable explanation of the total lack of scientific evidence in circumstances in which any investigator (and many jurors) would have expected a great deal; secondly, it enabled them to present the placid and non-confrontational Malkinson as an experienced sexual predator (because he knew the importance of wearing a condom); and, thirdly, it deprived the defence of what would naturally have been the main plank of its case.

On 8 March 2004, less than a month after the trial finished, the forensic scientist on whose work the prosecution case depended wrote to the judicial authorities. He had some startling information: A problem has recently emerged… As such, the previously-reported results in relation to the possible presence of condom lubricants are now regarded as unreliable. This might have been regarded as a refreshing burst of honesty from the forensic science community. However, the apparently candid admission was actually designed to cover up what had happened. Note the wording: 'a problem has recently emerged… the results are now regarded'. What the judiciary were not being told was that the scientific community and the Crown Prosecution Service (CPS) knew that these tests were unreliable months before the case went to trial.

On 17 October 2003, fifteen weeks prior to the start of the trial, the Forensic Science Service (FSS) circulated an internal memo saying: We have withdrawn use of this test from casework They added: We have informed all FSS staff, the CPS and other suppliers of forensic science services in the UK of the issue. The problem was that the swabs being used in the testing contained traces of the substances that were being tested for. So the tests were completely invalid. Even as they made the 'forensically aware' argument at trial, the CPS knew – or, at least, should have known – that it was untrue. If they were not being dishonest, they were being grossly negligent. However, the ways in which the wool was pulled over the eyes of

those in court does not even stop there. Look back to the scientist's letter where he refers to 'the possible presence of condom lubricants'. Hold on; this wasn't what the jury were told. The judge emphatically said, quoting the scientist's evidence, that traces 'were found'. There was no qualification; the evidence hadn't been couched in terms of mere possibility. Either the judge was misleading the jury in his summing-up; or the forensic science evidence was exaggerated. Perhaps the most remarkable aspect of the entire case was that the scientist who had misled everyone thus far and who was continuing, in his letter of 8 March, to mislead the authorities, was now tasked with conducting further tests on the exhibits.

His new tests now purported to show that there were traces of condom lubricants on the woman's knickers. It was on the basis of this fresh evidence that Malkinson's appeal was dismissed. However, these new tests were themselves redundant. The original tests had included tests on the knickers. That being the case, the fact that different swabs were now being used was irrelevant. The exhibits were already contaminated and that was that. But the appeal court judges were not told about that. Nor were they told about an additional matter of considerable significance. The knickers were ripped apart down one side. The scientists who examined them described them as 'unwearable'. The complainant told police that, when she came to, 'my knickers were pulled right down and were attached to my right ankle'. The police officer who took them from her recorded in her notebook: '[Prestwood] handed me a pair of briefs which she produced from the right pocket of her fleece'. Because the facts were withheld from them, the judges would have assumed that after the assault Prestwood, attempting to compose herself, replaced all her clothing; and that was how the supposed condom lubricants from the attack came to be transferred to the knickers. But that is not what had happened.

There are two further respects in which the 'forensic awareness' argument does not hold water. Firstly, the woman said that the attacker removed his shirt during the assault. It was an unusually hot night (and one witness, whom we will come to, referred to the man as 'sweating profusely'), so a 'forensically aware' assailant would not have done that, lest he leave traces of himself on his victim. Secondly, there was the partial severing of the left nipple. This was used at trial to ramp up the seriousness of the attack; it was suggested that the attacker could have bitten the woman. Again, the jury was being seriously misled because that is precisely what a 'forensically aware' attacker would have avoided; such an action could well have left incriminating forensic evidence in the form of either teeth-marks or, far worse, saliva deposits from which a DNA profile could be obtained. None of this should obscure the fact that other evidence that might have been anticipated was conspicuous by its absence. The woman had 'superficial scrapes of the skin [which] resembled scratches from vegetation', as well as bloodstained hands, which could be accounted for by having tumbled down a brambly bank. There were no marks of this kind on Malkinson's body. (True, he was only arrested some weeks later, but no evidence is no evidence.) Further, she'd suffered cuts and bleeding as a result of the tumble; so one would have thought it possible that the attacker would also have suffered bleeding, and as a result that some of his blood would be left on her. Again, there was nothing.

