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Conviction Quashed - Unedited Material Should Not Have Gone Before the Jury

1. On 5 February 2016, in the Crown Court at Bristol (before HHJ Roach and a jury) the appellant was convicted of conspiracy to import cannabis contrary to s.1 Criminal Law Act 1977. On 19 February 2016, before the same constitution, he was sentenced to a term of 9 years' imprisonment.

2. There were 3 co-accused. Malcolm John pleaded guilty to the conspiracy and was sentenced to 64 months' imprisonment. Peter Davies and Claire Jones were acquitted.

3. The appellant appeals against that conviction with the leave of the full court, which granted the necessary extension of time.

4. The case concerned an agreement to bring cannabis into the United Kingdom from South Africa. The offending came to light in early October 2013 when customs officials carried out a routine inspection of a consignment of goods that had been flown in to Heathrow Airport, and discovered 650kg of herbal cannabis made up of individual blocks. The street value of the illegal consignment was more of £1.5 million.

41. What this case shows is the care that may be needed in deciding on what basis different types of apparently similar evidence should be admitted or excluded.

42. The basis on which the application was made is less material in the present case.

43. By the time the Judge came to sum-up the case and give his written directions of law on this evidence, he did so under the heading, 'bad character', giving a conventional propensity bad character direction in relation to the packaging items found in the Swansea unit.

44. As the editors of Blackstone Criminal Practice 2018 at F13.11 note, the dividing line between cases involving bad character evidence and cases falling within s.98 is fine; and this is a reason: for the Court to have in mind the safeguards attached to the former when considering the latter, and to consider appropriate directions to the jury on the use to which it should be put and, if appropriate, the weight they should attach to that evidence.

45. This leaves open the issues in relation to the way in which the notebook evidence was dealt with. As already noted, the entirety of the notebook entries were placed before the jury, with the Judge dealing with their contents in the terms of Mr Collin's evidence about them, but without giving a direction as to how the jury should treat them beyond saying that it might be treated as evidence that the appellant was 'involved in the trafficking of cannabis' (summing-up p.24A).

46. This was unsatisfactory. There was unedited material which should not have gone before the jury, and bad character evidence on which the jury had not been properly directed in the summing-up. In our view the errors of approach in relation to the admission of the notebook evidence and in the directions, render the conviction unsafe, even if the 1995 conviction were rightly admitted in evidence.

47.On this basis, it is not strictly necessary to say anything about the admission of the 1995 conviction. It was plainly bad character evidence which had to be, and was, the subject of an application and consideration of the matters set out in s.101(1)(d) of the Criminal Justice Act 2003.

48. The starting point is the strength of the prosecution case. If the prosecution case is weak, this will affect the decision on whether to admit the bad character evidence: see Hanson (above) at [18]. Equally, this court does not lightly interfere in what may be finely balanced decisions on the admission of bad character evidence and is slow to interfere with a ruling where the judge has directed him or herself correctly, see Hanson at [15].

49. It is sufficient for present purposes to say that, quite apart from the other evidence to which we have referred, the Swansea unit evidence linked the appellant to the warehouse where cannabis had been processed and where the imported consignment could have been processed, with evidence linking the appellant to the means by which it might be processed. There was also evidence of a propensity to deal in cannabis in the form of the admissible parts of the notebook and the press. This is not a case in which it can be said that the evidence was weak or insubstantial such that the admission of the previous conviction would be outside the broad ambit of a legitimate judgment to admit the evidence.

50. However, for the reasons we have given we allow the appeal and quash the conviction.

Conviction Quashed - Magistrates are Not Professional Judges

Between AB Appellant - and – Crown Prosecution Service Respondent

1. This is an appeal by way of case stated against the decision of the justices sitting in the Birmingham Youth Court on 23 January 2017. The justices rejected a submission of no case to answer on behalf of the appellant and found the case against him proved to the criminal standard. Following his conviction, the applicant was sentenced on 10 February 2017. The details of sentence are not relevant.

Conclusion on the evidence: 39. Mr Chinweze correctly reminds us that we must not examine each strand of the circumstantial evidence minutely, but instead we must look at the combination of circumstances "in the round" and we must ask ourselves, taking the overview: is there a case on which a jury properly directed could convict? (See eg R v P [2007] EWCA Crim 3216 at [23] per Thomas LJ.) Our answer, based on these two remaining strands of circumstantial evidence is no: taking the prosecution case at its highest, the prosecution case was insufficient to permit any reasonable and properly directed jury to convict the appellant of the robbery. Specifically, there remained a realistic possibility that someone else had committed the robbery.

40. I would wish to add two further comments. The first is that when rejecting the appellant's submission of no case the justices took no account of the fact that Mr Pendleton's evidence was inconsistent with the appellant being the robber: contrary to what Mr Pendleton described, the appellant was not white, nor was he in his 20s; further, the clothing described was never found at the appellant's house. Mr Eissa argues that the identification evidence was not simply neutral; rather, it pointed away from the appellant being the robber and should have been considered as a factor in the appellant's favour. I reject that proposition. The justices were entitled to conclude that the identification evidence was so equivocal that it had no evidential weight either way.

41. The second is that, when it came to giving reasons for finding the appellant guilty of the robbery, the justices gave four reasons, two of which related to the circumstantial evidence which have been addressed already; the other two reasons related to the credibility of the prosecution witnesses (see reasons 3) and 4) at [14] above). It is difficult to understand why the justices gave these reasons. The prosecution witnesses were not challenged because they were accepted as witnesses of truth. There was only one issue in the case, which was whether the appellant – or someone else – had carried out the robbery. Resolution of that issue was not dependent in any way on the credibility of the witnesses.

Disposal: 42. In my view, the answer to the first question posed is that the justices should have acceded to the appellant's submission of no case, applying the second limb of Galbraith.

43. In light of that answer, it is not necessary to answer the second question.

44. For those reasons, I would allow this appeal and quash the appellant's conviction for robbery.

45. After circulating this judgment to the parties in draft, Mr Chinweze confirmed on instructions that the Crown would not seek a fresh trial. Accordingly, no further directions are necessary.

