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

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John Crilly: First Successful Joint Enterprise Appeal Post-Jogee

Charlotte Hughes, 'The Justice Gap': John Crilly, understood to be the first successful appeal since the change in Joint Enterprise law in 2016, has had his murder conviction overturned. Crilly called the law in relation to joint enterprise at the time of his conviction 'hocus pocus nonsense', in an interview with the BBC.

Crilly and his co-defendant (David Flynn) broke into the home of 71-year old Augustine Maduemezia in order to commit burglary. Crilly rang the doorbell to see if anyone was in. Maduemezia was hard of hearing and did not answer the door. After the door was broken down, Flynn demanded money and punched Maduemezia once, before the house was ransacked. Mr Maduemezia was killed by the punch after falling to the floor. The pair left with only a mobile phone and blender. They were both convicted in 2005 of murder and robbery.

The appeal succeeded on the basis that, since the new regime established in the Jogee case, intent for murder could not be established as the attack was spontaneous and without a weapon. Crilly was believed in his account, which he has maintained consistently, that he had not known Maduemezia would be in the house. Since the Jogee case, it is believed Crilly is the first to have been release from prison as a result of the change in the law. Crilly instead plead guilty to manslaughter and was sentenced to 18 years, with eight years served consecutively for the robbery. He has already served 13 years and so was released from prison.

Addressing him, Mr Justice William Davis said: 'What you did was very serious. You went into the home of what turned out to be a 71-year-old man. Having got in there and discovered he was there, you didn't retreat. You and your fellow offender set about ransacking the house and when he was the subject of violence by Flynn, you nonetheless continued with your enterprise.'

But the judge said Crilly has made 'huge progress' since 2005. The court heard that he is about to complete an Open University degree he has studied for while in prison, and has undergone treatment for his drug problem. At his trial Crilly, then 34, told the jury that he had been a heroin addict since 1991 and financed his addiction by stealing.

Six months after the Supreme Court's ruling in Jogee that seemingly reformed the doctrine of joint enterprise, the Court of Appeal denied leave to appeal to 13 defendants in six separate cases. Where an appeal is brought outside of the 28-day limit, the appellant must seek exceptional leave to appeal to the Court of Appeal. The cases failed because the case failed, according to the Court of Appeal, to demonstrate 'substantial injustice' had been caused. In an interview with BBC Radio Five Live, when asked how his lawyers were able to prove 'substantial injustice', Crilly stated: 'Basically it was spontaneous, there was no weapon there. It was hard to prove intent. Take the foresight criteria or burden of proof away and go on intent, which you're supposed to do, it's impossible to convict me of murder.'

It was put to him by the interviewer that a man was killed and he was there, so he deserved the outcome. He said that he 'totally got that' but said he 'should be doing time for what I've done, what I'm guilty of.' He stated 'Everyone has been in situations where they wish they weren't there ' and urged people to have a 'bit of empathy. Even for underclasses like I was.'

Crilly has also written a blog for the campaign group JENGbA where he talks about how he perceives the requirements of substantial injustice, foresight and intent. He explained: 'I have associated with literally hundreds of different addicts from hundreds of different areas up and down the country. How am I, seriously expected to know what they are capable of. I mean what they're really capable of?' The BBC contacted the family of Maduemezia who said they were 'disappointed' in the outcome of the case and 'sickened' that he would not be serving the rest of the sentence but wanted to move on.

M. Goodman, Jury Directed to Return Not Guilty Verdicts, Improper use of Hearsay Evidence

For the first time it can be reported that Malachy Goodman, 61, had been due to stand trial for the murder of Edward Gibson, but was acquitted last May after a jury was directed to return not guilty verdicts due to identification issues.His partner 59-year-old Margaret Goodman has been cleared of firearms offences linked to the 2014 murder of the same person. Mrs Goodman walked free on Tuesday 24th April 2018, from Belfast Crown Court after a prosecuting barrister offered no evidence. Mr Gibson was shot in the thigh and stomach in an alley in the Divis area of west Belfast on 24 October, 2014. The 28-year old was taken to hospital but died from his injuries the following day.

Ruling on Application by PPS to Adduce Hearsay Evidence - Regina v Malachy Goodman

[1] The defendant (Malachy Goodman) faced a charge of murder and the possession of a firearm with intent relating to the killing of Edward Gibson on 24 October 2014.

[2] At the time of the killing, the deceased had been in the company of Kieran McAuley. Mr McAuley provided statements to police which form part of the depositions. On 28 October 2014 this witness took part in a VIPER identification procedure and failed to identify anyone in the procedure including the defendant Goodman. Notwithstanding this, the prosecution make the highly unusual if not unique application described in the next paragraph.

[3] The prosecution wish to adduce McAuley's identification of the defendant by his name and thereby to establish proof of the identity of the defendant as the man who shot the deceased. The prosecution brings this application to adduce hearsay evidence submitting that his evidence identifying the defendant by name is admissible under the provisions of the Criminal Justice (NI) Order 2004 namely, Article 22(1) Rule 3(c) or, failing that, Article 18(1)(d) in the interests of justice. Further, the prosecution submits it may also be admissible under Article 20(2)(a) given that two sources of the information are dead.

[4] The defence objects to the giving of this evidence on a number of grounds. The main one use of Hearsay Evidence

Legislative Framework: [16] The relevant Articles of The Criminal Justice (Evidence) (NI) Order 2004 provide as follows in relation to Hearsay:

Admissibility of Hearsay Evidence: 18.-(1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if, but only if – (a) any provision of this Part or any other statutory provision makes it admissible, (b) any rule of law preserved by Article 22 makes it admissible, (c) all parties to the proceedings agree to it being admissible, or (d) the court is satisfied that it is in the interests of justice for it to be admissible.