There was also identification evidence. The man stalking Prestwood at 4.30 in the morning, if there was such a man, was also seen, apparently, by a couple driving around. The driver's former partner had been causing a commotion outside their house and they were looking for her. So, two weeks later, Greater Manchester Police conducted a video identification parade at 1.00am on a Sunday morning. The woman from the car (who said that the man she saw was 'sweating profusely') and Prestwood were picked up and taken to the police station

together in the same police vehicle. (The driver could not attend because he'd had too much to drink.) The outcome of the video identification was that Prestwood identified Malkinson; the other woman identified someone else. The duty solicitor from Burton Copeland, who were representing Malkinson at this time, wrote a memo expressing his concerns about the propriety of the procedure – was it normal to hold a video parade at that time of the morning? – and the identification that resulted from it. Superficially, the fact that the complainant positively identified Malkinson may have appeared compelling evidence. However, her evidence was vitiated, if not undermined altogether, by the fact that in six key respects, Malkinson did not fit the description she'd already given of her attacker.

First of all, there was the height. Prestwood was specific about this ('5'8" at the most – two inches taller than me'); but Malkinson was significantly taller, 5'11". Secondly, the attacker removed his shirt and the witnesses said that his torso was hairless; but Malkinson was well-blessed with chest hair. Thirdly, she said the attacker had an accent that was 'local to Bolton'. Later on, prosecution witnesses tried to modify this, but the stark fact was that she'd mentioned a local accent; and Malkinson did not have one. He had never even been to the area before, let alone been brought up there. Fourthly, the attacker removed his shirt. Malkinson had very prominent tattoos (acquired on his overseas travels) running down each forearm, but Prestwood saw no tattoos on her attacker. Fifthly, she was adamant that she caused 'a deep scratch' to the man's face. Malkinson was seen at work immediately after this incident – by police officers among others – and his face was not scratched. Sixthly, there was the clothing. The witnesses were agreed that the man was wearing 'smart' black trousers, 'smart' black shoes and a 'very smart' shirt. Malkinson did not possess, and had never possessed, clothing of that kind.

In fact, the prosecution could offer no hint of an explanation as to how the impecunious Malkinson (he'd had all his money stolen in the Canaries) might have acquired smart clothing. It was a significant evidential point that the CPS should not have been allowed simply to gloss over. In January 2004, with the trial looming, the man in the car was very belatedly asked to attend a video identification parade and, surprise, surprise, he then identified Malkinson. At that point he was purporting to identify someone whom he had glimpsed, he said, 'for about five seconds' over five months earlier while he was driving a car at half-past-four in the morning. (Try driving a car and, for about five seconds, looking not straight ahead but at someone on the other side of the road. No, on second thoughts, don't try it.)

Then, with the trial about to start, another "identification" emerged. There was the woman in the car, who had picked out a parade stooge. Now, it seems, her evidence had changed. She hadn't picked out a parade stooge; she'd picked out Malkinson! When had this change in her evidence occurred? The woman said she changed her evidence when she returned to the witness room (which is where Prestwood was). However, the officer accompanying her had a different story. He said that she'd changed her evidence in the corridor 'more or less immediately' after leaving the video suite. The jurors were commendably alert to the puzzling aspects of this evidence and as a result asked to see this woman's statement.

Of course, they wouldn't have been allowed to see it, but this wasn't the point. The point was that, because of the jurors' request, the prosecution had to admit that no such statement existed. The woman hadn't made a statement about this change in her evidence. Nor was it mentioned in the officer's notebook. Strangely, there was no reference to it there either! One can study the other background documentation. The police themselves adumbrated their case for the magistrates. Their four-page report mentions just the one identification; had there been two, it would have strength-

ened their case and so they would have been bound to mention it. Conversely, there is that memo drawn up immediately after the video parade by the duty solicitor in which he expresses concern about what took place. That refers to only one identification; had there been two, again it would have hugely reinforced his point, so he would have been bound to mention it.

The brief to counsel, completed months later, also refers to just one identification. In fact, there is just one document that mentions this second identification and that is a skimpily filled-in form that appears as page 45 in the prosecution bundle. But – what's this? – there is already a page 45 in the prosecution bundle. So, it appears possible that that single document was put together later, backdated, and then inserted into the prosecution bundle. Let us make a reasoned guess about what occurred during this police investigation. The incident was reported, the woman was interviewed and a statement taken from her. The investigating officers would have had next to no concern about the video identification because once all the forensic science evidence came flooding in, they'd have everything they needed to secure a conviction. Months later, with the trial fast approaching, they would have been alerted to the fact that, actually, there was no forensic science evidence at all. The only evidence they did have – the complainant's identification – could be trashed in court by any competent defence barrister. Alarm bells would have rung. The other two identifications then, well, happened.