Lord Justice Irwin: 46. I agree that the conviction cannot stand, and I am in agreement with the reasoning of Whipple J. The possession of the proceeds of the robbery in the appellant's house seems to me strong evidence, which in other circumstances might be conclusive. However, given that there was at least one other realistic possibility, which was not discounted by the magistrates, and which could not be undermined with reference to the proceeds of crime, the matter could not be resolved in that way. Equally, although the similarities of circumstance between the two successive evenings perhaps strike me with more force than they have my Lady, there is insufficient there to reach the necessary standard.

47. Magistrates are not professional judges, and they work under very real pressure, but it is essential that in any case stated, the reasoning by which the court has reached its conclusion is clear. As Whipple J has pointed out, there are points here where that is not the case

48. A further point here is that it can be problematic to draw an adverse inference from silence in an interview where the questions put to the suspect are entirely unknown.

49. I too would allow this appeal and quash the appellant's conviction for robbery.

Suspend Police Officers Under Investigation for Deaths of Edson Da Costa & Rashan Charles

Petitioning Cressida Dick Metropolitan police commissioner: Over the summer, two young black men, both fathers of young sons, died after contact with Metropolitan Police officers.Edson da Costa was stopped in his car on 15 June 2017 in Custom House. Witnesses say he was restrained by officers using a choke hold and sprayed with CS gas. He was taken straight to hospital and died after six days in a high dependency unit. He was only 25. Rashan Charles died in Dalston, Hackney on 22 July 2017. He was the victim of excessive and unnecessary force used by a police officer. He died after being thrown to the floor, handcuffed and 'held in a choke hold' allegedly to recover something he had swallowed. Rashan said he knew Edson when he heard about his death. Only five weeks later, he was to suffer the same fate. Before Edson's family were even able to bury him, his mother Manuela collapsed and tragically died in August, no longer able to cope with the death of her so.

In September 2017, the Independent Police Complaints Commission recommended the suspension of the officer involved in Rashan's death, but the Metropolitan Police have refused to comply. In October, formal notices were served on the five officers who stopped Edson, telling them they were facing an investigation for alleged misconduct. Both families have been told it may take up to a year to complete these investigations into their loved ones' deaths.

If a teacher, social worker or doctor is under investigation for causing the death of a member of the public, they almost always face suspension until enquires have concluded. This is not an admission of guilt, but a recognition and commitment that a public body understands the seriousness of actions that could have led to the loss of a life.

We cannot understand why this never happens when police officers, who have such extensive powers to use force, are involved. Together, the Da Costa and Charles families have pleaded with London Mayor Sadiq Khan to personally intervene with the Metropolitan Police Commissioner to argue for suspending the officers under investigation for both deaths. The Mayor has not responded.That is why we now urgently need your help.

'Irrelevant' Criminal Record Checks Harm Ex-Offenders' Job Hopes

Jamie Doward, Guardian: The criminal records system is hampering the rehabilitation of ex-offenders, according to new figures. Nearly three quarters of the million or so convictions revealed to employers each year in criminal records checks are more than a decade old. Only around 5,000 – one in 197 – are considered relevant to a person's job application. The figures, released after a freedom of information request, have prompted fresh calls for overhaul of the system administered by the Disclosure and Barring Service. It has also led to claims that relying on the checks creates a culture of complacency among employers.

The Centre for Crime and Justice Studies, which unearthed the information, found that, out of a total of 4.2m requests for disclosure of criminal records in 2015, just 6% produced any criminal record information. This involved 1,020,111 recorded convictions; 742,482 dated back a decade or more. About 700 – 0.018% – related to sexual offences. Only 5,167 were deemed by the centre to be relevant to the job a person was applying for. "We were really struck that hundreds of thousands of disclosures related to historic offences," said Roger Grimshaw, research director at the centre. "A lot can change in a decade or more. It's important that mistakes of the distant past do not prejudice people's chances of employment and rehabilitation." Requests for disclosure of criminal records are commonly believed to be made for employers offering jobs involving positions of trust, such as teachers, care workers or solicitors. But checks can be requested by any firm whose employees have contact with children or vulnerable adults.

"Over four million roles every year involve an enhanced DBS check, and although these were designed for jobs that involve close contact with children and vulnerable groups, it's gone way beyond that now," said Christopher Stacey, co-director of Unlock, a charity for people with convictions. "Unlock regularly gets contacted by people who have been asked to do an enhanced check to be a delivery driver or a receptionist."

Last week The Times reported that a qualified teacher had lost two jobs after his rape acquittal in 2011 was disclosed in criminal records checks.A recent report by Labour MP David Lammy suggested that the current criminal records regime was holding back black and minority ethnic people.Earlier this year the Law Commission recognised that there was a tension between the pressure for disclosure and the need to help an offender with rehabilitation. It stated: "The law regulating the circumstances in which an individual is obliged to reveal his or her criminal record must strike a careful balance between providing that individual with an opportunity for rehabilitation (for his or her past offending to be 'forgotten') and ensuring that there is adequate protection in place to guard against the risk that the individual might reoffend and that, as a result, harm may be caused."

In 2013 the "filtering" of convictions was introduced, to ensure that old cautions and convictions that had not resulted in a custodial sentence would not be disclosed. However, all convictions still have to be disclosed if someone has more than one. "This can affect somebody who stole two chocolate bars when they were 14 and they're now in their 50s," Stacey said. "Having to relive one of the worst moments in their lives by explaining it to a stranger puts a lot of people off applying and unnecessarily anchors people to their past. The routine rejection by employers locks people out of the labour market and has a considerable financial cost to society through out-of-work benefits." Unlock has called for introduction of a criminal records tribunal, so individuals could apply not to have their criminal records disclosed in particular circumstances.

Society Did Right by James Bulger's Killers!