(2) In deciding whether a statement not made in oral evidence should be admitted under paragraph (1)(d), the court must have regard to the following factors (and to any others it considers relevant) – (a) how much probative value the statement has (assuming it to be true) in relation to a matter in issue in the proceedings, or how valuable it is for the understanding of other evidence in the case; (b) what other evidence has been, or can be, given on the matter or evidence mentioned in

sub paragraph (a); (c) how important the matter or evidence mentioned in sub-paragraph (a) is in the context of the case as a whole; (d) the circumstances in which the statement was made; (e) how reliable the maker of the statement appears to be; (f) how reliable the evidence of the making of the statement appears to be; (g) whether oral evidence of the matter stated can be given and, if not, why it cannot; (h) the amount of difficulty involved in challenging the statement; (i) the extent to which that difficulty would be likely to prejudice the party facing it.

Statements and Matters Stated: 19.—(1) In this Part references to a statement or to a matter stated are to be read as follows. (2) A statement is any representation of fact or opinion made by a person by whatever means; and it includes a representation made in a sketch, photofit or other pictorial form. (3) A matter stated is one to which this Part applies if (and only if) the purpose, or one of the purposes, of the person making the statement appears to the court to have been— (a) to cause another person to believe the matter, or (b) to cause another person to act or a machine to operate on the basis that the matter is as stated.

Cases Where A Witness Is Unavailable: 20.—(1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if— (c) any of the five conditions mentioned in paragraph (2) is satisfied. (2) The conditions are— (a) that the relevant person is dead;

Preservation Of Certain Common Law Rules In Relation To Hearsay: 22.—(1) The following rules of law are preserved. Reputation Or Family Tradition

(3) Any rule of law under which in criminal proceedings evidence of reputation or family tradition is admissible for the purpose of proving or disproving— (c) the identity of any person or thing. Note: The rule is preserved only so far as it allows the court to treat such evidence as proving or disproving the matter concerned.

Discussion: [17] In support of their application to adduce McAuley's identification of the defendant by his name the court was referred to a number of English Court of Appeal decisions – R v Clarke & Baker [2003] EWCA Crim 718; R v Williams [2004] EWCA Crim 2570 and R v Phillips [2010] EWCA Crim 378. I have considered these authorities in detail but they are, to borrow a phrase used in one of the cases, "many leagues distant from the present case". The cases were all very clear recognition cases in which there had been no formal identification procedure.

[18] The case of R v Fergus [1992] Crim LR 363 is referred to in a number of the above authorities but distinguished. Unlike the prosecution I find this case of considerable assistance. In Fergus the witness had seen the suspect once and was told his name by a third party. The conviction was quashed by the Court of Appeal because the trial judge had erroneously permitted a dock identification. The CA said the trial judge "was wrong to conclude that in any real sense [the witness] was recognising rather than identifying Fergus as the man who stabbed him. In our view one previous sight of Fergus did not make this a case of recognition; it remained a case of identification. It follows that the Recorder was wrong to allow the question 'Do you see in court the person whom you have referred to as Joseph Fergus?' to be asked". I note that the court had earlier observed that this question was nearly equivalent to asking him "Do you see the man who stabbed you in court?"

[19] The primary purpose in wanting to adduce McAuley's hearsay evidence of the identification of the defendant by name is an attempt to establish him as the gunman who murdered Edward Gibson. But the alleged gunman (Goodman) was in position 3 in the VIPER procedure and McAuley not only failed to pick him out but positively asserted that the gunman was not on the DVD. The VIPER identification procedure is the process utilised to test the ability of the witness to identify the gunman. The prosecution cannot subvert that vitally important safeguard by seeking to adduce the McAuley hearsay evidence of the defendant by his name. In his oral submissions, but not in his written argument, Mr McDowell QC tried to downplay the VIPER parade. He submitted that one has to see the VIPER in its context "because it is not like an old identification parade. These were a series of floating heads, without hair, and in Goodman's case there was a scar blocked out. So it was pixilated and therefore in relation to all the subjects, the same area of pixilation was created.

But it is different identifying someone as a floating head as it is when it would have been an old-style identification parade, because it is facial identification only and confirmation cannot be gleaned by any other feature, such as height or build, or a particular body shape, which one might do if one saw someone in the street and said 'do I think that is such and such? Oh, it looks like him from behind. Oh yes, I recognise the shape of his shoulders'. But in VIPER there is no opportunity for that". This was an unusual submission and was unsupported by any authority. I say unusual because the procedure that counsel downplayed is the independent procedural safeguard, utilised in countless cases, to test the ability of a witness to identify a suspect and to minimise the risk of a wrongful identification.

[20] Further, if as in Fergus, there had been no identification procedure in this case it would be impermissible to allow the prosecution to adduce McAuley's hearsay evidence of identification for similar reasons to those identified in Fergus. Like Fergus this is a case of identification not recognition and allowing the evidence would necessarily be the precursor to a dock identification which, in the circumstances of this case, must meet the same fate as in Fergus.

[21] Moreover, even if McAuley was being truthful in belatedly telling the police in April 2016 the identities of Benson and Gibson as being those who told him that the person he had seen (over a year before the murder) was Goodman there is a further difficulty. Neither Benson nor Gibson (both being dead) can assist the court as to whether the gunman in the alleyway was the person known to them as Mr Goodman the defendant in this case.