Greater Manchester Police made a three-part documentary series with the BBC, Eyewitness, in which they highlighted the dangers of identification evidence and explained that they had refined their techniques for interviewing witnesses about identifications. 'Greater Manchester Police are among the most modern practitioners of interviewing techniques anywhere in the world', an officer claimed. 'It's something we can be rightly proud of.' So it was hugely hypocritical of Greater Manchester Police to have tendered this identification evidence at trial because none of it met what they claimed were their own standards.

The defence case was straightforward. That evening, Malkinson had a good night's sleep and turned up for work at 8.00 the next morning, well-rested and with his face unscratched. I recall a mini-scandal when I was at school. Who, the staff angrily demanded to know, was responsible for this? One bright spark in the class stuck up his hand and volunteered a name: 'it was Hawkins, sir'. Hawkins had left school the previous Friday, as his family were emigrating to Australia. Everyone else then took up the name, and enjoyed the rare impotence of the school staff. Something like that could have happened in this instance. The police made inquiries with the family with whom Malkinson had briefly stayed (who may well have been police informers) and so they vouchsafed the name of someone who'd lately left not just the area but, they probably thought, the UK.

Ironically, if Malkinson had been a rapist, that's exactly what he may well have done. But he wasn't, so he simply went to his mother's, where the police could easily trace him. At trial, the judge's performance was simply inadequate. With reference to the supposed scratch on the attacker's face, he said this in his summing-up: She believed, undoubtedly, believed, that she scratched his face… Did she succeed in scratching his face in the way she clearly believed she did? [italics added] The complainant never said that she believed she'd scratched his face. She was adamant; she had scratched his face. 'I have caused a deep scratch', she said at one point. So the judge here was subtly reshaping her testimony so that it made the prosecution case more credible. One barrister to whom I showed the papers commented that at this point the judge was giving evidence himself.

Similarly, the judge told the jury that the woman in the car changed her evidence at the video identification parade. Again, this was a subtle but significant change. If she'd changed her evidence

at the parade, that would have made the evidence more plausible from the prosecution point of view. But neither she, nor the officer accompanying her, had said that. The jurors asked him whether they needed to be 'absolutely sure' of their verdicts. No, the judge responded, that was not the test. So perhaps the ten jurors who convicted Malkinson were merely slightly sure of his guilt. Just the two remaining jurors reached the correct verdict. It is certainly pertinent to ask why, if the case against Malkinson was this threadbare, did his defence team not make hay at trial?

It was a question to which Malkinson himself could not fathom the answer. So, afterwards, he did some research. He then discovered that his solicitor had been imprisoned for fraud and struck off. In his desperation to be re-admitted, the solicitor appears to have ingratiated himself with the local police – with whom, he said, he 'worked closely' – and indeed his application for re-admission was supported by the Chief Constable of Greater Manchester. Even so, the application was rejected. He remained struck off. Nevertheless, he went on to act for Malkinson and, of course, conveyed nothing of this to him. If I had been the defence barrister cross-examining the complainant, I would have begun by asking a vitally important question: can you tell us what happened to your handbag?

Prestwood specifically stated two things about her handbag. She carried it over her right shoulder; and it was so full she couldn't close it. Accordingly, when the attack happened, one would have expected its contents to be strewn over the bank. Moreover, straight after the supposed attack, she reported the handbag as missing both to the medical examiner and also the police, who painstakingly itemised all its contents. But the handbag was not lost or stolen, and nor were its contents strewn down the bank. Apart from her mobile phone, she didn't lose anything. The handbag simply disappears from the case. My impression (from reading between the lines of one statement) is that it was found, with contents intact, at the top of the bank. Bearing this in mind, this is what may have happened. At this point on her long walk, she stopped to relieve herself and put her handbag down. In her inebriated state (she was still smelling of alcohol by the following lunchtime), she tumbled down the bank and lost consciousness.