Deborah Orr, Guardian: They were Child A and Child B. The public weren't told the names of the boys, Robert Thompson and Jon Venables, until they had been found guilty of the murder of two-year-old James Bulger in 1993. The decision by the judge to reveal the identities of the pair was controversial, causing complications and difficulties that were outlined by Sir David Omand in his 2010 review of the probation service's handling of the case. Nevertheless, despite the logistical and moral difficulties the judge's decision unleashed, we are where we are. The bare bones of the progress the two men have made since their release seven years ago is common knowledge. Thompson is reported as living a stable life in a stable community with a partner who knows of his past. Venables has just returned to custody for a second time, for offences involving child pornography.

At the time of the trial it was Child A, Thompson, who was characterised as the moving force behind the long, slow, dawdling, merciless crime. Venables' defence lawyer described Thompson as a "pied piper". A detective on the case, Phil Roberts, forcefully informed the media that this was his impression too. Others said that Thompson showed no remorse, while Venables did. As the extreme delinquency of Venables continues into his mid-30s, it's tempting to conclude that they got it wrong. Very tempting. Except that the obvious conclusion isn't always the right one. Perhaps the situation is counterintuitive. Maybe Venables is less able to close the door on his past precisely because his guilt and shame are greater. Is it likely? Is it possible? Does it even matter? The most obvious fact of all remains. Those boys did something profoundly and outlandishly cruel and wrong. One of them still hangs around the periphery of that dark place, even though he should have the intelligence and maturity to understand the consequences, for himself and for the children in the images he seeks.

Is it even right to speculate? One difficulty is that releasing personal information in the public interest tends to feed a desire for further information. In a case as horrific as this one – the two remain the youngest convicted murderers in modern English history – a desire for more information would always have persisted. People are drawn to the bleakest corners of human capability, confronted by the choice, as framed by former prime minister John Major, as to whether the thrust of their response should be to "understand" or "condemn".

For a lot of people, the trajectory of Venables since his term in rehabilitative custody would confirm condemnation to be the correct response. But even that isn't a straightforward judgment to make. For our understanding of human malfunction has markedly increased since 1993. Neuroscience has advanced, in part due to the development of diffusion tensor MRI technology. A study conducted at King's College London in 2009 that considered nine diagnosed psychopaths found that their brain images showed significant deficit in the uncinate fasciculus. This connects the amygdala, which controls major emotional responses including fear and aggression, to the orbitofrontal cortex, which controls important decision-making. It's a physical tract, an infrastructure for the neural pathways that can be strengthened or weakened by environment. A defective tract, possibly congenital, means defective thinking, possibly congenital. Which is not to say that either Thompson or Venables themselves are psychopaths. I know no more than anyone else with access to the internet, and probably a lot less than many. But experts who have had access to the two men resist such a diagnosis. My wider point is more about the condemning and the understanding.

One of the fascinating things about this case is that, despite public revulsion at the idea the boys could be helped to live useful lives, those in favour of understanding have been vindicated, thus far, in the case of Thompson. Yet even this is a moral hall of mirrors. If

Thompson is the one more capable of control, then why didn't he exercise it? The positive aspect of this is that one possible conclusion is that therapeutic help enabled him to develop and grow more typical neurological regulation. Environmental intervention can cause people to change, especially children and young people.

But what of the people who can't change, or can't change enough? The King's College research suggests environment is not everything. Why should it be? Congenital physical abnormalities in the brain, by far our most complex organ, are surely far more likely than congenital heart defects. There are both condemners and understanders who are too keen on this logical assumption. Liberals like to believe in the perfection of the newborn human as much as Christians do. It's one of the irritations of humanism. For them, environment is all. Condemners, however, tend to be big on moral responsibility. This guy had a much worse childhood than that guy, they'll say, and he did OK. They're Old Testament. They love the idea of evil and wickedness, of full human choice and the full human choice of darkness. Even the word dyslexia, for them, is like a red rag to a bull.

The condemners have some grounds for scepticism, by their own lights anyway. In the US, brain scans are being used more often in criminal trials, largely for technical reasons, to argue that a convict's sentence should be reduced because his original defence didn't present evidence of brain abnormalities, or that his sentence should be lighter because brain deficiencies reduce culpability. Again, though, all of these people, the lawyers and those who dislike the science they are using, miss the point. Understanding is not a synonym for forgiveness. No matter how capable or incapable people are of controlling their actions, they are sometimes a danger to others. It's for those others, not just for moral satisfaction, that freedom sometimes needs to be restricted or curtailed. Jon Venables, right now, is exactly where Jon Venables needs to be.

Policing of Anti-Fracking Protests 'Violent' and 'Unpredictable'

Sarah Foss, 'The Justice Gap': The policing of anti-fracking protests was 'violent' and 'unpredictable', according to the campaign group Network for Police Monitoring (NetPol). Netpol claimed the police had deliberately targeted disabled protesters, including incidents of 'violently dragging older people across the road' along with 'shoving others into speeding traffic'. According to the new report, the police have singled out disabled activists with one man being 'repeatedly tipped' from his wheelchair. Netpol monitors the policing of protests and its work with anti-fracking campaign groups is funded by the Joseph Rowntree Reform Trust.

Anti-fracking groups have been protesting the exploration of onshore oil and gas companies across the country and the report focuses mainly on groups in Lancashire. In the foreword to the report the Keith Taylor, Green MEP for the South East, argues that support for fracking was 'at a record low – less than 20% of British people support the process'. 'Meanwhile, oil and gas firms are taking out authoritarian injunctions against protesters and the government is riding roughshod over local democracy,' Taylor continues. 'At the same time, our fundamental right to protest is being eroded by ever more oppressive policing – which I have witnessed first-hand.'

Netpol emphasised the continued efforts by police to stymie the effectiveness of demonstration. As well as adopting a 'zero tolerance' approach, no longer permitting 'slow walk' protests in front of lorries, forces also sought to 'blame outsiders' for attempting to gain access to fracking sites, despite local protest groups having called for national solidarity. Miranda Cox, one of several local councillors who claimed to have been assaulted by police officers, was

quoted in the report saying: 'I think they want an excuse to escalate policing. They are not facilitating peaceful protest.' The report also highlighted cooperation between police and shale and gas companies. Netpol raised concern at an 'extremely unusual' meeting in March between energy company Cuadrilla and the then policing minister Brandon Lewis to 'discuss the police response to fracking protests'. Forces were accused of 'ignoring violent and unlawful actions' by private security employed by Cuadrilla. The report is not the first time such allegations have been made. In July, the Guardian interviewed a demonstrator who claimed that a Cuadrilla security guard was ''holding down [a demonstrator] and then he punched [him] on the right-hand side of [his] head near [his] temple. The cops were right there and saw it.'' Netpol claimed that police actions had caused 'a long-term legacy of resentment and distrust' and called for an independent report into policing tactics to avoid a continuation of 'the denial of the basic rights of campaigners'.