[22] The prosecution must establish a statutory gateway or common law exception before the court could properly admit the evidence it is sought to adduce. The prosecution have failed to establish any such gateway or exception. The admission of such hearsay would be grossly and irredeemably prejudicial. Accordingly, the application is refused.

Police Chief Faces Prosecution Following 2012 Death of Thomas Orchard

The Crown Prosecution Service (CPS) has today informed the family of Thomas Orchard of its decision to bring a Health and Safety prosecution against the office of the Chief Constable of Devon and Cornwall police concerning his death in 2012. A first hearing will take place on 24 May at Westminster Magistrates court. The CPS decided against bringing charges under the Corporate Manslaughter Act. Thomas died in 2012 following restraint while detained by Devon and Cornwall police. Charges to be brought under section 3 of the Health and Safety Act relate to the Force's use of an Emergency Response Belt (ERB), a piece of equipment used by officers during Thomas' restraint. This week Thomas would have turned 38.

Thomas was a fit and physically healthy 32-year-old church caretaker, living independently in supported accommodation at the time of his death. He had a history of mental illness and a diagnosis of schizophrenia. On 3 October 2012 he was arrested and detained by Devon & Cornwall officers in Exeter City Centre following reports of his bizarre and disorientated behaviour.

He was transported by police van to Heavitree Road Police Station. Upon arrival, in addition to the triple limb restraints applied, an ERB, made from a tough impermeable webbing fabric, was put

around his face. The ERB remained held around his face as he was carried face down to a cell where he was left lying unresponsive on a cell floor. By the time officers re-entered his cell, Thomas was in cardiac arrest. He was transferred to hospital and pronounced dead on 10 October 2012.

In February 2018, following Devon and Cornwall's persistent refusal to take action, the Independent Office for Police Conduct (IOPC) directed the force to bring gross misconduct charges against four police officers and two detention officers involved in Thomas' detention and restraint. These proceedings are still awaited.

Thomas's family said: "We have spent the past five and a half years, since Thomas died in police custody, watching CCTV footage, listening to witness statements, reading reports, perusing documents which relate to the safety and well being of those in police custody, and witnessing the defensiveness of Devon and Cornwall Police. As a result, we have consistently told those in authority our view of what happened to our much loved son and brother on 3rd October 2012: his was a needless death caused – directly –by lack of care and negligence from the very people who should have been protecting him.

As a family we can, therefore, be nothing but dismayed by the decision from the CPS not to prosecute for corporate manslaughter; it is hard to believe after all we have witnessed. However, we are pleased that Devon and Cornwall Police will now need to account for their actions in relation to their approach to health and safety in connection with Thomas' death.

More than anything else we want to see a change in police attitudes and behaviour, particularly towards those with mental health vulnerabilities. Despite almost six years having passed since Thomas' death, the evidence suggests that few lessons have been learnt and that little has changed. We have, sadly, come to the conclusion that only a conviction will bring about a genuine commitment amongst police forces to instigate real change and improvement.

Thomas died when he was 32 years old. We could not then have ever imagined how long we would have had to sustain our fight for justice. Today, as we contemplate what would have been his 38th birthday, our thanks go to those whose expertise has guided us, especially to our solicitors at Hickman and Rose, to all those at the charity, INQUEST, the Victim Support Service and to other families who have also lost loved ones in police custody. Thanks go, too, to our family, friends and colleagues who care with us and for us."

Deborah Coles, Director of INQUEST said: "The death of Thomas Orchard during a mental health crisis involved some of the most brutal use of restraint equipment by police that we have ever seen. Since 2011 the CPS have had the power to bring corporate manslaughter charges against police forces. They have never used this power, and have chosen not to here. If not now, then when? We have consistently seen the corporate role and responsibilities surrounding deaths in police custody delegated to the background, unscrutinised and unchallenged. This historic prosecution of Devon and Cornwall police is an important and necessary response."

The solicitor for the family, Helen Stone of Hickman and Rose, said: "The family are pleased that the CPS has decided to prosecute Devon and Cornwall Police. This appears to be just the third time a chief constable has been prosecuted under the Health and Safety at Work etc Act 1974 in connection with a civilian's death. The public will expect the CPS to fearlessly prosecute this case, without delay. Devon and Cornwall Police have failed to properly acknowledge public concern around Thomas's death, including a repeated refusal to accept that they or their officers have a case to answer for their involvement in Thomas' death. Now the courts will hear the case against the office of the chief constable. Thomas' family have waited long enough."

RUC officer Told to Lie about IRA Shooting if Questioned

Vincent Kearney BBC News: A former RUC officer who shot an IRA man in controversial circumstances 27 years ago has claimed senior colleagues asked him to lie if questioned about police actions after the killing. But the retired officer said he was not asked about "post incident procedures," or asked to lie about the actual shooting. Colum Marks was shot dead in Downpatrick in April 1991. The officer who killed him said he believed he was armed. He also claimed Marks refused to stop when an attempt was made to arrest him. The family of the 29-year-old insist he was unarmed and was shot after being arrested. The Police Ombudsman announced that he was launching an investigation two years ago after an eyewitness came forward and supported the family claim. But it has not started yet, with the Ombudsman citing a lack of resources.

Lawyers acting for the family are engaged in legal action in a bid to force him to start the investigation, and to force the Department of Justice (DoJ) to release the necessary funding. In court today they said there had been "a significant development" in a statement given to the Ombudsman. Hugh Southey QC said the officer who fired the fatal shots "has indicated that he was asked to be untruthful by superior officers".