Coming to, she partly-imagined, partly-concocted the scenario that she subsequently conveyed to police officers. She would have realised that she wouldn't be welcome back at her boyfriend's family home, as she'd kept them all awake half the night by ringing the landline. For that reason, and also to cover her embarrassment, she had to come up with a sympathetic story. All she'd have needed to do was to discard her mobile phone and tear her own knickers. (According to her account, the knickers must have been torn after she lost consciousness; but this doesn't make sense – the attacker would have had no need to rip them and could just have pulled them down.) Apart from her own story, there is no evidence whatever of an attack. There is no scientific evidence on her of an attacker, and nor is there evidence of any sexual assault upon her. What the judge termed the 'findings of the doctor' could have been otherwise explained: she had recently had consensual intercourse with her partner; and a small tear at her anus could have been the result of her tumble down the bank. As she admitted, 'I slid down on my bum'.

Malkinson has been in prison for more than thirteen years for a crime that he certainly did not commit and a crime that, in all probability, never happened. During this time, nothing has happened. The CCRC examined the case and was able to find nothing that raised doubts about the safety of the conviction. Now, of course, Malkinson remains in prison because the National Offender Management Service (NOMS) say he has not confessed or come to terms with his offence. And so the incompetence, negligence and dishonesty that has been manifest at every stage of this criminal justice process is compounded by the professional crassness of NOMS. Of course he hasn't admitted guilt for a crime he didn't commit. Unlike almost all others in this saga, he is someone of fierce moral integrity.

Staff 'Told Not to Take Action Against Probation Breaches' *BBC News*

Probation officers are being told not to take action against offenders who breach sentence terms, because their companies risk being fined, a watchdog in England and Wales has said. Since 2015, private probation groups have received payments linked to offenders meeting sentence conditions. But this may have deterred staff from taking action against people breaching community orders, inspectors found. The government said it was addressing issues raised in the report. Government changes have seen the probation service split in two, with community rehabilitation companies (CRCs) supervising low and medium-risk offenders and a new National Probation Service (NPS) taking over the supervision of high-risk offenders. CRCs were transferred from public to private ownership on 1 February 2015.

Under the system, payments to CRCs are linked to offenders complying with the terms of their sentence and not committing further crimes. But the Inspectorate of Probation found a number of probation officers at CRCs said they had been told by bosses not to recommend to the courts that an offender's community sentence be revoked because their company would incur a financial penalty. One officer said their organisation's approach was to "discourage" enforcing community orders or the conditions of a prisoner released on licence. Community orders are sentences imposed by courts in place of jail terms. They can include rehabilitation activities, unpaid work and drug or alcohol treatment. Offenders who fail to comply with community orders can have the terms of their orders amended to be more onerous and can even face prison sentences for repeated breaches.

The report also found that more than two-thirds of offenders released from prison had not received enough help from the CRC before release in relation to accommodation, employment or finances. In some areas a shortage of probation officers meant that CRC agency staff were allocated medium-risk-of-harm cases, for which they felt insufficiently trained. The report, which related to inspections undertaken from October 2015 to February 2016, found the NPS and CRCs were now working better together but that "significant problems remain". Advice given to courts was less reliable in some cases, but the report also said the work the NPS did with many high-risk offenders was good and included effective joint working with specialists. Dame Glenys Stacey, chief inspector of probation, said CRCs needed to do more work to prepare prisoners for release. She added: "Without sufficient preparation, those released are more likely to offend again and so find themselves back inside."

Dennehy, R (On the Application Of) v Secretary of State for Justice

Introduction: The Claimant is a convicted prisoner at HMP Bronzefield, one of only two prisons in this jurisdiction which can accommodate women prisoners who have restricted status: this is equivalent to a man who is a Category A prisoner. HMP Bronzefield is privately run by the Second Defendant, Sodexo Limited. On 28 February 2014 the Claimant was sentenced by Spencer J to life imprisonment for three offences of murder; life imprisonment for two offences of attempted murder; and two concurrent determinate sentences of 12 years' imprisonment for offences of preventing burial. The victims were all men. In respect of the offences of murder the Claimant was given a whole life order. This has the consequence in law that she can never be considered for parole. She is currently one of only two women in this jurisdiction who are subject to a whole life order. Since 19 September 2013 (at a time when she was still on remand) the Claimant has been in what is commonly called "segregation" (strictly "removal from association"). The Claimant submits that her segregation has been unlawful on a number of grounds.

Both Defendants concede that the segregation of the Claimant between 21 September 2013 and 4 September 2015 was unlawful because it was not authorised by the Secretary of State, as was required by the Prison Rules 1999 (SI 1999 No. 728) at that time. That concession is made in the light of the decision of the Supreme Court in R (Bourgass) v Secretary of State for Justice [2016] AC 384. Otherwise the Defendants resist the claim for judicial review.