Soldier Killing of Civilian at 1971 Christmas Dance Unjustified

Belfast Telegraph: A killing of a man who was shot by a soldier at a Christmas dance in Belfast in 1971 was not justified, a coroner has ruled. The soldier who fired the fatal shot had not aimed at any individuals deliberately but had acted recklessly by firing into a crowd at close range, coroner Joseph McCrisken found. Joseph Parker, 25, was fatally shot in the thighs after a patrol of soldiers entered the dance at Toby's Hall in the Ardoyne area of the city. He had an 18-month-old daughter and his wife was heavily pregnant with their second child at the time of his death. A coroner's court in Belfast was told that on the evening of Mr Parker's death, around 100 people were at the dance when soldiers entered in search of an individual who they wished to speak to. Witnesses told the court that the atmosphere became hostile as some members of the crowd shouted at the soldiers to get out. Some chairs were knocked over and bottles broken, the court heard.

As tensions escalated, a soldier fired shots at the ceiling, prompting those present in the hall to duck to the ground. Another soldier then shot into the crowd while he was in a crouching positing, hitting Mr Parker in his thighs. Coroner McCrisken told the court: "I am satisifed that this shot was fired deliberately but that Mr Parker was not deliberately targeted, in other words, this soldier was acting recklessly when he fired shots at such a low level in a hall full of civilians. "I have not been presented with any evidence which suggests that Mr Parker posed any threat, either direct or indirect, to the military patrol." He concluded: "I am satisfied, therefore, that the force used against Joseph Parker was not justified since he posed no threat to members of the patrol." In his findings, Mr McCrisken said that the atmosphere in Northern Ireland was extremely tense at that time, with a considerable number of people feeling hostile towards the Army amid backlash to UK Government policies such as internment. He said: "I am entirely satisfied that the atmosphere was tense and extremely hostile toward the soldiers." Mr McCrisken said the patrol had not realised how many people would be in the hall due to poor planning. "This lack of planning not only risked the lives of those members of the patrol who went inside but also civilians who were already inside," he said.

He said the patrol captain should have realised this risk after the troops entered the hall and were met with a large number of people and a hostile response. "[He] probably should have reassessed the situation and the risk posed to his patrol and those civilians present. The situation in the hall can best be described as a powder keg. The military presence ignited the

fuse with tragic consequences." An inquest was held into Mr Parker's death in 1972 which recorded an open verdict. After an investigation by the Historical Enquiries Team in 2009, a fresh inquest was ordered into the killing. Mr Parker's wife, Dorothy, has since died. Their two daughters Joanne and Charlene were present in court throughout the inquest, which took place over a period of two weeks in November. Following the findings, the family's lawyer Padraig O Muirigh read a statement outside court on behalf of the family. It said: "Today we are elated that our father's name has been cleared and our only regret is that our mum is not here to witness it." Mr O Muirigh added that the family are now considering whether to bring a civil case against the Ministry of Defence in light of the inquest findings.

Michael Stone - New Evidence Casts Doubt on His Conviction

BBC News: New evidence is expected to emerge casting doubt on Michael Stone's conviction for the Russell murders and implicating serial killer Levi Bellfield, BBC Wales understands. Lin Russell, 45, and Megan, six, were killed in 1996 within months of moving to Kent from north Wales. Josie, nine, survived despite dreadful injuries. Michael Stone was found guilty in 2001. His legal team is to release evidence, seen by BBC Wales Investigates, which they say links Bellfield to the crime.

Known as the bus stop killer, Bellfield, 49, is currently serving two whole life terms. He would launch so-called blitz attacks on women as they made their way home, bludgeoning them with a hammer from behind. In 2011 the nightclub bouncer and wheel-clamping contractor was convicted of abducting and murdering 13-year-old Milly Dowler as she walked home from school in Surrey in 2002. By then he had already been convicted of three other attacks in south-west London - murdering 19-year-old Marsha McDonnell in 2003, Amelie Delagrange, 22, in 2004 and in the same year attempting to kill 18-year-old Kate Sheedy, by running her over. She survived her injuries. It is widely believed by detectives that Bellfield is responsible for numerous other crimes dating back to the 1980s. While Bellfield denies any involvement, this is not the first time his name has been linked with the Russell murders.

The mother and two daughters were attacked just before 16:30 BST on 9 July 1996, as they walked with the family dog the two-or-so miles home from school in Chillenden, near Dover. Half way along a country lane, they were accosted by a man, tied up, made to sit in a copse, blindfolded and bludgeoned with a claw hammer, one by one. When they were found eight hours later, it was thought all were dead. Josie was found to have a faint pulse. Remarkably, she survived. She lives and works as an artist in north Wales, having returned to Gwynedd with her father soon after the attack.

A year after the murders a tip off to Crimewatch from a psychologist who worked at a local psychiatric assessment centre, led to the arrest of 36-year-old Michael Stone from Gillingham. In October 1998, Stone, a heroin addict with a criminal history, was convicted. In the absence of any forensic evidence, the jury believed the main thrust of the prosecution's case - three prison inmates who claimed Stone had confessed. One of the inmates admitted soon after the trial ended that they had lied and another was discredited.

Stone's legal team challenged his conviction. A retrial was ordered. But one of the inmates, Damien Daley, then aged 26, held firm to his claim that Stone had confessed to him in grisly detail. The judge's summing up to the jury was unequivocal: "The case stands or falls on the alleged confession of Damian Daley." In late 2001, Stone was once again found guilty and given three life sentences. As the judge addressed him, Stone cried out: "It wasn't me your Honour, I didn't do it!" Since then Stone has failed in two appeal bids. When asked to respond to the possibility of new allegations in this case, Kent Police said that Stone's protests of

innocence had been thoroughly tested by the judicial system.

