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Justice for Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz

"Evidence in this case as it unfolded, is not only baffling and shocking, but to many is like a rerunning of history. Lessons that were learned when dozens of men and women were found to have been wrongly convicted in the 1970s and 1980s were always understood to be able to hold good for all time."

Campaign for the Four Wrongly Convicted West Midlands Defendants

The key disturbing features in their case

1. The shocking realisation that in 2017, despite every development in the UK criminal justice system, defendants who were not guilty of the charges brought against them can nevertheless be convicted by a jury.

2. The even more shocking appreciation that the jury that convicted the four after a five-month trial, heard key police witnesses clearly lying about the basic evidence on which they had to decide guilt or innocence.

3. Not only did the jury, furthermore, hear clearly false evidence given on oath by police witnesses, but got to see more than a thousand deleted messages from the personal phones of police witnesses as they communicated with each other during the course of the month in which the wrongful arrests and prosecutions of the men were clearly being planned and achieved – messages that extended into the period of the trial itself as the police witnesses tried to contact each other and match the evidence they gave to the jury to other evidence appearing more and more dramatically (that contradicted what they said) as the case proceeded.

Question A: 4. What was the case about?

Answer A: 5. In brief – a secret police unit, combined with the Security Service (MI5), took the decision to run an undercover operation in an attempt to obtain evidence after luring suspects into employment as couriers, making deliveries in courier vans and leaving their cars with their employer. Very clearly the courier vans, as well as the cars they left, were being fitted with surveillance equipment.

6. However, after a month of surveillance of the first defendant to be employed, Khobaib Hussain, no evidence of any criminal activity whatsoever was obtained w during his deliveries or in conversation in his van, or in his car.

7. The second man to accept the offer of courier employment, Naweed Ali, started work for the first time at the end of the first month (fruitless for the police) during which his friend and neighbour, Khobaib Hussain had carried out deliveries without any opportunity being provided by any of his activities for which he could be arrested. The prosecution's case depended entirely upon a jury believing that on his first day at work, the last day of that month, before going off on his delivery for several hours, Naweed Ali left under the car seat, having given his "employer" the key to his car, a bag sticking out from under the seat. The evidence given in the trial was that British Security Service operatives arrived on the premises an hour after Naweed Ali had been off making his delivery and began to search the car. The claim is that they found a bag under the seat of the car which contained a meat cleaver with the word "Kafir" scratched on it, a real looking (but fake) gun with a magazine taped to it by sticky tape, and an "improvised explosive device" – a "pipe bomb" consisting of a metal pipe with gunpowder inside. In addition, in the bag were a number of shotgun cartridges and a NATO bullet as well as a roll of tape and some napkins.

8. The question therefore for the jury was "Did Naweed Ali take those items in the bag and leave them in his car under the driver's seat? If he did not, who did?"

9. There were only two candidates. One, Naweed Ali, and the other undercover police officer, the "boss" of the fake courier firm, "Vincent" by name to whom Naweed Ali gave the keys of his car, who drove it inside the premises just as he had driven Khobaib Hussain's car inside the premises every time he, on nine occasions during the preceding month, had gone on courier delivery runs.

10. It is, perhaps surprisingly to many, remarkably difficult for an innocent defendant to prove his innocence – after all he may know very little to throw light on what has led him to be convicted. The situation of Naweed Ali was exactly that, and through him the other defendants whose convictions or acquittals depended upon him being first convicted or acquitted and them only by their alleged link to him (effectively a domino case – if one fell in any direction, the others must fall the same way logically).

11. Nevertheless, an enormous number of pieces of evidence fell convincingly into place to support the case that it was not Naweed Ali, and that it was Vincent who was responsible for putting the bag under the seat of the car.

12. Naweed Ali had from the time he was first arrested in the police station said that he knew nothing of the bag. Later on – after an unexplained three-month delay before he and the other defendants were told that the "boss" was an undercover police officer and that those who discovered the bag, were members of MI5 he began to understand the full picture. From the first moment Naweed Ali said that he knew nothing of the bag. When he discovered the identity of his boss, he stopped speculating and said that it explained it – there was clearly a pre-existing motivation to achieve his arrest and conviction (that after all was the whole purpose of the undercover operation, starting first with his friend and neighbour Khobaib Hussain).

13. But why not plant evidence on Khobaib Hussain if he was the initial target? The answer logically lay with the identity of the planter. If the Security Service had bugged Khobaib Hussain's car at the first opportunity when it was first left in the premises a month before (as they admitted they did at the first opportunity with Naweed Ali's car, the day of the plant and the day of his arrest) then thereafter if Vincent were responsible, he could not risk putting a bag in a car that was being monitored by the Security Service whether by audio or video monitoring or both. However, Naweed Ali's car left in his hands for the first time on the final morning, was free to have anything placed in it by Vincent before the Security Service operatives arrived one hour later to place their bugs in the car in Naweed Ali's absence whilst he was completing his deliveries (to Luton from Birmingham).

14. The defence from before the trial, but throughout the trial itself, were obliged to fight for disclosure of evidence that was in the hands of the police. It was not served on them as part of the official evidence in the police case, but had to be argued for in front of the judge as necessary but otherwise entirely missing. This evidence as it emerged established more and more the credibility of Naweed Ali's assertion – that he had nothing to do with the bag and its contents, and more and more the lack of any credibility to Vincent's assertion that it had nothing to do with him.

15. Key features that supported Naweed Ali's account were: (a) That more than a month of surveillance showed nothing that Naweed Ali or Khobaib Hussain did that was consistent with them acquiring any of the items in the bag. Perhaps even more dramatically, the bag in question, a "Multi-coloured JD Sports drawstring bag" was a different bag than the one Khobaib Hussain had acquired when he made a purchase during that month at JD Sports. CCTV monitoring, showed that he emerged from JD Sports with a black and white bag. The allegation

that Khobaib Hussain was seen by Vincent with a multi-coloured bag became a feature of a key document – Vincent's notebook that Vincent insisted he had filled in as a daily record in the course of the month that Khobaib Hussain had been employed by him.

(b) But other than Vincent's uncorroborated retrospective claim, no surveillance including his actual purchasing at JD Sports, showed Khobaib Hussain with such a bag.

(c) A second piece of "evidence" to link Khobaib Hussain with what was in the car found its way to the surface only in the second half of the trial. It was always a mystery why a fake gun would have a magazine taped to it with sticky tape and why a roll of sticky tape and some napkins might be in the bag as well. Why would anyone tape a magazine without meaning to a fake gun? The answer came late in the trial. The prosecution re-ran its forensic tests on DNA evidence suspected to have adhered to the roll of sticky tape previously. This time, a re-run with new methods showed a dramatic development – Khobaib Hussain's DNA was on the sticky tape. The defence conducted their own tests, took DNA samples from Khobaib Hussain's family, and came up with an even more astonishing fact – the DNA was predominantly that of Khobaib Hussain's sister.

16. Working through the logic of the DNA, it would more convincingly establish what the defence were saying than the prosecution. The car that Khobaib Hussain drove each day and left with Vincent was a car he shared with his sister. She gave evidence that she regularly left napkins in the glove compartment of the car. If the man who parked the car in his premises, Vincent, on each occasion it was left there needed to find a way to plant a sample of DNA, what opportunities might there have been to take a napkin from within the car, scrub it around the steering wheel, and rub it on to a roll of sticky tape? The difficulty for the prosecution was that in fact what was left on the sticky tape was really the wrong DNA – primarily that of Khobaib Hussain's sister.