But a solicitor for the Ombudsman intervened and said he wanted to clarify exactly what had been said by the man he referred to as Officer B. "He advised the Police Ombudsman's Office the request to be untruthful related to post-incident procedures," the solicitor said. Even if he had been asked about those procedures he would not have been untruthful (but) he advised that he wasn't asked about post-incident procedures. Hugh Southey QC also told the court that an independent forensic report commissioned by the family's legal team supported the claim by the family of Colum Marks that he was unlawfully killed. The report concludes that the coat he was wearing on the night of the shooting indicates that he was shot in the back, rather than in the front of his body as he prepared to attack police. The legal challenge to the Police Ombudsman is due to be continue in June.

Gary Marshall Acquitted of Kidnapping Kevin Conway

BBC News: A man accused of helping to abduct murder victim Kevin Conway, who was shot dead in County Antrim 20 years ago, has been acquitted of kidnapping. Gary Marshall, from The Beeches in Portadown, County Armagh, was cleared on the direction of a Belfast Crown Court judge, due to lack of evidence. Mr Conway was found dead at a derelict house in Aghalee, in February 1998. The victim, who was married with four children, was shot in the head in a murder widely blamed on the IRA. The body of the 30-year-old was discovered with his hands tied behind his back and a hood over his head.

'Forensic failings' Mr Marshall was arrested at the time and questioned about the murder, but was subsequently released without charge. In December 2013, Mr Marshall was re-arrested by detectives carrying out a review of the original Royal Ulster Constabulary (RUC) murder investigation. They used new forensic analysis which was not available in 1998, which centred on fibres from the red top Mr Conway was wearing on the day he disappeared. A year later, a pre-trial hearing at Craigavon Magistrates' Court was told a murder charge against Mr Marshall had been dropped, but he was still accused of involvement in the kidnapping.

The trial began at Belfast Crown Court last June, with Mr Marshall accused of supplying the car which was used to abduct Mr Conway from his home and drive him to the derelict house. 'Cross-contamination' The prosecution case argued that two pieces of forensic evidence linked Mr Marshall to Mr Conway's abduction - red fibres found in the car which matched fibres from Mr Conway's top and also debris in the footwell of the car which matched debris taken from the floor of the derelict house.

However, the judge highlighted failings in how investigators had collected debris samples from the murder scene, the method in which the samples were stored, and the possibility of cross-contamination. In his judgement, he told the court he had "grave suspicions Gary Marshall played some part in the disappearance of Mr Conway, or at the very least he knew far more that he is willing to admit", but added that the available evidence "did not satisfy the required standard". He explained that the case against Mr Marshall was circumstantial and he could not be satisfied beyond reasonable doubt of returning a guilty verdict. Therefore the judge directed that the defendant "must be acquitted". Speaking after the ruling, Mr Marshall's defence solicitor said he was pleased and welcomed the judge's comments about the standards required of forensic evidence.

Closed Supervision Centres (CSCs) – Serious Concerns

We remain concerned about the treatment and conditions of men held in designated cells who generally experienced impoverished segregation-like regimes, limited care planning and a lack of progression opportunities often for months, and in a few cases, years. Muslim men were over-represented in the CSC system. High-Security System For Dangerous Prisoners Focuses On Giving Hope To Even The Most Difficult, Inspectors Find: The prison service system for holding its most disruptive and dangerous men in highly restrictive custody was run with a focus on giving even the most difficult prisoners some hope of progress, prison inspectors found.

More than 50 men are held in the closed supervision centre (CSC) system, under prison rule 46, which allows the removal of the “most significantly disruptive, challenging and dangerous” men from the ordinary prison system into conditions which are managed centrally by HM Prison and Probation Service (HMPPS). The men are held either in specialist high-security units in a small number of prisons, or in segregation units ‘designated’ to take rule 46 men in certain jails. There is also a further group of about 20 men managed centrally under the ‘managing challenging behaviour strategy’ (MCBS), sometimes in special units or more normally in a mainstream location in a high-security prison. The MCBS is used for men who do not meet the threshold for the CSC, but who nevertheless show challenging behaviour in custody.

Publishing a report on an inspection of the CSC and MCBS system, Peter Clarke, HM Chief Inspector of Prisons, said: “Men are selected because of the serious risk of harm they present to prisoners and staff, demonstrated by their exceptionally problematic custodial behaviour.” A statement in the previous inspection report, in 2015, remained relevant, Mr Clarke added. It read: “This is extreme custody and its management raises complex operational challenges and profound ethical issues.” In December 2017, inspectors found tangible progress on the previous inspection in 2015, Mr Clarke said. “Care and management planning had been improved, and the tiered approach to target setting motivated men to demonstrate their progress. Key decision-making was structured, systematic and evidence-based…Units were psychologically informed, and all were on their way towards achieving Royal College of Psychiatry Enabling Environment accreditation. The focus on giving men hope and persevering even with those who were the most difficult to reach was impressive.”

It was positive that far more men than previously had progressed out of the CSC and central MCBS systems, often to less restrictive special units and sometimes to mainstream prison wings. “The serious risk of harm presented by the men held should not be underestimated and we were impressed by staff’s proportionate and nuanced approach to managing them,” Mr Clarke added. Staff-prisoner relationships remained a key strength. “It was impressive how staff could be subject to verbal and sometimes physical assault, yet retain a focus on men’s well-being and progression. The units were mostly clean and decent, but exercise yards needed

improvement to offset the units’ claustrophobic environment. Excellent work had been undertaken to better understand why Muslim men were over-represented in the CSC system.”