Ever since Bellfield's conviction for the murder of Milly Dowler, Stone's legal team have claimed Bellfield may have been responsible for the Russell murders. And more recently there has been a war of words between the two convicted killers from behind bars at Durham's Frankland prison where they are both being held, which has been reported in newspapers. A BBC Two investigation of the Russell murders entitled The Chillenden Murders was broadcast in June this year. A panel of experts was given access to all case files to re-examine the evidence. They concluded that despite advancements in DNA there was still no forensic link to Stone and it was likely another man was at the scene.

CCRC Statement on the 2017 Application of Michael Stone

The case of Michael Stone is currently under active investigation at the Criminal Cases Review Commission and we are looking into a number of issues. We received the application from Mr Stone's legal representatives on 23 August 2017. Since then we have taken steps to secure information and materials relating to the investigation and prosecution of the case. It is not appropriate for us to comment in more detail at this stage. As is already widely known, the Commission conducted an earlier investigation into Michael Stone's murder conviction. During that review, which concluded in 2010, we did not identify any basis upon which we could refer the case for appeal. In any case where there has been an earlier application to us, we remain ready to give impartial consideration to any fresh application which is based on the possible existence of new evidence or argument in the case.

CCRC Much Heralded Historical Referral Rate of 3.3% Disguises a Miniscule 0.77% Last Year

'The Justice Gap':Those lucky few who make it past this considerable hurdle find themselves before an increasingly reactionary Court of Appeal Criminal Division. Professor Julie Price from the Cardiff Law School Innocence Project sums up these concerns and frustrations: 'Obviously, we can never know for certain whether someone is actually innocent. But in 12 years, our project has presented to the CCRC serious evidential flaws relating to 17 people maintaining innocence, with success in only one. This cannot be right: statistically, morally, or in terms of simple fairness. There is something fundamentally wrong – arguably the statutory relationship between the CCRC and the Court of Appeal. Is the CCRC, as the public guardian of miscarriages of justice, prepared to support the recommendations of the Justice Select Committee and press the government to properly review the relationship between the CCRC and the Court of Appeal and the approach of the latter? If not, why not?'

Her colleague Dr Dennis Eady recently told the audience at the CCRC's 20th anniversary conference that he considers the situation to be worse than either in 1991 when the Royal Commission on Criminal Justice was ordered, and 1997 when the CCRC began its work. When I later asked Dr Eady to expand upon this view he told me that he stood by the comment: 'Due process safeguards have been drastically eroded and the CPS seems intent on achieving prosecutions at all costs and opposing every appeal regardless of its merits. The always low, referral rate of the CCRC is the lowest it's ever been and the Court of Appeal seems to be becoming more and more intransigent and restrictive. It has become far too easy to wrongly convict and close to impossible to overturn genuine miscarriages of justice. Justice is in crisis and all responsible attempts to address the problem will end in disillusionment unless the government addresses the issues.'

G4S Youth Jail Beset by Violence, Vandalism and Weapons

Alan Travis, Guardian: Surging levels of violence at an "unsafe" G4S-run youth jail have put staff in hospital and caused inmates to carry improvised weapons for their safety, inspectors have revealed. The damning inspection report into Oakhill secure training centre, near Milton Keynes, was published on Tuesday as MPs heard that ministers had ordered G4S to set up an external inquiry into abuse allegations at Brook House, the immigration removal centre at Gatwick, which is also run by the private security firm. The joint report by the prison inspectors, with Ofsted and the Care Quality Commission, into Oakhill in September and October – when the centre was near capacity, with 75 boys aged 14 to 17 – finds "no evidence that staff can adequately care and control this volume of young people". The report rates the youth prison as "inadequate" and says there has been an increase in fights and assaults since the last inspection in January; it records 330 assaults between March and August this year alone, with assaults against staff increasing, including against newly recruited staff, and some so serious they have led to people being taken to hospital. "One manager said that young people are carrying improvised weapons because they do not feel safe. This inhibits some staff from intervening because of the fear of a weapon, and this in turn reinforces the view of young people that staff cannot protect them, thereby continuing the cycle," the report says. The inspectors say that many of the recommendations from their January inspection have not been met and the centre has deteriorated in most respects, including to do with safety, care, education, resettlement and the "effectiveness of leaders and managers". They say that unacceptable behaviour, including swearing, intimidation and vandalism, is not being challenged by staff.

Oakhill's newly appointed interim director, Lisette Saunders, said: "We take these findings very seriously. In the report Ofsted recognised that senior managers at Oakhill know what is required to bring the centre up to acceptable standards. "This year the team at Oakhill has made a number of changes, restructuring the workforce to provide better support for young people and frontline staff, and greater management oversight and accountability. I look forward to building on this progress as the benefits take effect." The inspection report was published as the Commons home affairs select committee questioned the immigration minister, Brandon Lewis, about Home Office oversight of the G4S-run Brook House immigration removal centre. BBC Panorama undercover filming disclosed staff "mocking, abusing and assaulting" detainees. The minister told MPs that the private security company had commissioned a review by the independent consultants Verita, after he met the company last week. The review will try to understand the "extent and root causes of the treatment of detainees" and examine the failure of whistleblowing procedures at the centre. The Home Office is considering whether or not to review the G4S contract at Brook House.