17. The defence case in consequence, could regard itself as being massively supported by this evidence – whoever was aware no doubt by surveillance, that Khobaib Hussain had gone into JD Sports – they got the wrong bag. The multi-coloured bag was a one month promotional bag which someone going in to get themselves a sample would have been given, but Khobaib Hussain had in fact walked out with a black and white bag being given to him it seems in error rather than the month long promotional bag. The wrong bag and the wrong DNA were compelling positive features of the defence case.

18. The lack of any surveillance, the lack of acquisition of any items in the bag or even opportunity to have done so were compelling aspects too. But even more extraordinarily, came the revelations once the police phones were seized during the trial, after it emerged accidentally that text messages had been deleted but were retrievable - and should be ordered to be retrieved by the court, said the defence, once Vincent began to reveal the extent to which his evidence was being discussed with other officers whilst he was a witness in court in breach of every directive.

19. The text messages showed that Vincent was predicting every aspect of the evidence before it was "found" by the Security Service witnesses or analysed by experts. He described to others the contents of the JD Sports bag before they had been identified – to his supervisor and described the firearm as a "Beretta air pistol" at a time when all other witnesses had described it to be a real self-loading pistol. It was not discovered to be an air pistol until a firearms expert identified it as such later that evening and considerably after Vincent's description.

20. He was able too to describe the JD Sports bag before it had been removed from the car – the photographs taken by MI5 officers at their search showed that the JD Sports logo was not visible.

21. He predicted to an MI5 officer that something would be recovered from a search from

the defendants' cars.

22. Frantic text messages from Vincent to his supervisor before the "find" to try and ensure that the MI5 search was "evidential" rather than "intelligence only". And Vincent handled the bag with a claimed improvised explosive device inside it despite having been told to evacuate the building and after the Bomb Disposal Squad had been alerted (undoubtedly a forceful reason being that he did so because only he knew that the device was not viable – it was not).

23. He further sent text messages to say, "It's a sticky tape story" attached to a winking emoji months in advance of the evidence that emerged during the prosecution case of Khobaib Hussain's DNA (albeit the more significant percentage his sister's).

24. And the level of concern amongst the 2 key undercover officers reflected in the messages echoed the kind of concern of guilty men – after the arrests – "cud u check wi BSS that the tec they fitted in Naweed Ali's car isn't running/recording and wont have been wen we were in unit earlier etc.? Thanx"

25. Or the multiple occasions on which officers were communicating with each other during the course of giving evidence, meeting in bars near the Old Bailey or in lay bys of hotels on motorways to discuss the case. Clearly honest officers, such as one undercover officer Haji was sent away from the scene inexplicably on a bogus enterprise long before the "find", Haji being told that "Something had developed" long before it had.

26. How could a jury have concluded (as they were directed by the judge) that the four defendants were only guilty if they were satisfied that the bag and its contents had not been planted by the police?

Question B: 27. How could it even come about that a jury's verdict could fly in the face of the evidence it heard?

Answer B: 28. The four defendants are all appealing on detailed grounds of appeal argued, as they must be, on the basis of errors of law. It is not enough for an appeal to be successful to be able to assert convincingly, as the defence believe they could and still can, that the jury's verdict was wrong.

29. The grounds of appeal therefore are focussed on errors in the trial process. Some of these errors perhaps help to explain the convictions. The first was the refusal of the judge to discharge the jury after the terrorist attack on Westminster Bridge on the 22nd March 2017, just as the trial was beginning. The defence argued that the sheer horror of such a circumstance would inevitably have an impact upon a jury. The circumstances of the trial were exceptional; there had not been an attack on civilians in London since 2005. The impact of events (which took place so close to the court) must have been immediate, personal and emotive. The defence argued at the time that the circumstances were fast developing and that it was impossible for the court to assess properly the impact of the events and coverage of those events when new information was unfolding on an hourly basis.

30. The judge ruled nevertheless that the defendants could have a fair trial in the heightened climate surrounding the events in Westminster – necessarily, in a case where the defence was that police had fabricated evidence required a full bloodied criticism of the conduct of the police and Security Services at a time when both were being extensively praised as heroes and where a policeman had been killed in a terrorist attack.

31. Following the judge's ruling there were three further terrorist attacks during the course of the trial – the attack on the Ariana Grande concert in Manchester, the London Bridge attack, the attack near the Finsbury Park Mosque. The defence believe that the individual and

cumulative attacks must have created a pressure upon the jury to convict and "not let the defendants go, for fear of a future attack" despite the evidence.

32. Secondly, the undercover police and Security Service witnesses enjoy a unique protection, that of anonymity. Not only are their identities allowed to be never made known, but nothing about their careers or their personal circumstances is available to be checked. In this case, the consequences were potentially extraordinary; in the midst of the trial, inadvertently, a deleted text message showed one officer congratulating Vincent on a photograph of him with a blunderbuss. By separate accidental revelations, Vincent was very clearly a firearms buff, with undoubted access to a shotgun licence. A critical revelation where shotgun cartridges (hard to obtain without a licence) were a key feature of the contents of the JD Sports bag. But no further enquiries were permitted. No search of his premises took place or was permitted. Despite clear perjury on a critically important aspect of the case (his notebook) could be progressed. His notebook, which he stated was written day by day in the month in which Khobaib Hussain was making deliveries, was proven to be no such thing (he had made some significant mistakes and got dates in the wrong order which could never have been written contemporaneously).

33. The re-writing of police notebooks was the reason why many convictions in the past were overturned lock, stock and barrel – the six wrongly convicted men of the Birmingham Pub bombings, the four wrongly convicted defendants of the Guildford Pub bombings, the three defendants wrongly convicted of the murder of PC Blakelock in Tottenham and multiple numbers of wrongly convicted defendants at the hands of the disbanded West Midlands Serious Crime Squad. Falsifying notebooks is a criminal act and in those cases, once discovered, had involved the immediate suspension of the police officers concerned, and enquiries set up by outside police forces. No such enquiries took place; the trial continued and Vincent was permitted to retain his blanket anonymity.

34. The defence will therefore argue in the appeals that the permission to continue anonymity created an irreparable injustice, an inability for the defence to enjoy, as they are guaranteed under the Human Rights Act to enjoy, an equal position with the prosecution.

35. There is of course massive inequality between a sole defendant who faces trial (in particular from prison) and the resources of the state in prosecuting him.

36. What is remarkable in this case, is even despite the lack of resources of the defence and lack of any ability to overcome barriers to investigation, nevertheless an avalanche of material damning to the prosecution case came to light. The question is if what was revealed, with so much effort, and so grudgingly, what more must there inevitably be or have been if an independent investigation had taken place?

37. The police officer in charge of the investigation itself (after the claimed "discovery" by Vincent and the Security Service) answered the question as to whether he had investigated at all the question of the police having "planted" the bag and the evidence. His answer in relation to investigating Vincent as an undercover officer, was that as a policeman Vincent had taken an oath, and investigation of him would therefore not be appropriate or necessary.

38. This approach and in the face of the evidence in this case as it unfolded, is not only baffling and shocking, but to many is like a rerunning of history. Lessons that were learned when dozens of men and women were found to have been wrongly convicted in the 1970s and 1980s were always understood to be able to hold good for all time. The defendants acknowledge that the jury considered other evidence that undoubtedly affected them and that that evidence was the responsibility entirely of the defendants themselves. Two, Naweed Ali and Khobaib Hussain, had been convicted years earlier of having travelled to Pakistan with the idea of attending a training camp. They were young, they had been encouraged to do so, and within two days of arrival in Pakistan they had spoken to their families and promptly come back home. They have been prosecuted, admitted their guilt, and served time in prison as punishment. (Mohibur Rahman had also spent time in prison accused of possession of a publication with terrorist content.) Furthermore, on a number of occasions the defendants by their behaviour clearly showed that they were avoiding surveillance interest by the authorities – two, Naweed Ali and Mohibur Rahman, explained this behaviour as having been triggered by unwelcome approaches by MI5 to recruit them as informants and their interests, exemplified by messages and data on their telephones, were in the world of engagement in armed conflicts involving Islam. The men all were inevitably "the usual suspects". As the police who targeted them undoubtedly thought, they might well be most likely to be engaged in activity dangerous to society. But they were not.