However, inspectors noted that there was still no independent scrutiny of key decisions. “This meant the systems lacked external assurances on the robustness and fairness of assessment, selection and deselection decisions, and CSC managers missed out on potentially helpful constructive criticism. In addition, we remain concerned about the treatment and conditions of men held in designated cells who generally experienced impoverished segregation-like regimes, limited care planning and a lack of progression opportunities often for months, and in a few cases, years.”

Mr Clarke said: “Given the severity of CSC custody, we were impressed by staff’s focus on giving men hope, working with them as individuals, and their determination to help some men who were unamenable to interventions. Some significant issues still needed to be addressed, and the CSC system was under increasing strain from the rise in serious violence across the prison estate and the resulting number of referrals for assessment. Nevertheless, we commend the progress made to help men reduce their risks to others and to lead more purposeful and productive lives.” Press release: https://is.gd/Yp9qE0 Full report: https://is.gd/H4cBGM

Liberty Wins First Battle In Challenge To Mass Surveillance Powers

In a landmark victory for privacy rights, the High Court has today 27/04/2018, ruled part of the Government’s flagship surveillance law, the Investigatory Powers Act, is unlawful – following a legal challenge from human rights campaigning organisation Liberty.

In this first stage of its comprehensive challenge to the law, Liberty focused on government powers to order private companies to store everybody’s communications data, including internet history, so that state agencies can access it. Liberty argued that retaining every person’s data in this way without limits and safeguards violates the UK public’s right to privacy.

In today's ruling, Lord Justice Singh and Mr Justice Holgate found that these intrusive powers are unlawful. The Court ruled this part of the Act is incompatible with people’s fundamental rights because ministers can issue data retention orders without independent review and authorisation – and for reasons which have nothing to do with investigating serious crime (par. 89). Today’s judgment means the Government will now have to amend this part of the Investigatory Powers Act so that it no longer breaches people’s rights. The Court has given ministers until Thursday 1 November 2018 to do so (par. 183).

Martha Spurrier, Director of Liberty, said: “Police and security agencies need tools to tackle serious crime in the digital age – but creating the most intrusive surveillance regime of any democracy in the world is unlawful, unnecessary and ineffective. “Spying on everyone’s internet histories and email, text and phone records with no suspicion of serious criminal activity and no basic protections for our rights undermines everything that’s central to our democracy and freedom – our privacy, free press, free speech, protest rights, protections for journalists’ sources and whistleblowers, and legal and patient confidentiality. It also puts our most sensitive personal information at huge risk from criminal hackers and foreign spies. The Court has done what the Government failed to do and protected these vital values – but today’s ruling focuses on just one part of a law that is rotten to the core. It still lets the state hack our computers, tablets and phones, hoover up information about who we speak to, where we go, and what we look at online, and collect profiles of individual people even without any suspicion of criminality. Liberty’s challenge to these powers will continue.”

About the case: This part of Liberty’s challenge – and today’s ruling – focuses on powers in Part

4 of the Investigatory Powers Act. These allow the Government to force communications companies and service providers to store records of everybody's location tracking information from our mobile phones, web browsing history and lists of who we call, text or email, when and how often. This information, which communications providers might not otherwise collect or keep, paints an intimate picture of a person's movements, contacts, habits and views. Using other powers in the Act, dozens of public bodies – from local police to financial regulators – can then access this information with no independent authorisation and for reasons that have nothing to do with investigating terrorism or serious crime.

Liberty asked the Court to find these parts of the Act unlawful because, among other things, they let the Government compel retention of this data: a. With no independent authorisation by a court or independent agency. b.For crime-fighting purposes extending far beyond "serious crime". c. For a wide range of other non-crime purposes, including collecting taxes and fines owed and regulating financial services.

The Government must now change the law to require prior review by a court or independent administrative body and – in the context of crime-fighting – to only allow access to data for purposes of combatting "serious crime." The Court did not rule on the legitimacy of the wide range of other non-crime purposes in the Act because the Government has already proposed legislation to remove them. Prior to today's ruling, the Government had conceded Part 4 of the Investigatory Powers Act has several of the same flaws – but argued it should nonetheless be permitted to continue to apply it until April 2019. The High Court rejected this argument.

The Investigatory Powers Act became law in late 2016. It was intended to introduce transparency to state surveillance following Edward Snowden's revelations of unlawful mass monitoring of the public's communications. Instead it simply legalised the practices he exposed – and introduced hugely intrusive new powers. It passed in 2016 as Parliament reeled from the EU referendum – despite the Government failing to provide any evidence that the extreme indiscriminate powers it introduced were lawful or necessary to prevent or detect crime. A public petition calling for its repeal attracted more than 200,000 signatures, but was not debated by Parliament. The Investigatory Powers Act also allows the state to hack computers, phones and tablets on an industrial scale, and collect the content of people's digital communications and records about those communications created by our devices. It also allows the creation and linking of huge 'bulk personal datasets'.

Liberty has also issued legal challenges to three other parts of the Act containing these powers. Liberty instructed Shamik Dutta at Bhatt Murphy Solicitors, Martin Chamberlain QC, Ben Jaffey QC and David Heaton in this case.