Confiscattion of Your Penis Pump Lawful / Confiscation of Your Xbox Unlawful

Scotish Legal News: A murderer's attempt to compel prison authorities to return his penis pump and games console has been rejected by a sheriff, The Press and Journal reports. Imran Shahid, 39, led a gang that killed teenager Kriss Donald by stabbing him 13 times before setting him on fire in 2004. Mr Shahid appeared at Peterhead Sheriff Court this week in a bid to win back his sex aid which he claimed he needed to treat his erectile dysfunction. However a doctor submitted in a report to the court that he was unable to prove Mr Shahid had erectile dysfunction. The prisoner also failed to get his Xbox 360 back after arguing the jail's governor, Allister Purdie, was in breach of contract because he agreed

Mr Shahid could use the machine so long as it was not connected to the internet. But it was removed after concerns were raised that the machine could indeed connect online. Sheriff Kevin Drummond rejected Mr Shahid's arguments but nevertheless said he was entitled to "reasonable compensation" since he had purchased the console. He said: "Mr Shahid lawfully purchased and possessed a device which the SPS later confiscated as a communications device. I am going to pause the case to enable you to provide to the governor evidence of your costs. "I think that you are entitled to compensation under these circumstances." Mr Shahid claimed he bought the console and games for £1,600 and originally sought £3,000 in damages. He also said his health and life were "at risk" without the penis pump.

Ross Fairweather, solicitor for the Scottish Prison Service, said: "We're not talking about depriving someone of food. There are plenty of games consoles Mr Shahid can use, the prison is just saying not this one – the risks are far too grave." A further hearing will take place next year to determine the compensation due to Mr Shahid. Liam Kerr, Scottish Conservative justice spokesman, commented: "The public will be outraged and disappointed that a convicted killer was able to pursue the prison service for doing its job. "These items should be left in a box, until such a time as he has served out his sentence. Prisoners are not meant to live in luxury. "Asking for compensation is nothing short of taking the justice system, and the public purse, for a ride."

Scientific Evidence Primers Launched in Courts Around UK

Scottish Legal News: Primers on scientific evidence are being introduced in UK courts as a working tool for judges. The first two editions in the series, which cover DNA fingerprinting and techniques identifying people from the way they walk from CCTV, launch today. The primers – *Forensic DNA Analysis* and *Forensic Gait Analysis* – are designed to assist the judiciary when handling forensic scientific evidence in the courtroom. The project is a collaboration between the judiciary, the Royal Society and the Royal Society of Edinburgh. Each primer is a concise document presenting a plain English, authoritative account of the technique in question, as well as considering its limitations and the challenges associated with its application. They have been written by scientists and working judges and peer reviewed by legal practitioners, all of whom have volunteered their time to the project.

Justice of the Supreme Court, Lord Hughes, chair of the Primers Steering Group, said: "These are the first in a series of primers designed to be working tools for judges. They aim to tackle the agreed and uncontroversial basis underlying scientific topics, which crop up from time to time in courts. The objective is to provide a judge with the scientific baseline from which any expert dispute in a particular case can begin. We have been very privileged to have the co-operation in preparing them of the two Royal Societies of London and Edinburgh. We are very grateful to their eminent scientists for taking the time to put complex science into a form which addresses practical trial-related questions from judges."

Dr Julie Maxton, executive director of the Royal Society, added: "We are very pleased to be playing a leading role in bringing together scientists and the judiciary to ensure that we get the best possible scientific guidance into the courts – rigorous, accessible science matters to the justice system and society." Professor Dame Jocelyn Bell Burnell, president of the Royal Society of Edinburgh commented: "We owe a lot to Professors Sue Black and Niamh Nic Daéid, from the University of Dundee for this initiative. The Royal Society of Edinburgh is delighted to support two of its Fellows in this project." Professor Dame Sue Black, one of the world's foremost experts in forensic anthropology, and Crown court judge, Judge Mark Wall QC, led the primer on gait analysis.

The primer on DNA analysis was led by Professor Niamh Nic Daéid, a professor of forensic science at the University of Dundee, and Lady Justice Anne Rafferty of the Court of Appeal. The development of the DNA primer also drew on the expertise of Sir Alec Jeffreys, the inventor of genetic fingerprinting who in 1984 discovered a method of showing the variation in the DNA of individuals, and Nobel Prize-winning scientist Sir Paul Nurse. While the Forensic DNA analysis primer covers an established scientific technique used widely as evidence in UK courts and many courts around the world, the Forensic gait analysis primer considers a young, relatively new form of evidence in the UK criminal courts and advises that the scientific evidence supporting gait analysis is "extremely limited".

Withholding of Copies of 'Inside Out'

5 prisons have started withholding copies of 'Inside Out'. Many of the prisoners have been receiving copies for donkey's years. MOJUK needs a favour from Y'all, fully intend to pursue this matter through legal avenues. If you have been receiving copies for any length of time without hindrance, can you send MOJUK an affidavit. Information should be your full name Noms number, location and a short paragraph on how long you have been receiving 'Inside Out', plus any comments on contents of 'Inside Out'. In Solidarity, John O for MOJUK.

CCRC Refers the IPP Sentence of Aiden Maund to Court of Appeal

CCRC has referred the sentence of Aiden Maund to the Court of Appeal. Mr Maund, along with five co-defendants, was charged with conspiracy to rob in relation to three robberies which took place between the end of April and the middle of May 2010. He pleaded guilty at Worcester Crown Court on 4th August 2011. The guilty plea was entered after the trial had begun. Mr Maund was sentenced in December 2011 to imprisonment for public protection (IPP) with a minimum term of eight years' imprisonment, less 515 days on remand. On the same day four of his co-defendants were also given IPP sentences. A sixth man received an IPP sentence on December 20th. Mr Maund sought leave to appeal against his sentence but was refused in May 2012. He applied to the CCRC in March 2017. Since Mr Maund's attempt to appeal, two of his co-defendants have successfully appealed against their IPP sentences and seen them replaced with determinate sentences. In doing so the Court said: "We are concerned that, when sentencing the applicant, the Judge may well have considered the defendants as a group, assessing their dangerousness by reference to the nature of the robberies rather than considering them individually in the light of their different roles".

Having considered the case in detail, the CCRC has decided to refer Mr Maund's sentence for appeal. The referral is made on the basis that the factors that caused the Court of Appeal to replace IPPs with determinate sentences in the appeals of his co-defendants could arguably also apply in Mr Maund's case and that there is therefore a real possibility that the Court would similarly amend his sentence. Mr Maund has been represented in his application to the Commission by Purcell Parker Solicitors, 204-206 Corporation Street, Birmingham, B4 6QB.