I should say a little about the procedure adopted in the present case. This is a claim for judicial review brought with the permission of Collins J, granted on the papers on 15 October 2015. Collins J refused permission in relation to one ground, which concerns alleged discrimination, to which I will return. As will become apparent later, the Claimant's grounds have evolved over time, up to and including the skeleton argument filed on her behalf. The Claimant applies for permission to amend her grounds so as to reflect what is submitted in the skeleton argument. I grant that application so that the Claimant has permission to advance all of the grounds raised in the skeleton argument, including the ground based on alleged discrimination. In these proceedings, initially, the prison itself was named as a defendant but, at the hearing before me, it was agreed by the parties that the appropriate person which should be a defendant is the company which runs the prison.

In the present case not all matters of primary fact are undisputed. As Lord Reed JSC observed at paras. 124-126 of Bourgass, although judicial review does not usually require the resolution of disputes of fact or cross-examination of witnesses, that is not because they lie beyond the scope of that procedure. "Judicial review is a sufficiently flexible form of procedure to enable the court to deal with the situation before it as required." However, all parties before me agreed that in the present case it was not necessary for the resolution of the issues to have cross-examination of witnesses or to resolve such issues of fact as are in dispute. At the hearing before me, it was made clear by counsel for the Claimant, Mr Hugh Southey QC, that he did not wish to apply for permission to cross-examine any of the Defendants' witnesses.

Conclusion: It is important to recall that everyone within the jurisdiction is entitled to the protection of the law, including the protection of their human rights. That includes even someone who has committed the most serious crimes. This is because ours is a society governed by the rule of law. I have considered carefully the submissions that have been made in this case. For the reasons set out in this judgment I have come to the following conclusions: (1) As is conceded by both Defendants, the Claimant's segregation was unlawful in the period from 21 September 2013 to 4 September 2015 because it was not in accordance with the requirements of rule 45 of the Prison Rules as they were at that time. (2) There has been no breach of the duty to act fairly in this case. The Claimant's segregation is not unlawful on that ground. (3) There has been no breach of Article 3 of the Convention rights in this case. The Claimant has not been subjected to inhuman or degrading treatment. (4) The Claimant's segregation was not in accordance with law and, for that reason but no other, there was a breach of Article 8 in the period from 21 September 2013 to 4 September 2015. However, the Claimant's segregation has been in accordance with law since that time and has, at all material times, been necessary and proportionate. (5) There has been no breach of the right to equal treatment in the enjoyment of Convention rights in Article 14. (6) The Claimant's segregation has, at all material times, been reasonable and therefore lawful at common law.

Accordingly this claim for judicial review is dismissed, save that there will be a declaration that the Claimant's segregation was unlawful in the period from 21 September 2013 to 4 September 2015 because (as is conceded by the Defendants) it was not in accordance with the requirements of the Prison Rules at that time.

Kevan Thakrar v Ministry of Justice Round 10

Many of you will remember the judgement in my favour published in 31st December 2016 by District Judge Hickman which awarded me £1000 compensation against the Secretary of State for Justice, and the typical misinformation and slander which followed in several tabloids and media outlets happy to print sensationalism rather than perform real journalism. This judgement confirmed that damage to my property must have been caused by the deliberate act of one or more prison officers, which led to exemplary damages being awarded on top of the value of replacing my property. The Ministry of Justice, as well as leaking false information about me to the media, spent even more money attempting to appeal this judgement employing the barrister from No5 Chambers, Paul Joseph. Almost 300 pages of an appeal bundle and 600 pages of 14 separate authorities were compiled to take on this decision at the County Court at Oxford, as well as several applications being made all at a cost to the Ministry. During a hearing scheduled to begin at 10am on Friday 6th May 2016 which ran until 13.30, the full force of the state was brought to bear on this case. His Honour Judge Charles Harris QC was not intimidated by the ridiculous size of the case brought by the Ministry for a simple small claim appeal, and regardless of every trick in the book being used he also found that my property had been deliberately damaged by prison officers which warranted an award of exemplary damages, albeit £250 less than District Judge Hickman.