39. It is easy to understand that juries can take a wrong decision if consciously or unconsciously they are struggling with the complexities posed by being jurors in a criminal trial in the circumstances in which this trial was conducted. Many of the historic cases of what came to be finally understood to be wrongful convictions were brought about in almost identical circumstances. Overturning those convictions was for each a task of monumental difficulty – in the case of some more than 16, and in the case of one, 18 years. An understanding however that terrible mistakes can happen is a necessary appreciation to move forward for these defendants now.

Letters of Support/Solidarity to:

Mohibur Rahman: A3480AZ, HMP Full Sutton, Stamford Bridge, YO4 1PS

Tahir Aziz:A8301DV, HMP Whitemoor, Long Hill Road, March, PE15 0PR

Naweed Ali:A0531CJ, HMP Frankland, Brasside, DH1 5YD

Khobaib Hussain:A0537CJ, HMP Long Lartin, South Littleton, Evesham, WR11 8TZ

Court Delivers "Hooded Men" Judgment

Mr Justice Maguire, sitting in the High Court in Belfast, Friday 27th October 2017, quashed the Police Service of Northern Ireland (PSNI) decision not to take further steps to investigate the question of identifying and, if appropriate, prosecuting those responsible for criminal acts during the interrogation of the "hooded men". The proceedings were triggered by the PSNI's decision in 2014 that there is no evidence to warrant an investigation into the allegation that the UK Government authorised the use of torture in NI in 1971. The applicants are Francis McGuigan (one of the "hooded men") and Mary McKenna, the daughter of Sean McKenna deceased, another of the hooded men. As well as seeking a judicial review of the PSNI's decision, the applicants also challenged decisions of the Chief Constable, the Department of Justice and the Northern Ireland Office ("the respondents") as constituting a continuing failure to order and ensure a full, independent and effective investigation into torture at the hands of the UK Government and/or its agents in compliance with Articles 2 and 3 of the Convention, common law and customary international law.

Background: In August 1971, the Northern Ireland Government, following a meeting in London between the NI and UK Governments, concluded that it was necessary to introduce a policy of detention and internment of persons suspected of serious terrorist activities. The target of the policy was the IRA and in the period leading up to the introduction of internment the RUC, in consultation with the British Army, prepared lists of persons to be arrested. The first internment operation, "Operation Demetrius", began at 4 am on 9 August 1971 and led to

the arrest of some 350 people. Of these, 12 men were taken to a British Army facility for "interrogation in depth" which took place between 11 and 17 August 1971. Arrests continued to be made and in October 1971, two further men were selected to undergo in-depth interrogation which took place between 11 and 18 October 1971.

The decision to conduct deep interrogation was said to have been made by the NI Government in concurrence with the UK Government. The deep interrogation process involved five techniques: prolonged hooding, subjection to continuous loud noise, sleep deprivation, deprivation of food and water, and the maintenance of stress positions over long periods of time. The British Army had been requested in March 1971 to provide advice to the NI authorities about the establishment of an interrogation centre and the British Military's English Intelligence Centre provided training to members of the RUC at a seminar in April 1971. The techniques had been used in numerous former British colonies. Military Standing Orders were drawn up to govern the operation of the interrogation centre and the conduct of the interrogations and specific orders were given to ensure that the interrogations were conducted in accordance with Joint Intelligence Directive JIC 65(15).

Within a few days of Operation Demetrius, there were allegations by and on behalf of those detained of physical brutality and ill-treatment. On 31 August 1971, the UK Home Secretary, Reginald Maudling, appointed a Committee of Inquiry under the chairmanship of Sir Edmund Compton ("the Compton Inquiry") to investigate the allegations of ill-treatment. It found that the in-depth interrogation by means of a combination of the five techniques constituted physical ill-treatment but not brutality. The Committee did not examine who authorised the use of the techniques. Nor did it explore issues relating to the identification or punishment of those responsible for what occurred.

On 16 and 17 November 1971, the Home Secretary told the House of Commons that there was no evidence of "physical brutality or torture" and announced the establishment of a further committee, chaired by Lord Parker ("the Parker Inquiry"), to explore whether a policy change was required. During this debate, the Secretary of State for Defence was asked whether ministers at Westminster knew that in-depth interrogation was taking place. He said "the formal authorisation to remove certain detainees to the interrogation centre was necessarily given by the Northern Ireland Minister for Home Affairs, with the knowledge and concurrence of Her Majesty's Government. Ministers knew that the interrogation would be conducted within the guidelines laid down in 1965 and 1967 and that the methods would be the same has had been used on numerous occasions in the past".

The majority Parker Inquiry team concluded that the application of the techniques, subject to recommended safeguards against excessive use, need not be ruled out on moral grounds and that they could be used in limited circumstances and with the express authorisation of a Minister. The majority also did not make any express findings on whether or not the use of the techniques had been authorised in advance by a UK Minister. However, both majority and minority reports acknowledged that some, if not all, of the techniques in use involved unlawfulness and the possible commission of criminal offences.

The Parker report was published and debated in Parliament on 2 March 1972 and on the same day the Prime Minister stated that the techniques would not be used in future as an aid to interrogation. He further stated that if a Government did decide that additional techniques were required for interrogation, they would probably have to come to the House of Commons to ask for the requisite powers. All 14 men who were subjected to the deep interrogation methods brought civil claims for damages directed against Ministers. These were settled and compensation of between £10,000 to £25,000 was awarded.

On 16 December 1971, the Irish Government submitted an application to the European Commission for Human Rights against the UK ("the Ireland-UK inter-State case") on the grounds that the persons detained were subjected to treatment in breach of Article 3 carried out by the security forces of the UK, that their treatment constituted an administrative practice and a continued series of executive acts exposing a section or sections of the population to torture or inhuman and degrading treatment. Insofar as the case involved the issue of deep interrogation it centred on the question of the substantive breach of the requirements of Article 3 ECHR, including the issue of whether the State was engaging in an administrative practice. The overall issues were subjected to careful consideration and evidence taking, albeit on a limited scale. Ultimately, the UK Government conceded the administrative practice point but contested the issue of the impact of deep interrogation on the mental health of the individuals.

Conclusions: The Court quashed the decision made on behalf of the PSNI in October 2014 not to take further steps to investigate the question of identifying and, if appropriate, prosecute those responsible for criminal acts. The Court said this means that the question should be revisited but did not prescribe how the issue should be taken forward. The Court dismissed all other grounds of judicial review against the respondents.

Violence and Self-Harm in UK Prisons Continue to Surge

Holly Watt, Guardian: Violence in prisons has increased to record levels, according to new figures released by the Ministry of Justice, with 27,193 incidents of assault and serious assault in the year to June 2017. Over the same period, there were 41,103 incidents of self-harm, with a rise of 10% in April, May and June compared with the previous quarter. In women's institutions, there were almost twice as many incidents of self-harm as there were prisoners. The number of assaults on prison staff rose by 25% in a year, up to 7,437 in the period leading up to June. Of the attacks on prison staff, 798 were serious assaults.

Richard Burgon, the shadow justice secretary, said violence in prisons had to be resolved by changes to the justice and prison systems. He said: "Once again we see how Conservatives' cuts are creating a crisis in our prisons. Every few months we get a new record for the number of assaults, as the government's slashing of prisons budgets and staff bites. It's scandalous that we now have an assault every 20 minutes in our prisons. Government policies that have led to severe overcrowding and cutting more than 6,000 prison officers are squarely to blame for this situation. Yet one in three prisons suffered further cuts in officer numbers in the first six months of this year alone."