Number of over Tariff Lengths Spent in Prison

The number of prisoners serving IPP sentences as at 30 September 2017 who have served (a) twice, (b) thrice, (c) four times, (d) five times and (e) six times longer or more than their original minimum sentences can be viewed in the table below. We are determined to address the challenge of making sure all IPP prisoners have the support they need to show they

are no longer a threat to public safety. We have been working closely with the Parole Board to process these cases as quickly as possible and, earlier this year, we set up a new unit focused on this and improving the efficiency of the parole process. This work is continuing to achieve results, with 576 IPP releases in 2016. Number of over Tariff Lengths Spent in Prison. From 2 to less than 3 years 657. From 3 to less than 4 years 469. From 4 to less than 5 years 257. From 5 to less than 6 years 157. 6 or more years 275.

POs Lack Training to Assess Risk to Children From Offenders/Ors Addicted to Spice

Better Training and Information Sharing Between Agencies Needed to Support Offenders Addicted to Synthetic Drugs - HM Chief Inspector Of Probation. Lack of training and knowledge means probation officers are not adequately assessing risks to children and others from offenders addicted to synthetic drugs such as Spice, according to a report from HM Inspectorate of Probation. Launching the report, Dame Glenys Stacey, HM Chief Inspector of Probation, said work to tackle the prevalence, impact and treatment of 'New Psychoactive Substances', particularly synthetic cannabis, was lagging behind their use by offenders in the community. The report follows an inspection by HMI Probation (HMI Probation) and the Care Quality Commission (CQC) in five major cities. Inspectors were particularly concerned that risks to children were not fully assessed.

The report noted: "We saw case records where responsible officers (front-line probation officers) were aware that service users (offenders) who reported using NPS daily were on their way to see their children. Such safeguarding concerns had not been sufficiently analysed. Worryingly, probation providers did not routinely consider the risks associated with NPS use to groups such as children, staff, prisoners or the wider community, despite there being enough known about the unpredictable behaviour that could be displayed by those using the drugs." The report makes clear that NPS use is still relatively limited compared to abuse of alcohol and drugs such as cocaine and heroin. However, it notes that offenders under probation obtain Spice and other NPS because they are cheap and difficult to detect in tests.

The unpredictable behaviour of those on NPS is captured in stark detail in the report. One offender told inspectors: "It's rife and easy to get, I used it 'coz cannabis can be detected but Spice can't be tested for. It's the pound shop brown. I am seeing a lot of it, especially with the homeless. When they have been using alcohol as well you can see that they are drunk with slurred speech but when they use Spice it takes over them. Spice is going to destroy this world". One probation officer said: "People are crazy when they are under the influence, one confused me for a fire hose when he was under the influence". Dame Glenys said records on NPS were poor but "such records that are kept show that NPS are used largely by the homeless community and by other vulnerable people, including those who offend. Many offenders first experience NPS in prison and are then released with a dependency."

Inspectors found that services tended to deal with the emergencies created by NPS use rather than addressing the long-term causes. An exception was found in Newcastle, where Northumbria Police took a lead role with other agencies to tackle the supply of NPS and understand and respond to local concerns. However, many NPS users were not accessing available services. All the individuals whose cases were inspected were known either to have used or be currently using NPS, yet probation assessments lacked sufficient information to explore the pattern, level and funding of NPS use. Many users experienced problems with housing, mental health and relationships and finances but responsible officers rarely identified this. These people ended up sleeping rough in an environment where NPS were easy to obtain and frequently used. Overall, Dame Glenys said: "We found that probation staff and even some substance

misuse service staff had a low level of awareness of NPS. Screening tools for identifying drug use were not geared to NPS. Probation staff did not have structured, in-depth training about NPS and how to deal with dependency, and lacked the confidence and knowledge to quantify the problem and to address it."

Inadequate Police Contact Before Birmingham Murders

Improvements to West Midlands Police offender management have incorporated recommendations from an IPCC investigation into police contact with Wesley Williams before he murdered Yvonne Walsh and her young son in Birmingham. Wesley Williams was jailed for life in December 2013 after he admitted murdering Yvonne Walsh and her seven-month-old son Harry, who were found dead at their home in Chells Grove earlier that year on June 2. Mr Williams had only recently been released from prison after serving a five-year sentence for wounding and was being managed under Multi-Agency Public Protection Arrangements (MAPPA), a mechanism designed to protect the public from sexual or violent offenders. As part of those arrangements actions were produced for West Midlands Police which included establishing Mr Williams' whereabouts, who he was in a relationship with, and any associated safeguarding issues.

The IPCC's independent investigation, which concluded in 2015, looked at how police officers in the offender management unit discharged their responsibilities under MAPPA, in particular after learning that Mr Williams was in a new relationship. The force agreed that two officers who had responsibility for managing Mr Williams after his release from prison for a previous offence had a case to answer for gross misconduct over how they handled information about his relationship with Ms Walsh. At a hearing held by West Midlands Police which concluded on Friday (November 24) the panel found that the facts proven against a police constable and a sergeant amounted to misconduct and not gross misconduct, in respect of their failure to contact or visit Ms Walsh and evaluate the risk to her and her children; and also for not informing social services about the relationship.

In addition, there was a misconduct finding against the Pc for not making adequate and/or prompt enquiries to establish Mr Williams' whereabouts or establishing promptly the identity of his new partner; and failing to ensure the safeguarding of two ex-partners. The panel decided that the officers should face no further action. In response to recommendations from the IPCC's investigation report West Midlands Police agreed to look at training requirements for all staff as part of a restructure of its offender management, including training in risk assessment and risk analysis. Other recommendations concerning the consistency of working practices and recording of information for violent offender management were accepted, although the force said learning had already been embedded within its Public Protection department since the murders. IPCC Commissioner for the West Midlands, Derrick Campbell, said: "This was an extremely harrowing case involving the awful deaths of a mother and her young child. I would like to again express my sympathy to the family of Yvonne Walsh and hope the completion of our investigation answered some of their questions and brought some further measure of closure. "How police handle violent offenders like Wesley Williams and vulnerable people is of the utmost importance. West Midlands Police recognised that the issues raised warranted an independent investigation to ensure public confidence, and fully co-operated with our enquiries. "We are satisfied that our recommendations for organisational improvement either have been or are being addressed." While the IPCC's investigation concluded in November 2015, publication of an investigation summary today has awaited conclusion of misconduct proceedings run by the force. The deaths of Yvonne and Harry Walsh have also been the subject of a joint Domestic Homicide/Serious Case Review and MAPPA Serious Case Review, which has also been completed and is currently awaiting publication.

Aleksandr Konovalov v. Russia - Violations of Article 6 Article 3 Article 5

The applicant, Aleksandr Viktorovich Konovalov, is a Russian national who was born in 1971 and is serving a 12-year prison sentence for aggravated murder in Valuyki, the Belgorod region (Russia). The case concerned his allegation of ill-treatment in police custody in order to make him confess to the murder. Mr Konovalov was taken for police questioning about the disappearance of a university student on the morning of 17 June 2006. He was released, but taken back into custody the same evening for swearing at passers-by near the police station. According to the police record, Mr Konovalov had no injuries at this point in his detention. He was found guilty of petty hooliganism and placed in administrative detention until the morning of 19 June. He was then taken to another police station where he was questioned for the next 14 hours. During this questioning he confessed to strangling the student and disclosed the location of her body. He then reiterated his confession statements twice over the following days. He was formally arrested as a suspect on 20 June just after midnight and a medical examination of him was ordered. The ensuing report recorded multiple bruises and abrasions all over his body. Mr Konovalov alleged that he had sustained the injuries following ill-treatment by the police, including being punched, beaten with a rubber baton and given electric shocks.

Mr Konovalov's allegations of ill-treatment were dismissed by the domestic investigating authorities in decisions of 21 and 29 September for lack of evidence. In the first decision the investigator notably considered that Mr Konovalov could have been injured by a third party outside the police department. In October 2006 the domestic courts, relying on Mr Konovalov's confession during the preliminary investigation, convicted him of aggravated murder. During his trial Mr Konovalov had pleaded innocent, submitting that he had made self-incriminating statements under duress which should be declared inadmissible. However, the courts dismissed these arguments, noting that the allegations of ill-treatment had already been examined and dismissed during the preliminary investigation.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Konovalov complained that he had been subjected to ill-treatment in police custody and that the ensuing investigation had been ineffective. Also relying on Article 5 (right to liberty and security), he alleged that his detention from the time of his actual arrest – on the morning of 17 June – and until his formal arrest as a suspect – in the early hours of 20 June – had been unlawful. Lastly, he complained under in particular Article 6 § 1 (right to a fair trial) that his conviction had been based on a confession he had made after having been ill-treated. Violation of Article 3 (inhuman and degrading treatment) / Violation of Article 3 (investigation) / Violation of Article 5 / Violation of Article 6 § 1 – on account of the use in evidence of confession statements obtained as a result of inhuman and degrading treatment / Just satisfaction: 20,000 euros (EUR) (non-pecuniary damage) and EUR 3,250 (costs and expenses)

Early Day Motion 601: HMP Northumberland

That this House is concerned by the recently published HM Inspectorate of Prisons report regarding HM Prison (HMP) Northumberland; notes that HMP Northumberland currently houses over 1,300 male inmates and is run by the private firm Sodexo; is deeply concerned by the report's findings regarding violence and drug use which detail a staggering increase in both since the last unannounced inspection in 2014; further notes that since the last inspection violence has more than doubled with 58 per cent of prisoners feeling unsafe since arriving at HMP Northumberland and 8 per cent of prisoners feeling unsafe at the time of the inspection; notes that since the last inspection there have been six self-inflicted deaths at the prison, yet few of the issues previously identified by the Prisons and Probation Ombudsman have been addressed; is also concerned by the findings of the survey regarding drug use and availability of drugs within the prison with 6 per cent of men saying it was easy or very easy to obtain illicit drugs, and 21 per cent saying they had acquired a drug habit since entering the prison; is aware that the report found that prisoners' time out of cell is not good enough for a prison of this category and that attendance at educational and training classes have declined since the last report; and calls on the Government to urgently address the worsening situation across the prison estate and ensure inmates are housed safely in prisons which have sufficient staff numbers and proper access to education and drug treatment programmes.

Misleading Evidence: More widespread than you think. A study (entitled "A systematic analysis of misleading evidence in unsafe rulings in England and Wales") by University College London scientists Nadine Smit, Ruth Morgan and David Lagnado has shown that a shocking 22% of decisions made in the Magistrates and Crown Courts were unsafe because of 'misleading evidence'. The study looked at transcripts of almost a thousand cases and discovered that 76% of successful appeals were as a result of different interpretations of evidence at the original trial. In 235 cases studied there were examples of misleading evidence; over one third involved problems with how evidence was presented at trial, and judges and juries were misled when its validity, its value as proof, or its relevance were wrongly interpreted. In 26% of those cases, juries had been misdirected by judges on these issues. Their paper asks lawyers and expert witnesses to make the relationship between evidence and hypothesis more clear to avoid errors in understanding. Even expert witnesses' belief in their own theory is sometimes insufficiently supported by the actual evidence itself. Even DNA evidence is not infallible. The scientists concluded that "the identified cases are only the tip of the iceberg and can no longer be attributed to simple individual 'bad apples' in the system." The study calls for more and better examination of the transcripts of cases, with improvements to access to these to avoid mistakes being repeated. The scientists state: "The consequences of these are severe, and have caused many defendants to be wrongfully incarcerated."

Rebecca Palmer (26) Has Been Jailed for five years after falsely claiming she was raped. The CPS said Palmer had "indulged in consensual sexual activity" with her victim, and launched a "malicious campaign" after he rejected her. She was found guilty of four offences of perverting the course of justice. She also pleaded guilty to five offences of malicious communications and three of perverting the course of public justice. Joanne Jakymec, chief crown prosecutor, said Palmer had sent "malicious communications" to both the victim and his family and repeatedly made false allegations including one of rape. Ms Palmer even invented fake friend profiles and fabricated correspondence, hoping that these would be accepted as evidence supporting her false claims.

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.