A Lynching Memorial has Opened. The Country Has Never Seen Anything Like It

Montgomery, Alabama. — In a plain brown building sits an office run by the Alabama Board of Pardons and Paroles, a place for people who have been held accountable for their crimes and duly expressed remorse. Just a few yards up the street lies a different kind of rehabilitation center, for a country that has not been held to nearly the same standard.

The National Memorial for Peace and Justice, has opend on a 6-acre site overlooking the Alabama state capital, is dedicated to the victims of American white supremacy. And it demands a reckoning with one of the nation's least recognized atrocities: the lynching of thousands of black people in a decades-long campaign of racist terror.

At the center is a grim cloister, a walkway with 800 weathered steel columns, all hanging from a roof. Etched on each column is the name of a U.S. county and the people who were lynched there, most listed by name, many simply as "unknown." The columns meet you

first at eye level, like the headstones that lynching victims were rarely given. But as you walk, the floor steadily descends; by the end, the columns are all dangling above, leaving you in the position of the callous spectators in old photographs of public lynchings.

The magnitude of the killing is harrowing, all the more so when paired with the circumstances of individual lynchings, some described in brief summaries along the walk: Parks Banks, lynched in Mississippi in 1922 for carrying a photograph of a white woman; Caleb Gadly, hanged in Kentucky in 1894 for "walking behind the wife of his white employer"; Mary Turner, who after denouncing her husband's lynching by a rampaging white mob, was hung upside down, burned and then sliced open so that her unborn child fell to the ground.

There is nothing like it in the country. Which is the point. "Just seeing the names of all these people," said Bryan Stevenson, the founder of the Equal Justice Initiative, the nonprofit organization behind the memorial. Many of them, he said, "have never been named in public." Stevenson and a small group of lawyers spent years immersing themselves in archives and county libraries to document the thousands of racial terror lynchings across the South. They have cataloged nearly 4,400 in total. Inspired by the Holocaust Memorial in Berlin and the Apartheid Museum in Johannesburg, Stevenson decided that a single memorial was the most powerful way to give a sense of the scale of the bloodshed. But also at the site are duplicates of each steel column, lined up in rows like coffins, intended to be disseminated around the country to the counties where lynchings were carried out. People in these counties can request them — dozens of such requests have already been made — but they must show that they have made efforts locally to "address racial and economic injustice." For Stevenson, the plans for the memorial and an accompanying museum were rooted in decades spent in Alabama courtrooms, witnessing a criminal justice system that treats African-Americans with particular cruelty, or indifference.

Since 1989, the Equal Justice Initiative has offered legal services to poor people in prison, toiling away in a city awash in Confederate commemorations (Monday was Confederate Memorial Day in Alabama), in a state with the nation's highest per capita death sentencing rate. Nearly every staff member is a lawyer with clients in the prison system, and they have continued to work a full schedule of legal defense work even as they painstakingly compiled the names of the lynched and planned the memorial. Stevenson, whose great-grandparents were slaves in Virginia, has written about "just mercy," the belief that those who have committed serious wrongs should be allowed a chance at redemption. It is a conviction he has spent a career arguing for on behalf of clients, and he believes it is true even for the white America whose brutality is chronicled by the memorial. "If I believe that each of us is more than the worst thing he's ever done," he said, "I have to believe that for everybody."

But the history has to be acknowledged and its destructive legacy faced, he said. And this is particularly hard in "the most punitive society on the planet." People do not want to admit wrongdoing in the U.S., Stevenson said, because they expect only punishment. "I'm not interested in talking about America's history because I want to punish America," Stevenson continued. "I want to liberate America. And I think it's important for us to do this as an organization that has created an identity that is as disassociated from punishment as possible."

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evolved: from the family-shattering domestic slave trade to the decades of lynching terror, to the suffocating segregation of Jim Crow to the age of mass incarceration in which we now live. The museum ends with a nod toward the future. By the exit is a section with a voter registration kiosk, information on volunteer opportunities and suggestions on how to discuss all of this with students. Given what has come before, it seems a jarring expression of confidence in the possibility of change. But there are good reasons for it.

Among the accounts given at the museum is that of Anthony Ray Hinton, who spent 28 years on Alabama's death row after being wrongly convicted of two murders by an all-white jury. The case for his innocence seemed straightforward, but lawyers at the Equal Justice Initiative spent 16 years working for his freedom, appealing the case all the way to the U.S. Supreme Court. Hinton knows firsthand how stubborn injustice can be, but he is blunt: If people just gave up in despair, he would be dead. "I refuse to believe that it's hopeless because I am a product of what can happen when you fight," he said. "If we don't fight, who's going to fight?"

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Police Officer Who Stole Drugs Ordered To Repay £135,000

A police officer who stole and sold the illegal drugs he was meant to dispose of has been ordered to pay back more than £135,000. Keith Boots stole drugs that were supposed to have been incinerated, selling them to criminal gangs instead. His home was raided and cocaine, heroin, ecstasy and cannabis were found with an estimated street value of £509,763. The Proceeds of Crime team at the Crown Prosecution Service obtained a restraint order against Keith Boots to ensure assets held by him were secured for confiscation. At a confiscation hearing today (24 April), Boots was found to have benefitted from £556,400. This figure includes the street value of the drugs, £44,053 of unexplained credits to his bank accounts and £2,584 of expenditure from an unknown source.

The court ordered Boots to repay £135,280 after hearing he had equity on his home, a substantial lump sum taken from his police pension before he was charged, £4,000 he gifted to a family member and a valuable watch. Boots was ordered to pay the full amount within three months or would be given a further prison sentence of 18 months at Teesside Crown Court.

Nick Price, from the CPS, said: "Keith Boots was in a position of trust when he stole the drugs for his own monetary gain. The CPS investigated Boots' accounts and secured a restraint order on his assets so that his illegal funds could be investigated. "The Proceeds of Crime team found Boots had taken out a lump sum from his pension and had made a gift to a family member, all of which was confiscated to pay back."

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Bitemark Analysis: Is It Junk Science?

Gina Tron: Alfred Swinton was exonerated of a 1991 murder conviction last month based on bite mark evidence. The Innocence Project told Oxygen.com that many people are falsely convicted because of bite mark analysis.

Bitemark evidence is often used in trials to convict defendants but is it reliable? After 18 years behind bars, Alfred Swinton of Connecticut was released from prison with the help of The Innocence Project. The evidence that got him convicted is the same evidence that got him exonerated: bitemark analysis, which is when a forensic dentist takes measurements of what appear to be bitemarks and then they compare it to the mold of a suspect's teeth. New evidence has proven that a bite mark on the victim originally attributed to Swifton didn't belong to him after all, In fact, the dentist who originally testified against him for the 1991 murder of Carla Terry recently recanted his testimony. DNA testing also excluded him as the source of male DNA found under Terry's fingernails. On March 1, 2018, a judge exonerated Swinton.

"Bite mark evidence represents everything that is wrong with forensic science in this country today," Chris Fabricant, Director of Strategic Litigation for the Innocence Project told Oxygen.com. "It's grossly unreliable even under ideal circumstances and it has contributed to more wrongful convictions and indictments than any other technique that is still admissible by criminal trials today." He added that bite mark practitioners do not undergo any proficiency testing and actually have no idea how often they are right and how often they are wrong when it comes to bite mark analysis. "Nonetheless, the evidence is very, very powerful compelling evidence," Fabricant said. "Not only does it place the suspect's teeth on the victim itself where it also allows the prosecution to depict the suspect as an animal to a jury. [...] The trouble is that forensic dentists cannot even identify what is and what is not a bite mark. The idea that the courts continue to admit this type of evidence is really an outrage and a disgrace for our criminal justice system that still allows this type of evidence."

When it came to Swinton, Fabricant said there was no question that the marks on Terry's body were bitemarks. Still, Fabricant said the forensic dentist got it wrong, anyway. "What it demonstrates is that even under ideal circumstances, this evidence is grossly unreliable and should never be admitted to convict anybody," Fabricant told Oxygen, adding that Swinton's conviction and incarceration destroyed Swinton's family. "He had never been convicted of a crime and suddenly he was thrown in prison and accused not only of this crime but of a series of similar murders. He was accused of being a serial killer."

Michael J. Saks, a professor of law at the Sandra Day O'Connor College of Law at Arizona State University, told Oxygen.com that "forensic dentists have failed to carry out the research to prove the validity of what they do." Saks provided Oxygen with an article he wrote with

the assistance of other experts, entitled "Forensic bitemark identification: weak foundations, exaggerated claims" for the Journal of Law and the Biosciences.

The article's main takeaway? "The rise and impending fall of bitemark evidence powerfully illustrates the costs of the failure to assure that what enters our criminal courts is sound science." Swinton was featured on an episode of "Forensic Files" which claimed that bitemark evidence solved the case. Ironically, the forensic dentist states in the clip that, "In my field, if I make a mistake a man goes away for the rest of his life. So there are no tests, no difficulties that we cannot bear to make sure we don't convict an innocent person."

Fabricant told Oxygen that The Innocence Project searches for cases where a conviction was based off bite mark evidence because those cases are so flimsy. Often the people convicted are actually innocent. "I ask my paralegals to get me any case that involves bitemark evidence because any case that rests on bitemark evidence is unreliable," Fabricant said. "Every single one of those cases that we have litigated, unless it is still currently pending — the defendant has been exonerated."

The Innocence Project has helped get thirty wrongful convictions and indictments which relied heavily on bitemark analysis overturned. If it's so unreliable then why is it still used? "Once an indictment has been secured, and the case is going to trial, the gloves come off and the adversarial process kicks in and the combatants [in this case, the prosecution] use all the weapons at their disposal," Fabricant said. "It's admissible evidence and prosecutors are going to use whatever they can use to admit the evidence, save a few data-oriented prosecutors who have recognized that the truth-seeking function of the justice system is undermined by the use of unreliable evidence. Justice is not advanced through the introduction of junk science."

A 2009 report from the National Academy of Sciences National Research Council backs up Fabricant' stance. That report found that bite mark analysis lacks scientific validity. A second study, undertaken by the President's Counsel of Advisory on Science and Technology [PCAST], came to even stronger conclusions in 2016, finding "bitemark analysis does not meet the scientific standards for foundational validity, and is far from meeting such standards."

As for Swinton, he's happy to be out of jail after his wrongful conviction. "Our exonerees — and Alfred is no different — have displayed time and time again incredible grace and this is because in my view the kind of character that it takes to persevere through decades of wrongful conviction. These are unique human beings," Fabricant said. "I have never heard Mr. Swinton express the kind of outrage that I think anyone would expect that they themselves would feel if they experienced such an injustice." The only big concern that Swinton has expressed, according to Fabricant, is worry that the real killer is still at large.

Coroner's 'Cab Rank' Burial Policy Ruled Unlawful And Discriminatory

The High Court in London has ruled that a coroner's "cab rank" policy of dealing with bodies on a first-come, first-served basis was unlawful, irrational and discriminatory. The protocol issued last October by Mary Hassell, senior coroner for inner north London, has now been struck down and quashed. Jewish, Muslim and other religious groups said the policy discriminated against them as their religions mandate a speedy burial after death. In today's judgment 27/04/2018, Lord Justice Singh, sitting with Mrs Justice Whipple, said there should be "no rule of automatic priority for those seeking expedition on religious grounds", but that coroners have to strike a "fair balance" between the rights of the individual (in this case an individual's religious needs) and the interests of the community. The "fundamental flaw in the present policy adopted by the Defendant is that it fails to strike any balance at all, let alone a fair balance". The successful legal challenge was brought by law firm Asserson on behalf of the Adath Yisrael Burial Society (AYBS). Trevor Asserson, founder of the firm, said: "The court found against Hassell on every count, except for finding that she had considered the impact of her Protocol on Jews and Muslims. "This was to damn with faint praise, for the court found 'she did not recognise that impact as discriminatory as a matter of law'. "In other words, she knew she was causing anguish to people, but was too ignorant of the law to understand that her conduct was not only lacking in any compassion, but was also discriminatory and unlawful." He added: "This victory by AYBS is a victory for the cause of diversity throughout British society. "Everyone interested in pluralism and intent on defeating discrimination in all its forms must rejoice at the Court's firm and clear ruling." Rabbi Asher Gratt, speaking on behalf of the AYBS, said: "Having twice been found guilty of acting unlawfully it's high time for Hassell to move on and make way for a compassionate coronial service."

A Lynching Memorial has Opened. The Country Has Never Seen Anything Like It

Montgomery, Alabama. — In a plain brown building sits an office run by the Alabama Board of Pardons and Paroles, a place for people who have been held accountable for their crimes and duly expressed remorse. Just a few yards up the street lies a different kind of rehabilitation center, for a country that has not been held to nearly the same standard.

The National Memorial for Peace and Justice, has opend on a 6-acre site overlooking the Alabama state capital, is dedicated to the victims of American white supremacy. And it demands a reckoning with one of the nation's least recognized atrocities: the lynching of thousands of black people in a decades-long campaign of racist terror.

At the center is a grim cloister, a walkway with 800 weathered steel columns, all hanging from a roof. Etched on each column is the name of a U.S. county and the people who were lynched there, most listed by name, many simply as "unknown." The columns meet you first at eye level, like the headstones that lynching victims were rarely given. But as you walk, the floor steadily descends; by the end, the columns are all dangling above, leaving you in the position of the callous spectators in old photographs of public lynchings. The magnitude of the killing is harrowing, all the more so when paired with the circumstances of individual lynchings, some described in brief summaries along the walk: Parks Banks, lynched in Mississippi in 1922 for carrying a photograph of a white woman; Caleb Gadly, hanged in Kentucky in 1894 for "walking behind the wife of his white employer"; Mary Turner, who after denouncing her husband's lynching by a rampaging white mob, was hung upside down, burned and then sliced open so that her unborn child fell to the ground.

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Issues With Medical Care Management of Vulnerable Prisoners to be Explored at Inquest

Nicola Jayne Lawrence, one of 3 siblings, was described by her mother as a very loving and caring daughter. She was diagnosed with Multiple Sclerosis (MS) in her early twenties. She developed PTSD after the death of her partner. She suffered from anxiety and struggled with mental ill health. She also struggled with addiction to drugs. Despite her family desperately trying to access therapeutic support and help with drug rehabilitation, the right kind of support was never available to her. Nicola ended up in the criminal justice system like many other women before her. When she died she was serving a term of 28 days imprisonment for theft. She had been recalled to the prison after a period in a probation hostel. During her initial health screening, Nicola told the staff about her MS and about having a broken wrist and her dependence on drugs. She also told the staff about a suicide attempt at the beginning of the year. The prison doctor prescribed Nicola medications to manage her various health needs. In addition to her usual medications, Nicola was prescribed methadone. This was the first occasion on which Nicola had a prescription for methadone. A few days later she was also placed under a suicide and self-harm management programme, which was stopped 2 days before her death.

At 21.30 on the 23rd September, officers saw Nicola lying on the floor of her cell and snoring loudly. They say she raised her arm in response to requests for her to get on to her bed, but otherwise remained on the floor. The staff decided to check on her at regular intervals, noting each time that she remained on the floor snoring. At 11.30 pm, they noticed that Ms. Lawrence was no longer responding. They entered her cell and called for emergency assistance. Sadly, it was too late, and she could not be saved. Nicola's family hope the inquest will address the following issues: Whether the prescribed medications given to Nicola were a contributory factor in her death; The extent to which, if at all, methadone in addition to the prescribed medications contributed to her death; The position in which Nicola was found on the floor of her cell; The response of staff on 23 September and whether an earlier intervention could have saved Nicola's life.

Christine Lawrence, mother of Nicola Jayne Lawrence said: "The last year and seven months have been extremely difficult for us as a family trying to get to the truth of what happened to Nicola and why she died in a prison which should have kept her safe. We miss her deeply. We hope that the inquest will provide a thorough investigation into the circumstances that led to her death and any failings are highlighted so that nobody else dies in similar circumstances".

Deborah Coles, Executive Director of INQUEST said: "Nicola was one of 10 women who died in New Hall in the last 8 years. Questions must be asked about why she was sent to prison for 28 days with poor physical and mental health? Her risk had been identified by the prison and this inquest must scrutinise the treatment and care she received".

Hostages: Sally Challen, 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.