Ed Davey, the Liberal Democrat home affairs spokesman, said the justice system needed to be reformed urgently to avoid "locking up people on useless short-term sentences". He said: "Our prisons are fit to bursting and this is leading to horrific incidents of self-harm and violence. The government's inability to get a grip on this issue is condemning prisoners and staff alike to suffer in miserable conditions, creating a vicious cycle."

In response to the figures, David Lidington said that the government was investing to enable prison officers to manage violence. The justice secretary said he was "determined to give officers the tools they need to manage violent offenders – investing £2m in body-worn cameras which will act as a visible deterrent against violence and assist with prosecutions, as well

as introducing new style handcuffs and piloting Pava incapacitant spray".

Frances Crook, chief executive of the Howard League for Penal Reform, said "increased weaponry" for prison officers would not solve the problem. She said: "The problem is distress. Prisons are at the point that this is the only way prisoners have to display distress, and you can't punish your way out of distress. I want to see real leadership on this now. It's epidemic. Prisons are in such a terrible state that there are limited ways in which people can display distress, frustration and anger. They are just locked up in a stinking cell for 22 hours at a time."

Over the last five years, prison violence has risen dramatically since Chris Grayling, who became justice secretary in September 2012, introduced a programme to reduce costs in the prison service. The new MoJ figures note that: "After a prolonged period of stability in the time series, there has been a clear upward trend since December 2012 in serious assault incidents of all types." The MoJ report also points out that "the number of serious assaults and serious prisoner-on-prisoner assaults are at least 2.7 times higher than in the 12 months to June 2012, while serious assaults on staff have trebled".

Lidington said that violence against staff would not be tolerated, and that he was working on legislation to increase sentences for people who attack emergency workers. He said: "Our prison staff work incredibly hard and I am under no illusions about the challenges they face. More officers on the wings will improve the safety of our prisons. That is why we are investing £100m to boost the frontline. We have already recruited 1,290 extra prison officers over the past year."

Crook said that violence in prisons was rising because of overcrowding and lack of experienced staff. Crook said: "The new secretary of state has to do something to reduce the number of prisoners. It is the only way of helping the system. Putting untrained 18-year-olds on to the wings is not going to help anyone." The number of prisoner-on-prisoner assaults was the highest recorded since the data series began, at 19,678. The rate of 231 attacks per 1,000 prisoners means that almost one in four prisoners were assaulted in 12 months. According to the MoJ figures, women were far more likely to self-harm than men, with a rate of 413 incidents per 1,000 in male establishments compared with a rate of 1,914 per 1,000 in female establishments. The new figures showed that 77 people killed themselves – 72 in men's prisons and five in women's prisons. The previous year, 110 people killed themselves.

Identity of Anonymous Prison Murder Trial Witness Mistakenly Revealed in Court

Telegraph: An anonymous witness in the Pentonville prison murder trial has withdrawn after his cover was blown after less than an hour in court in what a judge described as a "very regrettable accident". The inmate, known by the pseudonym Bobby Dorset, was giving evidence for the prosecution in the case of three prisoners accused of killing new father Jamal Mahmoud. The 21-year-old was allegedly stabbed to death on the landing of G Wing in October last year following a power struggle over the smuggling of contraband into the north London jail. Special measures were taken in Court 10 of the Old Bailey to ensure Mr Dorset's true identity was kept a secret. He spoke through a distorting voice modulator and his face was hidden from view by a screen. But after less than an hour in the witness box last Wednesday, Judge Richard Marks QC called a halt to his evidence and sent the jury home

A week later, the jurors were recalled to court and the judge explained that Mr Dorset was unwilling to continue after his true identity was revealed by a "very regrettable" accident. Judge Marks said: "Ladies and gentlemen, you will recall that last Wednesday,

just before lunch, the witness Bobby Dorset began to give evidence and certain special measures had been put in place in relation to the manner in which his evidence was given. He resumed his evidence after lunch. After about half-an-hour, matters were brought to my attention which led to our breaking off from his evidence and it has not been possible to resume the case with you since that time. The nature of the problem which arose was that it became apparent that the true identity of the witness Mr Dorset had become known. Having looked into the matter in some detail, I am entirely satisfied that this very regrettable situation arose by reason of a genuine accident. It was in no way whatsoever the fault of the witness himself or the prosecution or the defence or any of the defendants. "This development was made known to the witness and the upshot is that he is no longer willing to give any further evidence and so you will not be hearing from him further."

The judge said Mr Dorset had already given some evidence, but had yet to say anything about what he saw on the day of the killing. He said he would give more directions to the jurors about what they had heard from Mr Dorset, whose evidence had not been tested by defence cross-examination. He added: "Above all else, it is critically important you do not hold it in any way whatsoever against any of the defendants." Basana Kimbembi, 35, Joshua Ratner, 27, and Robert Butler, 31, have denied murder and wounding Mr Mahmoud's associate, Mohammed Ali, with intent to cause him grievous bodily harm. The trial continues.

Terror Law Watchdog Warns Against Thought-Crime

Michael Cross, Law Gazette: Plans for new laws against extremism will face a rough ride from the independent watchdog on terrorism laws, the goverment was warned today. 'We do not, and should not criminalise thought without action or preparation for action,' said Max HIll QC, the independent reviewer of terrorism legislation, throwing down a gauntlet on proposals to create a 'commission for countering extremism'. 'Thought with steps towards action can be terrorism. Thought without action or preparation for action may be extremism, but it is not terrorism,' Hill said, delivering the Tom Sargant memorial lecture for campaign group Justice.

The criminal bar veteran was calling attention to a reference in the last Queen's speech to the creation of a 'commission for countering extremism'. While emphasising that legislation on non-violent offences lay outside his remit, Hill warned that 'legislating in the name of terrorism when the targeted activity is not actually terrorism would be quite wrong'. As an example, he cited the home secretary's proposal to strengthen Section 58 of the Terrorism Act 2000 to make people who repeatedly view terrorism content onlne liable to 15 years in prison. Hill said: 'We are told that "The updated offence will ensure that only those found to repeatedly view online terrorist material will be captured by the offence, to safeguard those who click on a link by mistake or who could argue that they did so out of curiosity rather than with criminal intent".

I welcome this, but we must wait to see what the words 'repeatedly view' actually mean. Are two clicks on a link one too many, or will three clicks be required? Can an internet user be innocently curious twice, but not three times? 'These are matters for parliamentary draftsmen to consider, and I await the outcome with interest,' he said. Hill's lecture also had hard-hitting criticism of the French government, which has maintained a state of national emergency since the Paris attacks in November 2015. Such a lengthy imposition, with derogations from articles of the European Convention on Human Rights, poses the problem 'How does one get out?' he said. The answer being considered is apparently to incorporate 'state of emergency' measures into non-emergency statutes. 'This is alarming,' Hill said.

Casino Cheating Ruling Redefines Dishonesty Test

Law Gazette: A Supreme Court judgment that a professional gambler cheated his way to a £7.7m casino win could change the course of criminal trials by ruling that a 35-year-old test for dishonesty is no longer fit for use. In Ivey v Genting Casinos Ltd t/a Crockfords, the court today unanimously dismissed an appeal from Phil Ivey to recover winnings from a 2012 game of punto banco in Crockfords Club, Mayfair. Ivey admitted relying on a technique called 'edge-sorting' - spotting tiny differences in the backs of playing cards - to tilt the odds in his favour. Ivey did not touch any cards, but persuaded the croupier to rotate the most valuable cards by intimating that he was superstitious. He brought an action against the club after it refused to pay out on the grounds of cheating. He told the court that he regarded his technique as legitimate gamesmanship. Upholding a judgment from the Court of Appeal, the Supreme Court said Ivey's actions were 'positive steps' to fix the deck and therefore amounted to cheating, regardless of what he believed.

But the court went further and said that the test for determining dishonesty should also apply to criminal trials - meaning there is no requirement for a defendant to appreciate that their actions were dishonest. In judgment, the court said the two-stage test defined in 1982 R v Ghosh, has 'serious problems'. That case involved a surgeon who was convicted for receiving payments for work carried out by others. The second stage in the Ghosh test asks juries to consider whether the defendant would have realised that ordinary honest people would regard his behaviour as dishonest. Today's judgment says that does not correctly represent the law and that directions based on it should no longer be given.

The Supreme Court said that the test means that the less a defendant's standards conform to society's expectations, the less likely they are to be held criminally responsible. 'The law should not excuse those who make a mistake about contemporary standards of honesty, a purpose of the criminal law is to set acceptable standards of behaviour,' the judgment states. It adds: 'There can be no logical or principled basis for the meaning of dishonesty to differ according to whether it arises in a civil action or a criminal prosecution.' Instead, all cases should apply the civil action test - to ascertain the actual state of the individual's knowledge or belief as to the facts and then determine whether his conduct was honest or dishonest by the standards of ordinary people.

Stephen Parkinson, head of criminal litigation at London firm Kingsley Napley, said this decision was one of the most significant in a generation and would lead to more convictions in criminal trials. 'The concept of dishonesty is central to a whole range of offences, including fraud,' he said. 'For 35 years juries have been told that defendants will only be guilty if the conduct complained of was dishonest by the standards of ordinary reasonable and honest people and also that they must have realised that ordinary honest people would regard their behaviour as dishonest. The Supreme Court has now said that this second limb of the test does not represent the law and that directions based upon it ought no longer to be given by the courts.' David Corker, partner at criminal law firm Corker Binning, agreed. 'This decision fundamentally changes one of the most basic facets of criminal fraud law: the meaning of dishonesty which can solely determine when an accused is guilty or not. Often in criminal fraud cases the facts - the actions of the accused - are agreed, it all depends on whether or not he acted dishonestly.' Henceforth, he said, a prosecutor no longer has to prove that the accused had belief or knowledge of how their actions would be regarded. 'A prosecutor now need only place before the court facts of what the accused did, and thought, and invite the court to hold that he was dishonest. This is a huge shift towards an objective test of dishonesty, which is critical in fraud cases.'

Guildford Pub Bombings: Legal Bid to Reopen Inquests

BBC News: Lawyers have applied to a coroner to reopen the inquests of victims of the 1974 Guildford pub bombings. Five died and 65 were injured in the IRA blasts but those responsible were never prosecuted and the inquests never concluded. The wrongfully-convicted Guildford Four served 15 years before they were released. KRW Law said its clients and families of the victims needed the truth. The Surrey Coroner has not yet commented. The law firm is representing a former soldier who survived the blast at the Horse & Groom and is still suffering from PTSD, and Ann McKernan, sister of wrongly-jailed Gerry Conlon. Soldiers Ann Hamilton, 19, Caroline Slater, 18, William Forsyth, 18, and John Hunter, 17, and plasterer Paul Craig, 21, all died in the blast at the Horse & Groom on 5 October 1974. The BBC has been in contact with the victims' families and friends, but most remain too traumatised to talk publicly. After viewing inquest papers from the time, lawyers said there was no record of the original hearings being resumed.

A legal submission by KRW Law to Surrey Coroner Richard Travers said for many years the focus had been on the Guildford Four's miscarriage of justice. It said victims' families had "never been permitted" an opportunity to testify and were "merely bystanders" at the original trial and appeals.The firm claimed questions remained over the actions of police and lawyers at the time - including the original police investigation, alleged changes to evidence by prosecutors, and the police response after the IRA's Balcombe Street unit admitted in 1976 it had planted the bombs. The submission concluded: "There remains a profound belief that justice has not been done." KRW Law also pointed to the "large number" of fresh inquests in Ireland relating to the Northern Ireland conflict. It claims had the Guildford bombings happened there, it was more likely the deaths would have been subject to further investigation. The submission said: "It appears unfair to provide comprehensive public investigations into these tragic deaths and yet fail to do so for the families of the victims in Guildford."

The Rise of Covert Recordings in Family Proceedings

Dan Beattie, Family Law: Sir James Munby, President of the Family Division of the High Court, said that covert recording had become a 'much more pressing issue' in family proceedings. In particular he highlighted the increased prevalence of recordings of children, other family members and even professionals being placed before the courts as evidence to support one party's position or to undermine the others. This is perhaps not surprising given the increased availability of recording equipment. It is very easy to purchase cheap and relatively sophisticated recording and tracking devices both online and on the high street. Of course, it is also not difficult to save 'useful' voicemail messages left on a mobile phone or recording conversations held on a mobile. Similarly, setting up a mobile phone to record a face to face conversation is relatively simple.

Further, there are other products on the market which are designed for a different purpose which can lead to, or tempt, one party to listen in. For example, there is a brand of watch, undoubtedly designed to protect children, vulnerable adults and others, that acts as a tracking device linked to a parent, guardian or carer's smartphone. It also has an SOS button the wearer can press if they find themselves in any difficulty to alert the parent etc. of the fact. However, there is also a function whereby the parent etc. can, unbeknown to the wearer of the watch, listen to the surrounding environment of the wearer. Again, this may be a sensible protective measure some people wish to utilise but one can see how such a function may be 'useful' to a party wishing to record or listen in where they would not otherwise be able to.

This type of evidence is admissible in proceedings, although a judge has the power to exclude it under FPR r.22.1. In the context of proceedings involving children, often the evidence will be allowed as the recordings may be relevant to issues relating to a child's welfare and/or be helpful to a Judge when considering the wider context of a matter.

Last year I highlighted the case of M v F (covert recording of children) [2016] EWFC 29 in which a father and his partner made extensive covert recordings of the child involved, going to such lengths as sewing recording devices into the child's clothing. The transcripts produced for the court ran to in excess of 100 pages. Jackson J (as he then was) stated at the outset of his judgment in that case that 'It is almost always likely to be wrong for a recording device to be placed on a child for the purpose of gathering evidence in family proceedings…This should hardly need saying', concluding that 'experience suggests that such activities normally say more about the recorder that the recorded'.

There is surprisingly little authority or judicial guidance on this issue. Indeed, Sir James Munby referred to the courts having to 'grapple' with the legal and procedural issues such recordings involve. For example, faced with a transcript or audio of a recording, a judge will have to satisfy themselves that the evidence is relevant to the issues, has not been edited and that the voices are of those of the persons they are claimed to be. It is therefore a very difficult topic to provide comprehensive guidance about.

Jackson J's warning goes some way in respect of children proceedings; in that case the judge made a Child Arrangements Order that the child would live with the mother and the father was ordered to meet the costs the mother had incurred dealing with the covert recordings. Clear guidance or a Practice Direction from the President setting out such risks for a party seeking to rely on such evidence may go some way to prevent a potential flood of litigants producing hours of potentially irrelevant recordings, or ones that in fact have the opposite effect to that desired.

Government Reportedly Planning to Allow Half a Dozen UK Prisoners to Vote

Haroon Siddique, Guardian: The UK government is reportedly to scrap its blanket ban on prisoners being allowed to vote, 12 years after the European court of human rights ruled that it was unlawful. Britain has ignored a series of judgments by European courts since 2005, maintaining that it is a matter for parliament to decide. But the government is planning to end its long-running defiance by allowing prisoners serving a sentence of less than a year who are let out on day release to be allowed to go home to vote, according to the Sunday Times. The newspaper said the decision had been made by David Lidington, the justice secretary, who circulated plans to ministers last week. The paper said it would affect hundreds of prisoners and quoted a senior government source as saying: “This will only apply to a small number of people who remain on the electoral roll and are let out on day release. These are not murderers and rapists but prisoners who are serving less than a year who remain on the electoral roll. No one will be allowed to register to vote if they are still behind bars.” Responding to the report, the Ministry of Justice’s statement left open the possibility of prisoners on day release being allowed to vote. A spokeswoman said: “We do not comment on speculation. Our policy on prisoner voting is well established: it remains a matter for the UK to determine, and offenders in prison cannot vote.”

Any weakening of the blanket ban is likely to leave many MPs dismayed. When the government proposed legislation to restrict the voting ban in 2011 MPs voted overwhelmingly by 234 to 22 in favour of a cross-party motion that said parliament should decide on such an important issue. David Cameron, who defied the European judgements as prime minister, said the idea of prisoners being given the right to vote made him feel “physically sick”. The

ban on prisoners’ voting was challenged John Hirst, who, in 2005, while serving a life sentence for manslaughter, won a case in the grand chamber of the ECHR in Strasbourg with a ruling that a blanket ban on voting was contrary to article 3, protocol 1 of the European convention on human rights, which guarantees the right to free and fair elections. The exact parameters of what would be deemed acceptable remain unclear, but, in 2015, the European court of justice ruled that it was lawful for countries to impose a voting ban on prisoners convicted of serious crimes. The European Union’s highest court ruled that the ban on French convicted murderer Thierry Delvigne taking part in the European elections did not represent a breach of the EU charter of fundamental rights but was proportionate “in so far as it takes into account the nature and gravity of the criminal offence committed and the duration of the penalty”.

The same year, the ECHR ruled that the blanket ban breached the rights of 1,015 Britons behind bars who had brought claims but said that they were not entitled to compensation or their legal costs. Britain is the only western European country with a blanket ban on prisoner voting with only Armenia, Bulgaria, Estonia, Georgia, Hungary and Russia in the Council of Europe imposing similar restrictions. Shadow home secretary Diane Abbott told BBC One’s Andrew Marr Show: “The European court of human rights has been saying for some years that we can’t stop all prisoners having the vote and the Labour Party believes that … in the end, we have to support the position of the European court of human rights.”

Darren Green V- (1) Parole Board (2) Secretary of State for Justice

The Applicant and the defendants were not present and was not represented. The claimant is a serving prisoner in HMP Grendon. On 13th July 2012 he pleaded guilty at the Crown Court in Taunton to an offence of wounding with intent contrary to s.18 of the Offences against the Person Act 1861. He was sentenced to imprisonment for public protection with a minimum term of five years. On 10th August 2012 the sentence was amended under the slip rule and replaced with a minimum term of three years and six months less 38 days spent on pre-trial remand.

That minimum term expired on 5th December 2015. On 6th June 2016 the claimant was due to appear before the Parole Board, but the hearing was deferred on the direction of the Parole Board so that a psychological report could be obtained. On 30th November 2016 the claimant did appear in front of the Parole Board at an oral hearing to consider his release or removal to an open prison. The Parole Board informed the claimant by letter dated 5th December 2016 that they would not order his release and directed that he continue to be confined. Further, they did not recommend that he be transferred to open conditions. On 23rd December 2016 the claimant was informed by letter from the National Offender Management Service that his review period had been set at 18 months. The claimant now seeks judicial review of the decision of the first defendant not to recommend the claimant for transfer to open conditions and of the decision by the Secretary of State for Justice (the second defendant) to set a period of 18 months before the claimant's next parole review.

In relation to the decision by the Parole Board not to transfer the claimant to open conditions, the law is as follows. In April 2015 the Secretary of State for Justice issued directions under the power in the Criminal Justice Act 2003 s.239(6) relating to the transfer of indeterminate-sentence prisoners to open conditions. The directions provided that a move to open conditions should be based on a balanced assessment of risk and benefits. They specify that the Parole Board must take the following main factors into account when evaluating the risks of transfer against

the benefits: "(a) the extent to which the ISP has made sufficient progress during the sentence in addressing and reducing risk to a level consistent with protecting the public from harm, in circumstances where the ISP in open conditions may be in the community, unsupervised, under licensed temporary release; (b) the extent to which the ISP is likely to comply with the conditions of any such form of temporary release (should the authorities in the open prison assess him as suitable for temporary release); (c) the extent to which the ISP is considered trustworthy enough not to abscond; and (d) the extent to which the ISP is likely to derive benefit from being able to address areas of concern and to be tested in the open conditions environment such as to suggest that a transfer to open conditions is worthwhile at that stage."

The first defendant's duty to follow these directions has been considered in a number of authorities: R (On the Application of Gordon) v Parole Board [2000] 1 PLR 275, R (On the Application of Hill) v Parole Board [2012] EWHC 809 (Admin), R (Rowe) v Parole Board [2013] EWHC 3838 (Admin). The clear principle from these cases is that the first defendant is required to undertake a balancing exercise between risk and benefit when assessing suitability for transfer to open conditions, and the failure to do so is an error rendering any decision unlawful. In Gordon, Smith J said at para.38 that "it is not incumbent upon the Board to set out its thought processes in detail or to mention every factor they have taken into account. However, in my judgment the balancing exercise they are required to carry out is so fundamental to the decision-making process that they should make it plain that this has been done and to state broadly which factor they have taken into account". In Rowe, King J said at para.60: "The failure to balance those benefits against the Board's assessment of the extent to which the claimant had made sufficient progress during sentence in addressing and reducing risk to a level consistent with protecting the public from harm is, in my judgment, fatal to the legitimacy of this decision."

The claimant has made the following submissions. Mr Hutcheon submitted that the first defendant erred in law by failing to follow the directions, by not carrying out the balancing exercise between risk and benefit. He said that the first defendant had the benefit of evidence from three experts, all of whom recommended that the claimant be transferred to open conditions, acknowledging the level of risk and listing a number of benefits. Mary Haley provided a comprehensive report entitled "Democratic Therapeutic Community Report", which addressed the various risks relating to anti-social attitudes, coping and problem solving, relationship skills and emotional management, and balanced the benefits of moving to open conditions. She concluded: "He is now ready for open conditions and it would be a positive move for him to be transferred when possible." Sara Hillier of the National Probation Service reported: " Mr Green remains ready for progression from closed conditions to open conditions. This will provide Mr Green with the opportunity to consolidate his learning in a less secure environment. By transferring to open conditions, Mr Green will be able to undertake ROTL's and have a controlled reintegration back into the community ... Mr Green will also be able to establish what support in terms of alcohol support and emotional support is available to him, looking at how [to access it]. It will also allow him to look at where he would like to resettle in more detail, beginning to found out what accommodation is available and develop a very robust resettlement plan in conjunction with me. Whilst at this time I am not able to recommend release, in my assessment Mr Green is ready for progression to open conditions."

Sarah Taylor, a forensic psychologist, reported: "It is my opinion that a period in open conditions will be helpful for Mr. Green to consolidate his skills and learning in order to take the first steps towards building a life in the community. In addition to this, it will give him the

opportunity to practise his new skills in a less supported and structured environment where he has more freedom but still has some supervision and for those managing him to assess how well he is able to manage himself when interacting with the wider community."

Mr Hutcheon submitted that the first defendant is entitled to form their own view and is not obliged to follow the recommendation of these experts. However, before deciding not to transfer the claimant to open conditions it must undertake a balancing exercise specifying what the risks and the benefits are and explaining why the risks outweigh the benefits. In this case, he said, they failed to do this. The letter explaining their decision dated 5th December 2016 started by referring to a balancing exercise but then concentrated on the risk. They were clearly focused on whether or not to release the claimant and paid scant attention to the different exercise of assessing suitability for transfer to open conditions.

The second decision was by the Secretary of State to set a period of 18 months for review. The law relating to this is that when ISPs reach their tariff their continued detention must be reviewed at regular intervals. In Betteridge v United Kingdom [2013] ECHR 1497 the European Court of Human Rights determined that those held in detention under a sentence of IPP must be reviewed at regular intervals as their detention is justified on the basis of considerations of dangerousness which are susceptible to change over time. Failure to review regularly would be a breach of ECHR Art. 5(4). In R (Loch) v Secretary of State for Justice [2008] EWHC 2485 (Admin), Stadlen J said at paragraph 44: "44. The additional guidance to be derived from the judgment of the Court of Appeal in Murray [that is Murray v Parole Board [2004] PLR 175] would thus appear to be that in considering whether in any particular case the gap between reviews is reasonable and thus compliant with the Art 5(4) requirement for a speedy decision, while there is no formal presumption that an interval of more than a year is unreasonable and non-compliant, the court should approach the question on the basis that where there is an interval of more than a year it is generally for the decision-maker to show by reference to the particular facts of the case that it is reasonable and thus compliant with Art.5(4)."

Mr Hutcheon on behalf of the claimant submitted that 18 months was much longer than the review period needed to be in the context of the progress made by and the reports made on the claimant. In any event he submitted that the second defendant did not discharge the burden upon them to show by reference to any particular facts that 18 months was reasonable and thus compliant with Art.5(4). The second defendant's letter dated 23rd December 2016 listed matters to be addressed for the next review but did not explain why they should take more than 12 months.

In my judgment, the first defendant's decision letter dated 5th December 2016 does not demonstrate that the panel carried out the balancing exercise required when considering whether the claimant was suitable for open conditions. There is passing reference at the start of the letter to the requirement for a balancing exercise (that is para.2) but the thrust of the letter deals with the risk associated with release. There is no discussion of the benefits of transfer to open conditions and the decision not to transfer is tagged on the end of para.8.7 dealing with the decision not to release.

In relation to the second defendant, they indicated on 1st August 2017 after permission for judicial review was granted that they did not intend to contest these proceedings. However, it is clear that in their letter dated 23rd December 2016 setting a further review at 18 months, they did not show by reference to the particular facts of the case that it was reasonable and thus compliant with Art.5(4).

For the reasons I have given, I make the following orders. The first defendant's decision to refuse to transfer the claimant to open conditions is quashed. The request to be transferred to open conditions is remitted for fresh consideration by the Parole Board. Secondly, the

Parole Board is to hold a further oral hearing to consider transfer to open conditions by no later than 15th December 2017. Finally, the second defendant's decision that a further hearing should take place in 18 months falls away because of the orders above. Nevertheless, in the context of this case 18 months was unreasonable.

I finally turn to costs. It is established law that costs should not be awarded against an inferior court or tribunal except whether there was a flagrant instance of improper behaviour or when the inferior court or tribunal unreasonably declined or neglected to sign a consent order disposing of the proceedings, and that is per Brooke LJ in Davis v HM Deputy Coroner for Birmingham [2004] EWCA (Civ) 207.

Mr Hutcheon submits that in this case the outcome was so clear, particularly after permission was granted, that the first defendant's refusal to sign a consent order was unreasonable. I disagree. The Parole Board's litigation strategy is to adopt a neutral position and not to actively defend a matter should it proceed to judicial review. That is a perfectly proper position. It would be perverse to order costs solely on the basis that the claimant submits that he has a strong case. I therefore make no order for costs against the first defendant. Costs are awarded against the second defendant insofar as they relate to the second defendant, and there is to be a detailed assessment of the claimant's legal aid costs.

Systemic Failures in Relation to Suicide/Self Harm Management in G4s Run Prison

On Friday 20th October 2017, the jury at the inquest into the death of Jagjeet Samra returned a critical narrative conclusion identifying crucial failures by G4S prison authorities and staff. 36-year-old Jagjeet was found hanging in his cell on 26 May 2016 in HMP Parc – a prison run by G4S. Jagjeet was subject to suicide and self- harm management in the prison and was required to be observed every half an hour. This was conducted by a live CCTV camera which was displayed in the SCU office. On the night of 25th May 2016, Jagjeet was able to take his own life by using a ligature point in a blind spot within his cell which was not visible on the CCTV camera. The officer on duty that night had recorded in the observation record that Jagjeet was completing a jigsaw puzzle at the three observations from 10.30pm onwards. In fact, the CCTV subsequently showed that Jagjeet was not visible at all on the camera at any of these checks. He was not visible on the CCTV camera for a period of over two hours, without any check of his cell being conducted. When the officer finally did decide to conduct a check, which was prompted by hearing a bang, it took approximately thirty minutes for another officer to join him in order for them to enter the cell. On entry, Jagjeet was found hanging. The jury found that his observations were ‘inadequate’ and ‘conducted contrary to policy’ and that it was inappropriate that assistance was not requested sooner. Since Jagjeet’s death the Prison Officer who was responsible for the observations has been dismissed. Strikingly, the jury also identified systemic failures in the overseeing of the suicide and self-harm management system by the G4S prison allowed for the individual failure to make adequate observations of Jagjeet. A senior member of management from the G4S prison accepted that there was no system of “spot checking” officers observations to monitor that individuals were conducting their observations correctly. Following representations made by the family, the Coroner agreed to write to the Ministry of Justice and G4S to raise concerns regarding staffing levels and cell design.

Mandeep Samra, the brother of Jagjeet, said: “On behalf of the Samra family I would like to start of by saying Jagjeet was a loving and generous young man and had the potential to be someone. Unfortunately he got caught in the wrong crowd which led him into prison. However, he did not deserve to be treated the way he was at HMP Parc. The two week inquest highlighted many systematic failures on behalf of HMP Parc. Some including failure to carry out observations and monitor CCTV Cameras within the Safer Custody Unit to ensure my brother could be seen. He was a vulnerable individual at risk of self-harm and required twice hourly observations but it was evident this task was not carried out for over two hours. Only one member of staff is on duty during the night within the Safer Custody Unit. This led to delays in opening the door to my brothers cell when the guard realised he was not in sight of the camera. The time waiting for assistance could be the difference between life and death. Management at HMP Parc had no process in checking the reliability of the observations carried out by staff. For example spot checks are not carried out to check the written observations against CCTV recordings. This would have left the night officer to not undertake his hourly checks correctly and log in false timings and information. If these points had been undertaken back in May 2016 it could have possibly prevented Jagjeets death”.

Selen Cavcav, senior caseworker from INQUEST said: “The jury’s conclusion in Jagjeet’s inquest, once again brings scrutiny to private companies who continue to fail to provide basic care for prisoners who are in crisis. We hope that the systemic failures which have been identified by the jury do not gather dust and that proper action is taken on the ground to prevent future deaths” INQUEST has been working with Jagjeet’s family since July 2016. The family is represented by Catherine Oborne of Garden Court Chambers and Matt Foot of Birnberg Peirce & Partners.

Latest Inquest Into Prisoner Death At HMP Winchester Finds More Failings

INQUEST: The jury at the inquest into the death of a 27-year-old man from Hayling Island in Hampshire at HMP Winchester has concluded that the prison’s failure to instigate appropriate self-harm support measures contributed to his death, citing widespread insufficient and inadequate training and a lack of accountability in the training of agency staff. The jury said that staff’s failure to open an Assessment, Care in Custody and Teamwork (ACCT) document - a procedure used across the Prison Service to assist in understanding the triggers for suicide or self-harm and help provide support - contributed to the death of Sean Plumstead.

Father of two, Sean, was found hanging in his cell by his cell mate during the evening of 15 September 2016. The cell’s emergency bell cell had been pressed at 18.39 and staff took over 10 minutes to respond; the prison admitted it was a failing that this had not been answered within the required five minutes. Sean was transferred to hospital and subsequently died on 18 September, less than a month before he was due to be released. The jury found that prison staff’s failure to attend Sean’s cell within five minutes of the bell being pressed possibly contributed to his death. They commented that the emergency cell bell system was not fit for purpose.

Sean, who was described by prison staff as a model prisoner, worked in the prison’s Clothing Exchange Store under the supervision of two staff members. Approximately, two days prior to his hanging, Sean had asked one of the staff members what the best way to commit suicide was, but the staff member failed to record or report this, passing it off as ‘banter’. He also described Sean as having been unusually distracted at work and making mistakes on 15 September which was unlike him. The inquest heard that neither of the staff members supervising Sean’s work were prison officers, they were provided by the private facilities management company, Carillon. Neither staff member had received ACCT training. One of these members of staff explained when giving evidence that, as of October 2017, he had still not attended an ACCT training course. The other staff member, who received the training just two months ago, said that he would have started ACCT procedures for Sean had he been trained, which would have triggered support being provided to Sean.

Prior to the inquest, the Senior Coroner for Central Hampshire, Grahame Short took the unusual step of issuing the prison with a Prevention of Future Deaths Report (PFD) ordering the governor to address concerns about documentation following Sean's death not being properly preserved. At the conclusion of the inquest yesterday, the coroner indicated that he would now be writing a further Prevention of Future Deaths report to both the Ministry of Justice and Carillion. Sean's death, and the issues it highlights at HMP Winchester, are not isolated. During its July 2016 inspection, the Chief Inspector of Prisons noted that HMP Winchester had failed to implement its 2014 recommendation that emergency cell bells should be answered promptly. Further, HMP Winchester had already received a series of PFD reports ordering them to address concerns about the mandatory ACCT training and the speed of its delivery to staff following the inquests of other prisoners who had died following being found hanging there. The reports were issued in May 2016, following the death of Sheldon Woodford in March 2015, in October 2016, following the death of Haydn Burton in July 2015, and in April 2017, following the death of Daryl Hargrave in July 2015. Evidence was given at the inquest by the Head of Safer Custody at HMP Winchester that as of September 2017 only 47% of all staff at HMP Winchester were ACCT trained. Since Sean's death there have been a further two self-inflicted deaths at HMP Winchester – one last month and one in May.

Solicitor Clair Hilder, a senior associate in the civil liberties team at London law firm Hodge Jones & Allen represented Mr Plumstead's family at the inquest, she said: "This is the third inquest in the last 12 months where I have represented the family of someone who has taken their own life at HMP Winchester. One wonders how many more men have to die before the proper procedures and training are put in place? This case highlights the need for a national oversight body to ensure lessons are learnt from deaths in custody and action is followed through. The prison has still not made the improvements to staff training promised by the prison governor in April 2017; she claimed to be confident of having 80% of staff trained in suicide and self-harm prevention procedures by September 2017, yet we know that less than half of the staff have been adequately trained. National policy is that such training is mandatory for those in prisoner facing roles."

Sean's mother, Lisa Dance, attended the inquest and said upon its conclusion: "Our family is devastated by the death of Sean. Firstly, I would like to thank the coroner and the jury for the time and care they have taken in reviewing what happened to my son. The inquest process has been shocking and distressing. It was particularly hard to hear the evidence from the clothing exchange where Sean had been working prior to his hanging. I find it hard to believe that those responsible for Sean in the place of work had no proper training and that even today, one of them still hasn't been trained. It was also hard to hear about the delay in the cell bell being answered, I know that I will forever wonder about what might have happened had staff got to Sean within the time they were supposed to. My hope now is that another family will not have to go through what we have, although the evidence we have heard at the inquest indicates that HMP Winchester does not learn lessons."

Deborah Coles, Director of INQUEST said: "The clear failings in Sean's care identified by the jury are reflective of a pattern of failures at HMP Winchester, highlighted through numerous recent inquests. In the last 5 years there have been nine self-inflicted deaths in HMP Winchester, two of which followed Sean's. The latest death was of a 25-year-old, and took place just last month. It is clear that learning and action after deaths is not happening. An urgent intervention at HMP Winchester, and across the crisis hit prison estate, is required if we are to stop the death rate rising higher." The inquest into the death of Sean Plumstead at Winchester Coroner's Court opened on 9 October and concluded on 18 October. Counsel was Taimour Lay of Garden Court Chambers and the family were assisted by INQUEST.

2,718 IPP Prisoners Over Tariff

Richard Burgon:To ask the Secretary of State for Justice, how many prisoners are serving sentences for imprisonment for public protection in each prison; and how many have already served their minimum tariff for the most recent period for which information is available.

Sam Gyimah : Her Majesty's Prison and Probation Service (HMPPS) is focused on giving IPP prisoners the support, opportunities and motivation they need to progress more quickly, so that once they have completed their tariff and are reviewed by the Parole Board, they have the best possible prospects for securing release. Unto that end, and as part of a joint action plan with the Parole Board, HMPPS has implemented measures such as individual psychology-led central case reviews and increased access to specific offending behaviour programmes. Additionally, and building upon the success of the Progression Regime at HMP Warren Hill, HMPPS is planning for three new Progression Regimes to be opened by the end of March 2018. These initiatives are working. During 2016/17, 46% of all IPP prisoners considered by the Parole Board were released and 24% recommended for a move to open conditions. 576 IPP prisoners were released in 2016, more than ever before. 315 IPP prisoners have already been released in the first half of 2017.

HMP Wymott – 136 IPPS 116 over tariff / HMP Whatton – 201 IPPS 179 over tariff / HMP Leyhill, 152 IPPs 149 over tariff / HMP Isle of White – 126 IPPS 86 over tariff / HMP Frankland – 74 IPPS 61 over tariff / HMP Bure – 70 IPPS 65 over tariff / HMP Swaleside – 79 IPPs 64 over tariff / HMP Hull – 58 IPPS 56 over tariff / HMP Risley – 38 IPPS 37 over tariff / HMP Northumberland – 58 IPPS 56 over tariff / HMP North Sea Camp – 99 IPPS 98 over tariff / / HMP Lowdham – 54 IPPS 42 over tariff / Berwyn - 38 IPPS 29 over tariff / HMP Buckley Hall - 29 IPPs 23 over tariff / HMP Channings Wood - 21IPPs 20 over tariff / HMP Dovegate - 62 IPPS 47 over tariff / HMP Elmley - 30 IPPS 30 over tariff / HMP Erlestoke - 47 IPPS 37 over tariff / HMP Full Sutton - 37 IPPS 29 over tariff / HMP Garth - 73 IPPS 61 over tariff / HMP Highpoint - 50 IPPS 44 over tariff

Prison Authoritie Sued for Not letting Prisoner Have a Natural Shite

A prisoner who had a massive package of drugs including heroin and stimulants surgically removed from his rectum is suing authorities for performing the medical procedure on him without his consent. Brian Jesse Willner, 31, alleges prison authorities performed an illegal search and a hospital later committed "medical battery" against him. According to his complaint, Willner was strip searched at Luzerne County Correctional facility, Pennsylvania, in October 2015 and officers saw a "large white package" protruding from him. When he refused to remove the package, he was taken to a hospital where it was removed and opened, turning up a syringe, 14 stimulant pills, 40 packets of heroin and a pack of rolling papers. But Willner's lawyer says the procedure was not authorised by a warrant and doctors did not wait to see if the package would pass naturally.

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.