What this means is that prisoners should always apply for exemplary damages whenever prison officers criminally damage their property, as well as aggravated damages as depending on the facts of the case they may well receive more than the prison officers bargained for! It may well come as a surprise that the Ministry even tried to complain that it was against their human rights to be held responsible for their own actions, a submission which would probably have received a greater reception on the pages of the Daily Mail than in a court of law. The fallout of this is that to save £250, the Ministry spent so much more taxpayers money in this appeal which was doomed to fail. If all the court fees, barrister fees, judges time etc are added up, I would suggest at least fifty times the amount saved has been wasted, meaning this appeal has left the Ministry £12,250 down on where they would have been if they just paid, and that is not even considering the thousands they already burned on the original claim defence. Surely someone must be employed to direct on the sensible way of dealing with cases, especially during a policy being deployed? Most prisoners are poorly educated yet know to cop a plea early saves them time, why can the Ministry of Justice not comprehend this basic equation or be told to stop throwing money in the fire by the Justice Secretary if unable to work it our for themselves?

The problem at all levels is the total lack of accountability. Who is going to be held responsible for the deliberate damage to my property or the waste in public funds attempting to avoid compensating me, without this how will the culture ever change? No wonder the thought of providing prisoners with the vote makes Cameron sick, the oppressive dictatorship would not be able to maintain if they could be voted out by the oppressed! The sick fact that exemplifies the outrageousness of the way this has been handled is that before any money was wasted preparing a defence or processing a claim, I offered to settle the matter for £350 but had this refused, what a decision that was. No doubt this will all be portrayed as in some way being my fault; the supervillian who somehow caused the honest prison officers to criminally damage my property then tricked the Ministry of Justice into wasting thousands of pounds instead of taking responsibility for their actions, then manipulated the courts into twice finding the truth which was so blatant to see. Being a victim of a miscarriage of justice is the only reason I am in prison, yet can you believe considering all of this they tell me I am the one in denial…..

Kevan Thakrar A4907AE,Close Supervision Centre,HMP Wakefield

Iraqi Civilians Fail in Tortious Claim Against Ministry of Defence

Scottish Legal News: The Supreme Court, comprising Lord Neuberger, Lady Hale, Lord Mance, Lord Sumption and Lord Reed, unanimously dismissed the appeal by the Iraqi Civilians, and affirmed the Court of Appeal's conclusion that the limitation period was not suspended under article 435(1) of the Iraqi Civil Code. Lord Sumption gave the only judgment, with which the other justices agreed. The appellants were 14 lead claimants in claims by over 600 Iraqi citizens who claimed to have suffered unlawful detention and/or physical maltreatment at the hands of British armed forces in Iraq between 2003 and 2009.

The claims were brought in tort in England against the Ministry of Defence. The torts are governed by Iraqi law. The Foreign Limitation Periods Act 1984 provides that where a claim is brought in England which is governed by a foreign law, the English courts are to apply the foreign law of limitation. In a substantial number of these cases the action was begun more than three years after the relevant claimant became aware of the injury and the person who caused it, and was therefore time-barred under article 232 of the Iraqi Civil Code.

The appellants argued that time had been suspended for limitation purposes under article 435(1) of the Civil Code, which suspends the time limit during any period when there is "[an] impediment rendering it impossible for the plaintiff to claim his right". They said that Coalition Provisional Authority Order 17 (CPA Order 17), which gave coalition forces immunity from Iraqi legal process and jurisdiction and still has force of law in Iraq, was such an "impediment".

The first instance judge directed the hearing of a preliminary issue, namely whether the suspensory proviso in article 435(1) applied to the claimants' proceedings in England. He held that the limitation period was suspended under article 435(1). The Court of Appeal allowed the Ministry of Defence's appeal, holding that article 435(1) was not engaged, because the English courts are not bound to apply CPA Order 17, which is a mere procedural bar that is irrelevant to proceedings in England. The Foreign Limitation Periods Act 1984 requires an English court to apply to English proceedings a foreign law of limitation which will have been designed for proceedings in the foreign country. This requires a process of transposition.

Facts that the foreign law would have treated as relevant to the foreign proceedings might be irrelevant to the proceedings in England. Where the Iraqi law of limitation depends on some fact about the proceedings, the English court must ask whether that fact is applicable to proceedings brought in England, and not to hypothetical proceedings that might have been brought in Iraq. CPA Order 17 applies only in Iraq. It is not an impediment to the only relevant proceedings, which are in England. It did not therefore suspend the running of the Iraqi law limitation period.

Hostages: Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan.