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Will I Ever Get Out of Here, Stuck Inside These 4 Walls - Sent Down for 15 Years Now in My 36th

A mixed race child, Raymond Gilbert, grew up in poverty. He had a speech impediment, was given a patchy education and drifted into the underworld of Liverpool crime. He already had a record for robbery and for one assault before the accusation of murder. He was therefore a likely suspect when a local betting shop manager was murdered in the course of a robbery in 1981 in Liverpool. But suspicion is not enough. What of evidence? Against neither Gilbert nor Kamara, his co accused, was there any evidence to connect them with the murder. Kamara, not Gilbert, was picked out on an identification parade by one witness who said he saw Kamara struggling with another man outside the betting shop at about the time of the murder. The parade itself was not run according to proper rules. The witnesses had failed to pick out Gilbert on the first parade. The second parade was made up of a number of the same people with Kamara introduced as one of the new people. Kamara was identified not Gilbert.

However, that no longer matters. The Court of Appeal has given its ruling in 2000 about Kamara's innocence, and it did so, in part, because a large number of witness statements were not given to the defence at the time of the trial. Some of them even contradicted the witness evidence that was used. There was no investigation into the threat made by one customer at the betting shop that he would return to 'sort out' the manager the next day (the day of the murder) if he was not paid. What then was the case against Gilbert? The murder took place at about 9.30 am on Friday 13 March 1981. Gilbert was detained on Monday 16 March and then spent two days and nights in police custody before being remanded to prison. No fingerprint, footprint, forensic, bloodstains, witness evidence or knife has ever connected Gilbert with the crime. Did Gilbert have an alibi? Well he had one. He returned to the flat he shared with his girlfriend, after drinking with friends, between 1 and 2 am on the morning of the murder. Apart from a visit to the newsagent/tobacconists later that morning, he was with her all day. At least she stuck to that story for some time, but after interrogation she was actually charged on 18 March, with impeding the course of justice, and remanded in custody. As a result of this intimidation she then changed her story and said that Gilbert had gone out early on the morning of the murder.

What then was the evidence against Gilbert, who had repudiated his confession and initially pleaded Not Guilty, when the case came to trial in November '81? Simply that after two days and nights of police interrogation in March 81 with little sleep and no legal representative present, he had confessed to murder and signed a detailed statement. Worse, he involved an associate of his, Johnny Kamara, and said that Kamara had been with him. Why? Who knows? He says he was shown a photofit picture and asked to identify the people in it. Whether Kamara's name was suggested to him we do not know. The interviews were not taped.

What of the confession? It is said that it revealed details of the murder that only someone who had been at the scene of the crime could have known. This is nonsense. He was in the custody of two policemen who would have been negligent if they had not known all the details of the crime. Did they, convinced they were dealing with a murderer, reveal details to Gilbert which he could not have known anyway from reading the Liverpool papers? That is at least possible.

Anyway, Gilbert's first verbal admission which was noted by the police, and his subsequent written confession, differ in significant ways. In the first place he said he threw the knife down a drain after leaving the betting shop. In the written confession, which he signed, he said he took it to a friend's house, where indeed a possible knife was found. Then in his first admission he said that the betting shop door was open and that the two of them just went in. In the signed statement he said they had to grab the manager, poke him with a knife, and make him open the door. It is just possible that these changes were suggested to him by the police because they fitted statements made by other witnesses. In any event, since the Court of Appeal has decided that Gilbert's confession, insofar as it involved Kamara, was untrue, why should it be assumed that the rest of the confession is true?

Why then was a confession of any sort made if he was innocent? On that issue the distinguished consultant psychologist, Olive Tunstall, having examined Gilbert in preparation for his appeal process, prepared a detailed report on his makeup and background, dated April 1999. She says: "In my opinion there is evidence to suggest that the confession Mr Gilbert made during the police interviews may have been unreliable. I have based that opinion on the following grounds." The first of these is as follows: "Mr Gilbert's personal vulnerability at that time (youth, limited education, abnormal personality, stammer, adverse social circumstances and in my opinion a profound fear of being physically assaulted emanating from early childhood experiences), his lack of access of legal advice and evidence that at the time he began his confession he was in a state of high anxiety." Olive Tunstall's detailed 29-page report confirms that there are serious doubts about Gilbert's conviction.

There is another point which is significant. While the judge was summing up in the Kamara case, some of the jurors asked him why, in the police photograph of the murder scene, a full bottle of milk and what looks like a newspaper are clearly evident on a dresser. The jurors rightly wanted to know how they got there. They must have been carried into the shop by somebody, but certainly not by the manager if he was, according to Gilbert's confession, struggling vigorously against two robbers. It is possible that someone else had entered the shop, perhaps someone connected with the previous day's threat, and was lying in wait for the manager, who himself brought in the milk and the paper. However, thanks to Gilbert's confession and the witness evidence of identification against Kamara, it does not seem to have occurred to the Judge that the murder might have been committed by somebody else. All he could say in reply to the question from the jurors was "It is so difficult to understand why it matters."

Not that it did much matter for Gilbert. Some days after the trial in November 81 began - two juries were discharged - Gilbert got up and changed his plea to guilty. His words were: "This has been going on long enough, so I want to change from Not Guilty to Guilty". At that point the judge stopped him from going further. It is at least possible that he was going on to say that Kamara had not been with him. Why would he make that admission granted the lack of evidence against him, and did he realise that in so doing he was probably shutting prison doors on himself for a long time? Gilbert's explanation for the change of plea was that he was threatened in prison that he would be "done" if he did not get Kamara off. He was certainly in prison with some very tough people, quite capable of making and putting such threats into action. He may also have thought he was doomed anyway after his written confession and wanted to get the whole business over with.

Gilbert has now spent over 35 years in prison, 20 years over tariff, he begins his 36th year on Wednesday 16th March 2016. His efforts to get Kamara off at the trial did not succeed, though he did try again in prison in 1982 by suggesting that someone else, not Kamara, had been his partner. Once he was moved to another prison, in 1982 away from those intimidating him, he again claimed that he was innocent. For the last 35 years he has maintained his innocence. If he had taken

the parole road, admitted guilt, and been conformist in prison, he would certainly be out of prison now. Today his case would never have gone to trial. A confession, with all its contradictions, obtained as Gilbert's was would be rejected as evidence.However, the Criminal Cases Review Commission, in March 2000, denied Gilbert access to the Court of Appeal. When the Commissioners made that decision they could not have known that Kamara's separate appeal would be upheld in May 2000. This decision by the Court of Appeal to free Kamara undermines the credibility of Gilbert's entire confession. I have visited him many times since I was made aware of the case and have visited him in many prisons. It is clear to me, not only that that his guilt has not been proved beyond reasonable doubt, but that he is an innocent man unjustly imprisoned. This year or next he might be released on parole. He is now doing some 'outside' work. I keep my fingers crossed. *Bruce Kent*

Daily Mail Rant Against Kevan Thakrar's £100,000 Legal Aid Fees Against MOJ

The Daily Mail said and we quote verbatim: "Kevan Thakrar – serving three life sentences for executing two men and a teenager in cold blood – has made 16 claims since he was jailed in 2008. His grievances have included the loss of a mug, milk going missing from his cell, not being given adequate footwear and shampoo being squirted over his CDs. In four cases, the Ministry of Justice has had to pay out a total of £1,950 in compensation for lost or damaged property. The cost to the MoJ of fighting 11 completed cases was £60,911 and five ongoing legal battles have taken another £37,370 from the public purse – a total of £98,281. Thakrar was jailed for life in 2008 after he and his brother Miran used a submachine gun to kill Keith Cowell, 52, his son Matthew, 17, and Tony Dulieu, 33, in a drug-related revenge plot. He was cleared of attempted murder after attacking three guards with a glass bottle at HMP Frankland in County Durham in 2010. Critics said Thakrar, 27, was making a mockery of the system and urged Justice Seretary Michael Gove to crack down on the ability of prisoners to make vexatious claims. Tory MP Bob Neill, chairman of the justice select committee, said: 'It is scandalous that a professional criminal serving three life sentences for such appalling crimes can abuse the system to pursue what is clearly a campaign against the Prison Service. 'It is not right that the taxpayer and prison officers, who do a tough enough job without the threat of legal action hanging over them, pay the price.'

An MoJ source said: 'Offenders like Thakrar have already done enough damage to their victims, their victims' families and society. 'The idea that they should be able to sit in their cells coming up with ways to fleece taxpayers adds insult to severe injury.' Thakrar has launched personal injury claims and judicial review proceedings against the MoJ at a rate of two a year. He represents himself, but the cash-strapped department has to fork out tens of thousands of pounds in legal fees to contest his claims. The five legal cases still underway include an appeal by the MoJ against the award of £1,000 to Thakrar after a prison guard squirted shampoo on his CDs and four books were lost. In addition to claims for money, the killer has lodged around 250 grievances with the Prisons Ombudsman. The Ministry of Justice said: 'We robustly defend all cases, as far as the evidence allows. We have successfully defended two-thirds of prisoners' claims over the last three years.'

The claims brought by Kevan Thakrar are: Lost nose-hair clippers, alarm clock, photo and letters. Won £815. Cost taxpayers £2,659. Milk missing from cell. Won £75. Cost £3,589. Lost food containers, mug and photos. Won £10. Cost £993. Lost parcel. Won £50. Cost £5,099. • Inadequate footwear. Struck out. Cost £1,079. Judicial review on contact with lawyers. Lost. Cost £32,941. Judicial review on contact with lawyers. Lost and costs awarded to MoJ. Cost £59. Judicial review on prisoner searches. Withdrawn. Cost £3,104. Seeking disclosure of classi-fied disciplinary report. Lost. Cost £605. Two unspecified prison claims. Lost. Cost £10,783 Five ongoing cases, including shampoo squirted on CDs. Cost so far of £37,370."

Crackdown on Compensation Payouts for Prisoners

A crackdown on prisoner compensation has been launched after it was revealed the bill to taxpayers jumped to nearly £10 million. Ministers have ordered an audit of personal injury claims submitted to the Prison Service in a drive to identify where payouts and legal costs could be slashed. It follows a string of attempts to secure payouts by high-profile prisoners. Records show that in the last financial year, a record £28.8 million was spent handling claims. The sum includes damages, legal advice and representation in cases that reached court, with £9.3 million spent on compensation and costs for claims involving inmates.

The overall figure for the previous year was £21.1million, with £7.4m for claims relating to prisoners - meaning the bills jumped by more than a third (36 per cent) and a quarter (26 per cent) respectively in a year. Recent cases include a claim for £20,000 from one of the killers of Fusilier Lee Rigby. His case is ongoing. It emerged last year that Michael Adebolajo was suing for compensation after he had two front teeth knocked out in an incident in the high security Belmarsh prison. Adebolajo claimed he was assaulted by five prison officers, but all were told they would face no charges.

The Ministry of Justice said other cases - which were ultimately dismissed - include: Terrorist Abdul Miah launched a claim for racial discrimination after he was searched by a female prison officer. He was seeking £2,000. Liquid bomb plotter Abdulla Ahmed Ali sought £1,250 following an allegation that two boxes containing his personal possessions, including legal mail, were opened, searched and removed in 2013. Burglar Noel Jennings attempted to claim £6,000 after banging his head while play-fighting with another prisoner. He tried to claim he had slipped on water caused by a leak at HMP Manchester.

Announcing the crackdown, Justice Minister Dominic Raab said: "Of course the Prison Service must be accountable, but taxpayers will be staggered to learn that the costs of litigation against it reached £29 million last year. We have ordered an independent audit to make sure we are not being taken for a ride. We want public money focused on protecting the public and reforming offenders - not fuelling the compensation culture."

Continued Repression of Republican Prisoners Will Ensure Progress Will be Impossible.

Since the recent critical HMIP/CJINI report regarding Maghaberry Jail Republican Prisoners have highlighted a steady increase in regression by the Jail Administration. This behavior was also noted during the time of the failed Stock Take in 2014 and the ICRC process in 2015. These were blatant attempts to provoke tensions and then use those said tensions as a pretext to claim that progress was impossible due to a lack of trust and falsified threats. The Jail Administration, with Brian Armour leading the charge, is again undertaking this process of sabotage and antagonism. These recently included a deterioration of living conditions; with no efficient heating in cells since December with Republican Prisoners having to sleep fully clothed and with deterioration in the food leaving most meals inedible. These conditions have supplemented the more overt forms of harassment including the recently highlighted sleep disruption, abuse of families and the use of abusive screws on landings. The HMIP/CJINI report made a recommendation regarding the treatment of Republican Prisoners: The Jail has been given an 18 month probationary period to make changes and it is clear that elements within the Jail are now attempting to sabotage any potential progress. However, it must be clear that regardless of lies to the media and falsified threats attempting to establish credibility whilst continuing to repress Prisoners on the Republican Wing progress will be impossible.

Republican Prisoners, Roe 4, HMP Maghaberry, 04/03/16

Secrecy for Police Who Had Sex With 'Sex Workers' On Duty 'Disgraceful'

Nazia Parveen, Guardian: The decision to keep the identities of two police officers a secret after they had sex with prostitutes while on duty has been described as disgraceful. Despite new Home Office rules calling for police disciplinary hearings to be held in public, two independent chairs have been able to keep the Merseyside police officers' identities secret, citing "exceptional circumstances". After an application for an injunction preventing the naming of one of the officers was upheld on Friday, the former Liverpool MP, Peter Kilfoyle, said it was a disgrace that officers who were bringing their office into disrepute were allowed to remain anonymous. "It is astounding that this has happened again, and it is just another example of the growing disregard for transparency in public life," he said. The rules should be that, unless there are really compelling reasons, any kind of public hearing, public information or information in the public sector ought to be made available as widely as possible. I think it bedevils the whole of society at the moment." He added: "Where those reasons are compelling I would want an explanation. If that is not forthcoming then whoever makes those decisions is leaving themselves wide open to criticism and dismay. That kind of transparency is a principle of justice and justice needs not only to be done, but to be seen to be done."

Earlier, the royal courts of justice upheld an application for an injunction preventing the identity of one of the officers being revealed. The application was made by the Police Federation against Trinity Mirror, the publishers of the Liverpool Echo. The officer, who has resigned, was allowed to remain anonymous during the misconduct panel hearing in December. He faced allegations of having sex with a prostitute in a police car on 28 July and 1 November 2015; and of visiting a sex worker in a force vehicle but not of receiving "sexual services" on 3 and 28 September. While the details of the case were made public, for the first time since the legislation was brought in to support misconduct hearings being held in public, the meeting was held behind closed doors.

Merseyside police said the anonymity and privacy was due to "exceptional circumstances" surrounding the case, with the decision ultimately being made by Chief Constable Peter Vaughan of South Wales police. At the time a spokesman for Merseyside police said: "In exceptional cases, the Police (Conduct) Regulations 2012 and the associated Home Office guidance allows for the chair, either of his own volition or on application of either the appropriate authority or the officer concerned, to place appropriate restrictions on the hearing." Earlier this week another Merseyside officer was sacked after it was found he met a prostitute in December 2014 and then falsified a national intelligence report in an attempt to cover it up. In February 2015 he was found to have engaged in sexual acts with a prostitute, again while on duty.

In a pre-hearing order, the chairwoman, barrister Louise Brandon, said the officer would remain anonymous following written representations seeking "a departure from the fundamental principle of open justice". She ruled: "I have concluded that it is necessary and proportionate to anonymise the name of the officer and that this necessity outweighs the public interest in naming the officer in the course of the hearing and the notice." The Liverpool Echo reported that the officer had been diagnosed with depression and anxiety, and that his identity was concealed because of concerns about his welfare. In March 2015, the home secretary, Theresa May, announced that police disciplinary hearings would be held in public and led by legally qualified chairs.

Early Day Motion 1199: Police Corruption

That this House notes that 10 March 2016 is the 29th anniversary of the brutal unsolved murder of Daniel Morgan of Llanfrechfa; congratulates the BBC's Panorama broadcast on corruption in the London police, including information on the murder of Daniel Morgan; and calls for the publication of the secret Tiberius Report which reveals the astonishing breadth and depth of police corruption among the London police. House of Commons: 03.03.2016

Stephen Lawrence's Family Criticise Police Over Alleged Spy Plot

Rob Evans and Vikram Dodd, Guardian: The parents of murdered teenager Stephen Lawrence have criticised police for allowing one of their senior officers to retire and avoid disciplinary charges over an alleged plot to spy on his family. Neville Lawrence said it was "wholly wrong" that the Metropolitan police had permitted former commander Richard Walton to retire from his post as the head of its counter-terrorism command. Walton quit in January, six days after a watchdog sent the Met the findings of its investigation into the spying controversy. On Wednesday, the Independent Police Complaints Commission announced that its two-year investigation had found that Walton and another retired officer, Bob Lambert, would have had a case to answer for misconduct if they had still been employed by the police.

Stephen's parents had unsuccessfully attempted to persuade the Met to stop Walton retiring so that he would face disciplinary charges. Speaking from his home in Jamaica, Mr Lawrence said: "I have long felt that allowing officers to retire to avoid disciplinary action totally undermines public confidence in the police." He said that the IPCC investigation had made it clear that the police had "wrongly spied" on his family, adding that he wanted to know "at what level of seniority within the Metropolitan police this spying was sanctioned". Doreen Lawrence said: "My family and the public at large have been denied the opportunity of seeing justice done yet again in this case." The IPCC investigation was launched in 2014 after a Home Office-commissioned inquiry reported that police had been involved in a plot to collect "fascinating and valuable" intelligence from an undercover officer. The Met had planted the undercover officer in the "Lawrence family camp" and was gathering information about the bereaved family and their supporters, according to the investigation by Mark Ellison QC. He said it could have appeared that the Met was trying to use the intelligence to gain a "secret advantage" over the family at a judge-led public inquiry into alleged wrongdoing by the police. At the time, former high court judge Sir William Macpherson was heading the public inquiry scrutinising the Met's botched investigation into Stephen's murder by a racist gang in 1993.

On Wednesday, the IPCC said its investigation had found no evidence that the undercover officer, identified only as N81, passed information about the Lawrence family or their campaign to Walton, then an acting detective inspector, at a secret meeting in August 1998. At the time, N81 had infiltrated a political group that was supporting the Lawrence family's campaign for a proper investigation by the police into the murder. The IPCC added that, if the fact of the meeting had become public at the time of the Macpherson inquiry, this might well have caused serious public concern. Lambert was found to have a case to answer for misconduct for his part in arranging the meeting, while Walton's case involved his attendance at the meeting.

The IPCC deputy chair, Sarah Green, said: "During the Stephen Lawrence inquiry, the honesty and integrity of the Metropolitan police was rightly under intense public scrutiny. The force's reputation may have suffered immense damage had the meeting become public knowledge at the time. "The IPCC found that Robert Lambert and Richard Walton both had a case to answer for discreditable conduct in that their actions could have brought the force into disrepute. "As neither of the men are now serving police officers, it is not possible for misconduct proceedings to take place to determine whether or not the case would be proven." Lambert ran covert operations infiltrating political groups in the 1990s after working undercover himself in the 1980s when he fathered a child with an activist. He retired from the police in 2007, before revelations about the work of the undercover officers began to emerge. Walton has previously said that he had intended for 30 years to retire in January and had informed the IPCC of his intention. He had said he was disappointed that the IPCC's investigation had taken two years to complete "especially as I am a strong supporter of police officers being publicly

accountable". On Wednesday, the Met defended Walton saying that it had disagreed with the IPCC's conclusions that the actions of Walton and Lambert amounted to a case to answer on a charge of misconduct. The force said that while there was little doubt that Walton had met the undercover officer, there was little evidence that the meeting was improper or intended to bolster the Met's defence of itself at the Macpherson Inquiry. In 1999, Macpherson branded the Met "institutionally racist" over its failings that allowed the teenager's killers to escape justice.

Ellison's report in March 2014 prompted the home secretary, Theresa May, to appoint a senior judge to lead another public inquiry, this time to examine a wide range of allegations surrounding the conduct of undercover police officers since 1968. The latest inquiry, led by Lord Justice Pitchford, is preparing to hold public hearings into the police's covert infiltration of hundreds of political groups. Pitchford will be scrutinising issues such as the long-term relationships formed by undercover officers with women, the theft of dead children's identities and the monitoring of politicians. However the Met is attempting to have large parts of the inquiry held in secret – a move criticised on Wednesday by Mr Lawrence, who said: "In my 23 years of experience of the Metropolitan police, it has often been evident that had they been open about misconduct then it could have saved everybody a lot of heartache over the years."

Successful Human Rights Claim Against Sussex Police

Sussex Police have settled a claim brought on behalf of the family of a woman who was murdered by her husband for a substantial sum of damages . Cassie Hasanovic was fatally stabbed by her husband in front of their children and her mother in July 2008. In the months leading up to her death Cassie contacted Sussex Police on numerous occasions to report that Harry Hasanovic was acting threateningly and violently towards her, but the police failed to take steps to protect her. On the day of her death Cassie was fleeing with her children to a domestic violence refuge. The police did not provide protection or an escort for the family and she was fatally attacked in the driveway. The family brought a claim against Sussex Police for their failures to protect Cassie. The claim was brought under Articles 2, 3, 8 and 14 of the Human Rights Act 1998 and for misfeasance in public office. The case was settled on the basis of the breaches of the Human Rights Act.

Matthew Gold, representing the family, says "This was a truly catastrophic case when Sussex Police failed to protect the mother of two young children who had been assessed at high risk. Despite, pleas for help and protection, Sussex Police left Cassie and her young family unprotected as she was brutally murdered. The existence of the Human Rights Act has enabled substantial damages to be obtained for the two surviving children to help with their education and into adulthood. Without the HRA, there would be no viable legal cause of action.". You can read more about the case here

Judgment On Retention and Use of Police Interview Tapes

The Divisional Court has ruled that police interview working tapes retained under the Code of Practice on the audio recording of interviews for persons detained under section 41 of the Terrorism Act 2000 can only be used in criminal or civil proceedings or an investigation of a complaint of ill treatment related to the interviews conducted with the person detained.

Conal Corbitt ("the applicant") was arrested on 7 May 2015 in connection with the discovery of a bomb hidden at the junction of Brompton Park and Crumlin Road, Belfast. The discovery was made after a coded warning and the IRA subsequently claimed it had planted the bomb. During the initial police interviews, the applicant failed to answer any questions and did not make any statement either personally or though his solicitor. The following day, the applicant's solicitor requested that the PSNI give an undertaking that any recording of the applicant's voice in the interviews would not be retained for use in alternative or future investigations. The PSNI refused to give such an undertaking. In subsequent interviews the applicant continued to remain silent. The applicant was charged on 10 May 2015 with offences under section 57 and section 58(1)(b) of the Terrorism Act 2000 ("the 2000 Act") and is currently a remand prisoner in custody on foot of these charges.

Schedule 8 of the 2000 Act requires the Secretary of State to issue a Code of Practice about the audio recording and video recording of interviews: • The audio Code was issued in 2001 and directs that one tape, the master tape, will be sealed before it leaves the presence of the detained person and a second tape will be used as a working copy. Paragraph 4.27 provides that the detained person shall be handed a notice at the end of the first interview which explains the use which will be made of the tape recording, the period of retention of the tape and the arrangements for destruction of the tape. Section 8 of the Code provides that the contents of the working tape will be completely erased at the conclusion of criminal proceedings or in the event of a decision not to prosecute and master tapes will be destroyed six years after the date of interview unless the provisions of the Criminal Procedure and Investigations Act 1996 Code of Practice applies or unless civil proceedings have been instigated or it is clear that none will be. • The video and audio Code (which relates to the video recording of interviews) was issued in 2003. There are no provisions within the body of this Code expressly dealing with the use to which tapes may be put. Paragraph 9 deals with the destruction of the master recording and as before is related to the needs of the particular criminal investigation being conducted or the requirement to have available material to identify wrongdoing at the interview or to protect police officers from false claims.

The Lord Chief Justice, delivering the judgment of the Divisional Court, said it was plain that the requirement to access the recording could only arise in relation to events occurring in the course of or related to the conduct of the actual interviews which were subject to audio and video recording. Further, the purpose of the recording is to secure the protection of the applicant and the interviewing officers: "To suggest that there is no limitation on the purposes for which the police can access the tapes is to go far beyond the purpose of protecting the applicant or the interviewing officers. In our view the purpose of protecting the interviewee and the interviewing officers plainly circumscribes the use which can be made of the tape. The tapes can be used for those purposes either for the institution of criminal or civil proceedings or in connection with a complaint of ill treatment."

The Divisional Court noted that the contents of each of the Codes differ and that they may serve different purposes but it did not consider that the limitations of the audio and video Code read directly across to the audio Code. The Court also noted that there are similarities within the Codes, primarily the approach to the retention of tapes. The Lord Chief Justice said this is a strong indicator that the use to which the tapes can be put is also related to the progress of the investigation in respect of which the interview was conducted. It had been submitted that the paragraph in the audio Code about the use which will be made of the audio recording meant that the tapes could be used for any police purposes. The Lord Chief Justice rejected this: "Such a broad entitlement gives rise to the risk of arbitrary use absent any express conditions or protections. The body of the Code of Practice is silent on the extent of the use of the working tape which can be made by police. The context set by the provisions on tape destruction point towards the working copy only being used for matters connected to the investigation in respect of which the interview was conducted. That interpretation also guards against arbitrary use. For those reasons we consider that it is to be preferred." The Divisional Court concluded that the interview working tapes retained under the audio Code can only be used in criminal or civil proceedings or an investigation of a complaint of ill treatment related to the interviews conducted with the person detained.

A UK Conflict Tribunal Would End the Current Legal Mess *Jason McCue, Guardian*

Headlines telling of terrorists receiving large compensation handouts should not surprise us, nor government legal defence bills totalling £150m, with accusations of service personnel wrongdoings related to Bloody Sunday or Basra. We will continue to hear our politicians blaming the individuals, lawyers, legal aid, human rights, and even European laws, but never themselves. It is indicative of the state's inadequate response to conflict justice that last week saw the state criminal case against an alleged Omagh bomber collapse, leaving the victims' civil action victory against the same individual as their only provider of justice. Perhaps a way ahead is a dedicated UK conflict tribunal to provide a palatable, non-jingoistic, British justice solution. Politicians caused this deteriorating state of affairs and failed to address the underlying cause. From Ireland to Libya, no recent UK conflicts have had any substantive or cohesive justice mechanism to cement peace. Successive governments forced our security forces into Ireland, Iraq, Afghanistan, with derisory post-conflict justice plans. The Belfast agreement, since it was signed in 1998, still has no overarching justice concept to provide accountability nor a reconciliation framework to ensure the peace. The allies left Iraq without creating a similar mechanism. Current and future politicos will always find it difficult to construct a lasting peace when a short-term peace can be celebrated more readily.

This resulting political malady of post-conflict justice has grown up since the Second World War on the premise that, as the Germans did not kick up a fuss, so neither would the Irish or the Iraqis. But good and evil in most modern conflicts could never be as stark as in the Nazi death camps. After the trauma of the great wars, the political will was to provide the next generation with international solutions, such as the European Convention on Human Rights, the International Court of Justice and the International Criminal Court. But such grand structures were never made to address an evolving justice environment of personal complaints, nor the protection of individual state interests. Globalisation and technology have shrunk the world. Nobody could have envisaged a farmer with a legitimate complaint against a British soldier in the siege of Tobruk getting to the UK and finding a lawyer in London to issue a writ. Conflict has changed too. Battles aren't fought in the fields but on buses, tubes and UK streets. Civilians are often in the front line in the war on terror. Justice for victims of terror gets squeezed into existing and traditional legal structures that cannot deal with their complexities. Also individualism is now firmly at the centre of most modern ideologies. The distance of the elite from the people has been narrowed by the flick of a Twitter post.

A UK conflict tribunal could be developed within the parameters of British, European and international law with a streamlined process. Cases within the ambit of the conflict tribunal can be readily differentiated, through existing legal concepts and definitions, from matters of pure criminality fit for the ordinary courts. It could deal with a range of justice issues arising out of UK conflict, both criminal and civil; victims against terrorists; an Iraqi civilian or combatant against a soldier; a terror suspect's fight against extradition; a torture claim arising out of a political decision; even hate and incitement crimes. Such a tribunal could be accountable and have the independence to deride spurious claims, protect personnel acting within rules of engagement and yet provide justice where it was overstepped by the individual or state. The set-up and running cost would be easily outweighed by the benefit, sparing the ordinary courts trouble and the government expense. It is as much our duty to ensure soldiers acting within orders are not made scapegoats as to hear and address legitimate complaints against those soldiers. A process to deal with all issues within UK conflict can best be built and controlled by us rather than an overseas international structure. A British conflict tribunal might have the further benefit of appeasing Eurosceptics and, if political currency were all that mattered, surely this would be the ideal broader legacy for Northern Ireland. A legacy that delivers long term while providing incentives for politicians and the Treasury alike.

Jason McCue is a human rights lawyer; senior partner of McCue & Partners

Police/SERCO/FME All Contributed to the Death of Sivaraj Tharmalingam

Mr Sivaraj Tharmalingam died on 18 April 2015 at Thames Magistrates Court, having been found collapsed unconscious on the floor of his cell. He had been transferred into SERCO's care at court after being held overnight in Metropolitan Police custody at Forest Gate Police Station. He was 50 years old at the time of his death. The two week inquest into his death concluded on Friday at St Pancras Coroner's Court. Mr Tharmalingam was a well-known member of the East Ham Tamil community and had helped locals with community engagement and dialogue. Sadly Mr Tharmalingham had a history of alcohol misuse following family bereavements in 2005, which led to the breakdown of his marriage. He had experienced seizures, one of which had resulted in a head injury that left permanent brain damage. Mr Tharmalingam was living in sheltered housing at the time of his death. Mr Tharmalingam was taking medication to prevent epileptic seizures as well as supplements for his alcohol misuse, and had previously suffered alcohol related seizures, including in police custody.

The jury concluded that Mr Tharmalingam suffered a fatal alcohol related seizure in conjunction with an underlying heart condition. The jury identified a number of failures by those responsible for Mr Tharmalingam's care that contributed to his death, including: • Mr Tharmalingam was seen by a Forensic Medical Examiner (FME) while in police custody. The consultation lasted less than a minute and the FME failed to make a meaningful connection with Mr Tharmalingam.The jury heard evidence that a police detention officer remained present in the examination room throughout. The FME accepted that the examination was "cursory". The FME was aware that Mr Tharmalingam was an alcoholic with epilepsy and yet did not look at Mr Tharmalingam's medication or consider his previous custody records. The FME did not recommend a further medical review and relied on the fact that he had been interviewed by the police in concluding that Mr Tharmalingam was fit to be detained. • Mr Tharmalingam told a police detention officer that he had vomited once in the morning before he was transferred to court. The inquest heard that despite being a possible symptom of alcohol withdrawal, the fact that Mr Tharmalingam had vomited was not passed on to the custody sergeant or to SERCO. It was accepted by a number of officers that this was a failure. • Mr Tharmalingam's Person Escort Record (PER) form had been inadequately completed, and it was unclear whether his medical form was included when he was transferred to court. The jury heard that the hard copy of the medical form has never been located and that significant parts of the form were left blank. Two police officers, including the custody sergeant responsible for signing off the PER, told the inquest that the blank sections were SERCO's responsibility and that the police often left sections blank. SERCO witnesses stated that the blank sections were the responsibility of the police. It was confirmed in evidence from the National Offender Management Service, who provide the PER form, that the police were wrongly leaving sections of the form blank. • The PER form included warning markers for alcoholism, epilepsy and suicidal thoughts. Despite this, the gaolers did not know of these warning markers even though they all attended a staff briefing that morning and despite the fact that two officers were sent to inform the gaolers of the warning markers. Mr Tharmalingam was therefore put on 10 minute checks, rather than five minute checks. The jury

heard evidence that from 10am onwards Mr Tharmalingam was checked only once, at around 10.55am. Approximately 10-15 minutes later he was found collapsed in his cell. • The jury concluded that SERCO's cell checks were random and none were documented. The inquest heard evidence that at Thames Magistrates Court a SERCO computer operator marked that cell checks were completed on time despite having no knowledge of whether the checks had been done at all, or by whom. The operator told the inquest that she randomly guessed which gaoler might have done the checks and inputted the checks without ever having contact with the gaolers responsible for doing the checks. She informed the jury that this was how she had been trained. SERCO's Head of Service Improvement accepted that the computer recording of the cell checks was a "work of fiction". • The gaoler who found Mr Tharmalingam collapsed in his cell failed to enter or begin CPR immediately. The inquest heard that the gaoler left the cell to inform his manager, causing a delay in the administration of medical help to Mr Tharmalingam. • The jury concluded that there was a continuous lack of communication between organisations involved in the events leading up to Mr Tharmalingam's death which contributed to Mr Tharmalingam's death.

In addition to the jury's findings, the inquest also heard evidence of a number of further failures and inadequacies in the care provided to Mr Tharmalingam by both the Metropolitan Police and SERCO: • Despite being arrested at sheltered accommodation known by the arresting officer for housing vulnerable individuals with ongoing care needs, no one at the police station was informed of this. • Mr Tharmalingam's anti-epilepsy medication was not listed on the custody record and the FME who examined Mr Tharmalingam was not made aware of it. • Despite warning markers for alcoholism and epilepsy, a FME was not called straight away. • Mr Tharmalingam was a vulnerable adult who was intoxicated on his arrival at the police station, he was recorded as rambling incoherently and he was marked as incapable of signing his own risk assessment. Despite this, Mr Tharmalingam was interviewed within an hour of his arrival, before the FME had examined him, and was interviewed without an appropriate adult. • Mr Tharmalingham told the interviewing officer that he took medication as he had previously collapsed. This information was not passed to the FME and was not transferred to SERCO the next day. • After Mr Tharmalingam had been interviewed, the FME arrived. No discussion took place between the FME and the custody sergeant either before or after the medical examination. As a result the FME was never made aware that Mr Tharmalingam had entered custody with anti-epilepsy medication in his possession. • No consideration was given by police officers to ensuring a further medical review for Mr Tharmalingam in order to consider the known risks of seizure from alcohol withdrawal and epilepsy, and to allow Mr Tharmalingam to be given his medication. • During the handover procedure at the police station Mr Tharmalingam asked for his medication. This information was not passed on to SERCO and no arrangement was made for Mr Tharmalingam to see a healthcare professional at court. The Coroner indicated at the conclusion of the inquest that she will be writing a Report to Prevent Future Deaths.

Mr Tharmalingham's wife was very concerned to hear of the failings by SERCO and the police and the lack of care that her husband received. She hopes that by shedding light on this matter it will prevent the same thing happening in the future.

Selen Cavcav, caseworker from INQUEST said: "Failures identified by this inquest re-enforces the concerns raised by the inspectorate who described court custody as an "accident waiting to happen" and recommended urgent improvement to the conditions of court cells. Mr. Tharmalingham deserved proper medical care and attention as a vulnerable adult. Instead he received substandard treatment from all the agencies concerned. This case has also exposed serious gaps concerning the transparency and accountability when it comes to private contractors such as Serco. There is at present no independent investigation mechanism in relation to deaths which take place in court cells as opposed to deaths in police or prison cells. We call on the government to correct this dangerous gap in the investigation systems as it is essential that independent oversight is in place for all deaths in custody, to ensure accountability and enable the lessons to be learned and disseminated nationally to prevent future deaths"

INQUEST has been working with the family of Tharmalingham Sivaraj since July 2015. The family is represented by INQUEST Lawyers Group members Jo Eggleton and Christina Juman from Deighton Pierce Glynn solicitors and barrister Jesse Nicholls of Doughty Street Chambers.

What Happened to Michael Gove 'Prison Reformer'? *Alex Cavendish, Justice Gap*

One of the very first lessons any prisoner needs to learn is that imprisonment is all about managing disappointments. High hopes can be very dangerous in the slammer, especially when they are so often dashed. For those who have poor coping strategies this constant battle between optimism and disappointment can lead to depression, self-harm and even suicide. I share this knowledge based on bitter personal experience, so I suppose that like so many prisoners or ex-cons we should have known better than to expect any real progress when it comes to prison reform under Michael Gove. Although I was cautiously optimistic – in common with several of my fellow former prisoners – I have started to realise that we were dazzled by fool's gold from an otherwise dismal pit of despair: the Ministry of Justice (MoJ). It is very nearly 10 months since Mr Gove took up his current government post as Secretary of State for Justice and Lord Chancellor. Having made quite a fist of his mission at Education, to be honest there were no great expectations that he would do anything positive. The general view seemed to be that at least he couldn't be any worse than Chris Grayling, so that, in itself, was progress of a sort. Others warned that given the new Secretary of State's past enthusiasm for academy schools we might be in for an expansion of private sector involvement in prisons. On the other hand, proponents of education for prisoners suggested that at least there might be some modest improvement in the standard and scope of a service that has been cut back so severely that it now often offers little more than very basic literacy and numeracy, plus a few low-level vocational courses.

Toxic legacy: Then Mr Gove managed to surprise us all. He set about reversing some of his predecessor's most divisive policies. Following a highly embarrassing defeat for the Ministry of Justice in the High Court in July 2015, Grayling's controversial ban on prisoners being able to receive books was already under fire, but to his credit Gove not only widened prisoners' access to books (by scrapping the entirely arbitrary 12 book limit), he then also scrapped the rule that prevented families and friends from sending books and audio books to prisoners directly. In reality, he simply ditched one minor element of Prison Service Instruction (PSI) 30/2013. Having fought hard on this issue and mobilised public support, it was entirely understandable that many leading prison reform campaigners came to regard Mr Gove as a 'good thing' and a potential reformer in his own right. In reality, all he was doing was behaving in a more reasonable manner, as most other Justice Secretaries before him had done, Mr Grayling excepted. By this sleight of hand, he managed to present himself as a much more enlightened individual than his loathed predecessor.

Of course, it is always a massive bonus for any politician to follow a genuinely hated previous act. A few minor, if high profile, concessions can work wonders in the short term. Indeed, I came to realise that much of Michael Gove's positive press was purely down to him not being Chris Grayling, as well as his taking credit for ditching large swathes of his predecessor's toxic legacy. There was also a much greater spirit of apparent openness down in Petty France, the MoJ headquarters in London. Mr Gove was willing to meet with prison reform campaigners, deliver keynote speeches at their conferences,

allow journalists to visit prisons and – pause for a sharp intake of breath – even ask advice covertly from a handful of articulate ex-cons. In public he managed to crack that slightly lopsided grin. Whenever Grayling had smiled it felt like he was a Grand Inquisitor about to preside over some horrific auto da fé. It genuinely seemed like a different era had dawned, a bit like Narnia after the death of the Witch. However, no amount of positive personal press or glad-handing of campaigners is going to bring our dysfunctional prisons back from the brink of the abyss. Sometimes it seems that just about everything that can possibly go wrong behind bars is doing so: violence, drug taking, bullying, debt, self-harm, suicide and – in Secure Training Centres – alleged physical assaults on detained children.

There is still some occasional mileage to be had by scrapping odds and ends left over from the Grayling nightmare years. Personalised hi-tech electronic tags (ditched), the massive secure 'college' (ditched) and MoJ training for Saudi torturers and executioners (ditched), but the real challenges inside our prisons – overcrowding, understaffing, poor mental heathcare – remain unaddressed on the wings, as does the disaster outside the main gate that is Transforming Rehabilitation in the probation sector that deals mainly with low to medium-risk ex-offenders. Add to that the continuing fiasco over legal aid and Mr Gove's positive balance sheet starts to look pretty uneven just ten months into his mandate. No-one really believes that accumulated problems that have built up over many years, including crumbling fabric, too few staff and poor morale, can be sorted out overnight. Michael Gove doesn't have a magic wand that he can simply wave over our dysfunctional prison system and reform it immediately. However, there needs to be a very fundamental discourse about what prison is really for and what outcomes are really desirable.

At present, most prisons offer little more than costly human warehousing in increasingly unsafe conditions. Rehabilitation is generally absent. During my own time inside in six different prisons from the south to the north-east, I can honestly state that I saw no evidence of genuine rehabilitation being on the agenda. There was just too few staff available to help prisoners coming up to release with accommodation or access to benefits, let alone offer any guidance on future employment prospects. Not one of these establishments had any kind of resettlement unit. All had been closed in previous years due to budget cuts and links with external agencies were either non-existent or so rare as to be virtually the same thing. Even in an open resettlement prison dealing with both short-termers and prisoners approaching the end of life sentences or long fixed-term stretches, the lack of provision was painfully obvious.

Education provision and vocational training in closed prisons – even in its most basic form – was severely hampered by shortages of uniformed staff to act as escorts. Missed classroom sessions were becoming the norm in 2012, rather than the exception and reading recent reports issued by HM Inspectorate of Prisons it is clear that in many jails the situation has got much worse than it was back in 2014 when I was released. Add to that some spectacularly poor standards of tutoring and classes regularly disrupted by inmates who had no interest in attending but were compelled to be there owing to threats of disciplinary action and I think it is fair to say the prison education system hardly covers itself in glory. Yes, it is true that there are some notable exceptions, but they are highlighted in reports purely because they function in a manner that resembles a 'normal' learning environment. The sad truth is that failure and underachievement in prison education is now the norm.

In reality, there are only two viable routes to address the current crisis in our prisons: reduce the overall population – nearly 86,000 in England and Wales – or substantially increase resources, including staffing. Anything else is ultimately doomed to failure, as the former Chief Inspector of Prisons Nick Hardwick correctly pointed out in his recent interview (here). However, Michael Gove has now made that most fundamental of elementary errors for any politician. He gave a recent

interview to The Guardian in which he allowed his pose as a genuine prison reformer to slip (here). In short, he told the truth as he sees it. He rejected the description of the present situation in our prisons as 'a crisis' – in common with his benighted predecessor who also preferred to live in a state of continuous denial of reality – and, even worse, he made the quite preposterous claim that prison reform was still possible without reducing the current historically high prison population.

If he really, honestly believes that to be true, then he has heard nothing when speaking to reform campaigners, to prison staff, to prisoners or to ex-cons. Moreover, he appears to have learned nothing from the many HMIP and IMB reports that must have landed on his desk over the past ten months. Recent official statistics released by the MoJ reveal the stark facts that violence in our prisons – both aimed at staff and between prisoners – is continuing to rise to dangerous levels. Specially trained Tornado teams were deployed to deal with serious violence or riot situations 373 times during 2015 – a massive increase on the 223 call outs in 2014. Simon Israel recently analysed these figures for Channel 4 News (here). That increase has happened mostly on Michael Gove's watch. We are also told that there has been, on average, a hostage taking in our prisons every week. According to the MoJ figures, there have been serious incidents of violence in prisons such as Leeds, Leicester, Parc and Wandsworth pretty much every single month.

At a time when almost every report by the Prisons Inspectorate or the local Independent Monitoring Boards (IMBs) warns of increasingly violent prisons awash with drugs and mobile phones, staff shortages are contributing to the effective – if temporary – loss of control in prisons across Britain. It can only be a matter of time before an incident of violence or a mass protest over poor conditions escalates into a full scale prison riot, with the risk that other establishments follow suit in 'copy cat' style, aided by news spreading via illicit mobiles. All of this amounts to a crisis by any standard. Pretending that it doesn't really won't help to improve anyone's morale or make the threat of serious bloodshed any less likely. However, the grinning Mr Gove prefers to believe that tinkering with a few aspects of prison regimes, particularly education, is capable of turning round establishments that are clearly failing to deliver. In my view there is little point in focusing on rehabilitation if it involves little more than attending a few classes (if and when staff are available to escort prisoners) when there is often nothing but chaos and failure awaiting those being released outside the main gate on release.

The wilful sabotage of the probation service by Chris Grayling and his cronies for purely ideological reasons has done nothing to support any reduction in reoffending and any newly released ex-prisoner who is facing life on the street isn't likely to remain offence-free for very long, especially if he or she still has drug or alcohol-related dependencies and/or mental health needs that will almost certainly not have been addressed while they have been in custody. Recall for licence breaches or arrest for new offences is, unfortunately, becoming more likely than successful resettlement, particularly for those serving short prison sentences. Although I should have been better prepared for disappointment, I must confess to having read Mr Gove's interview with Amelia Gentleman for The Guardian with a real sense of a historical opportunity being lost before my eyes. To what extent he is trying to keep on side with his own Tory constituency – the blue-rinse hang 'em and flog 'em brigade from Tunbridge Wells – I can't judge, but I do believe his comments have been deeply damaging to any serious hopes that he can truly deliver genuine prison reforms, especially now that he is leading a bruising political campaign over whether Britain should leave the EU.

I suppose like many others I was conned by Mr Gove's apparent bonhomie, or perhaps I deceived myself. I should have remembered Alexander Pope's excellent advice: 'Blessed is the man who expects nothing, for he shall never be disappointed.' I've been a prisoner, after all. I should have learned.

Met Told to Reinvestigate 'Racist Abuse' of Gypsies and Travellers

Chris Green, Independent: Scotland Yard has been ordered to reopen an investigation into allegations that its officers used a "secret" Facebook group to air racist views about ethnic minorities, after the police watchdog ruled that its original investigation was inadequate. The Independent Police Complaints Commission (IPCC) said the Metropolitan Police's investigation into the racism claims – which concluded without any officers being formally disciplined or charged – was "not appropriate" given the serious nature of the allegations. The claims centre around comments made about Gypsies and Travellers on an invitation-only Facebook group called "I've Met the Met". Many of the group's 3,000 participants are understood to be serving or retired police officers.

Transcripts seen by The Independent and later investigated by Scotland Yard showed the group's members discussing their hatred of "f***ing pikeys" and "low-life Gypsies". Both Travellers and Gypsies are officially recognised as ethnic minorities, making discrimination against them illegal. In January, the Met's investigation concluded without any officers being formally disciplined. The Traveller Movement charity, which lodged the original complaint with the force, decided to appeal against the outcome through the IPCC after claiming that the Met's five-month investigation was "shambolic and disrespectful" and amounted to a "whitewash". The watchdog has now ordered the Met to reopen its investigation after discovering that the officer in charge failed to contact any of the police staff who took part in the allegedly racist discussion. He was also unable to establish whether any serving officers had "liked" the comments, because he was not given full access to the Facebook group, the IPCC said.

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A spokesman for the Traveller Movement said it was concerned that the comments reflected an "unhealthy canteen culture" within the Met which suggested it routinely discriminates against the

Gypsy and Traveller communities. "We look forward to the re-investigation of our complaint. We hope that this time they actually contact and interview the serving police officers concerned," he said.

A Met spokeswoman said: "We will now reopen this investigation to undertake further inquiries to address these points. It would be inappropriate to comment further until our investigation has been concluded." Excerpts: The Facebook group posts: "The Policing Diversity book reliably informed us we should 'remove your footwear when entering a Travellers caravan'." Reply: "Ha ha ha, that's only so they can nick them easier." "If you don't live in a caravan, claim dole, have four aliases, convictions for theft of scrap metal, and are an artisan driveway landscaper then sorry chap, you're not a proper Pikey no matter how many teas you've had from a baked bean can."

IPCC Police Complaints Body to be Rebranded and Reformed *David Barrett, Telegraph*

Plans aiming to restore public confidence in the police complaints watchdog have been criticised as a "desperate re-branding exercise" after being announced by Theresa May, the Home Secretary. The Independent Police Complaints Commission (IPCC) is to be overhauled and renamed the Office for Police Conduct. Commissioners who currently oversee its activities will be replaced by a director general. It comes after the IPCC has largely lost the trust of rank-and-file officers, as well as some chief constables, over its handling of a number of controversial cases. Public confidence has also been damaged by high-profile IPCC inquiries such as the inquiry into the fatal police shooting of Mark Duggan, in Tottenham, north London, which sparked the 2011 riots.

Mrs May said the changes would "make the police complaints and discipline systems simpler, more transparent and more robust. At a time when the IPCC is growing as an organisation to take on all serious and sensitive cases, it needs to be more streamlined, more responsive to the public, and better able to cope with the cases it is taking on," she added. The reforms in the Policing and Crime Bill will increase the IPCC's powers, including wider powers to initiate its own investigations rather than waiting referrals from forces.

Sir Hugh Orde, former president of the Association of Chief Police Officers, said: "It sounds like these changes will not restore the faith of police officers. Unless those who have done nothing wrong are treated fairly, and dealt with quickly, I would need further convincing that these steps will have any significant impact."

The IPCC has been criticised for taking too long to investigate police officers who are subsequently cleared of any wrongdoing. Ken Marsh, chairman of the Metropolitan Police Federation, which represents ranks and file officers, said: "This is a desperate re-branding exercise of the IPCC that simply won't make a bit of difference. It won't restore the faith of police officers and the public in the IPCC because they're a busted flush. The Home Secretary needs to go back to the drawing board."

Anthony Stansfeld, the Conservative police and crime commissioner for Thames Valley Police, which covers Mrs May's constituency, said: "We await the full detail but I would be disappointed if there is no further structure to review the IPCC's activities. For example, there should be a small board to which commissioners can go to if the IPCC or its successors fail to handle a case properly or expeditiously."

One serving chief constable, who declined to be named, said: "I'm not convinced. The IPCC should be able to turn around an investigation but sometimes they take months or years, keeping officers who are later fully exonerated off full duties." The IPCC became operational in April 2004, replacing the former Police Complaints Authority.

Joint Enterprise Ruling: Effects on Live Criminal Cases Going Through Crown Courts

The first defendants in a murder trial have walked free from court following a landmark ruling on joint enterprise law. The legal bid on behalf of Khalid Hashi, 23, nicknamed "Van Damme", and 24-year-old Hamza Dodi was unopposed by the Crown Prosecution Service, which took into account the Ameen Jogee ruling immediately after it was given. Judge Paul Worsley ruled that the pair had no case to answer and they were formally acquitted in front of the jury on Monday, February 22. A Crown Prosecution Service spokesman said: "The CPS carefully considered the recent Supreme Court judgment (R v Jogee, Ruddock v R) and its impact on this case. In light of this and the evidence given during the trial it was determined that there were no grounds to oppose submissions of no case to answer for these two defendants."

Police Now Use Force More Readily Than a Decade Ago

A comprehensive system to record incidents when police in England and Wales have used force is urgently needed in order to identify concerns and improve public confidence, the Independent Police Complaints Commission said today (Tuesday 8 March). The IPCC's Police Use of Force study brings together evidence from complaints and investigations as well as examining public perceptions. The research looked at the use of firearms, Taser and restraint techniques, among other types of force. The report found the public believe police now use force more readily than a decade ago, and also believe that police use firearms much more often than they actually do. The average figure for people who trust the police to use reasonable force was 83%. However, the levels of trust in police use of force were lower among younger people (71%) and in black and minority ethnic communities (76%).

IPCC Chair Dame Anne Owers said: "People understand and expect that our police officers should have the power to use force when it is necessary to protect the public. However, officers must be accountable for their use of force, particularly when it leads to death or serious injury. Partly, this is done through investigations of serious incidents but a significant part of accountability is ensuring that the police consistently collect, analyse and publish data about how and when force is used. This allows areas of concern to be identified. It can also improve public confidence, by providing factual information to communities.The report raises particular concerns about the use of force on those with mental health concerns, who are particularly vulnerable but may also present challenges and risks to themselves and others. Not only do police need training in recognising and communicating with people in mental health crisis, but there is an urgent need to invest in appropriate mental health services to prevent such crises or manage people through them." The report makes 20 recommendations to police and policing stakeholder groups, including the need to consistently record and publish data for public scrutiny and for forces to seek feedback from people who have had force used against them.

The report examined complaints recorded by the police. It found forces are less likely to uphold complaints about the use of force than other types of complaint. Yet when those complainants appeal to the IPCC, their appeal is more likely to succeed than other types of appeal, particularly if the complainant comes from a black or minority ethnic community. The research also looked at a five-year sample of IPCC investigations, into the most serious incidents of use of force. Findings from these incidents included: • A high rate of fatalities when restraint equipment was used, or when police used force in a hospital • The disproportionate number of people with mental health concerns who died or experienced multiple uses of force • Young people experiencing use of force were disproportionately likely to be of BME background • There were concerns about half of the incidents that took place in police custody • Half the incidents

investigated took place between 9pm and 3am, when other services are less likely to be available

Prison Smoking Ban Overturned by Court of Appeal *Owen Bowcott/Alan Travis*

A compulsory, immediate ban on smoking in prisons has been overturned by the court of appeal, allowing the Ministry of Justice to introduce its own voluntary, phased controls. Bans affecting three jails in Wales came into effect in January. The MoJ said it still intended to impose restrictions on tobacco but would have greater freedom in implementing its policy. The court of appeal ruling is a defeat for Paul Black, a sex offender who is an inmate at HMP Wymott in Lancashire. He has been serving an indeterminate sentence since 2009 and won a high court ruling last year in favour of a compulsory legal smoking ban on health grounds. Black complained that prison rules were being flouted and needed to be made legally enforceable under part 1 of the 2006 Health Act, which came into effect in July 2007.

Government lawyers had warned at a recent hearing that a “particularly vigorous” ban on smoking in state prisons could cause discipline problems and risk the safety of staff and inmates. The cautious approach to implementation follows warnings from prison governors that it risks increasing instability in jails. More than four in five prisoners smoke and, while a ban on smoking in communal areas has been in force for some time, inmates have been allowed to smoke in their cells. The latest ruling by three court of appeal judges – Lord Dyson, master of the rolls, Lord Justice McCombe and Lord Justice David Richards – concludes that the ban on smoking in public places does not apply to state prisons and other crown premises in England and Wales.

Four prisons in south-west England – Exeter, Channings Wood, Dartmoor and Erlestoke – were due to introduce the ban this month. The ban already applies to private prisons as they are not crown premises. MoJ sources said the ruling would not affect the phased introduction of the ban on smoking in prisons in England and Wales. It will eventually be implemented in all 136 prisons in England and Wales. A Prison Service spokesperson said: “The result of this appeal means we are able to roll out smoke-free prisons in a safe and secure way. While the Health Act 2006 will not legally bind the crown properties, including prisons, the smoking ban will be implemented as a matter of policy. Our careful approach will ensure staff and prisoners are no longer exposed to secondhand smoke, while not compromising the safety and security of our prisons.”

Air-quality tests carried out last year in six prisons showed staff were spending at least one-sixth of their time breathing in secondhand smoke levels higher than World Health Organisation standards. Responding to the decision, Sean Humber, head of human rights at the law firm Leigh Day, which represented Black, said: “The court of appeal’s judgment is disappointing as it denies non-smoking prisoners and prison staff the same legal protection from the dangers posed by secondhand smoke as the rest of us. It seems absurd to our client that, despite the Health Act specifically identifying controls on smoking in ‘prisons’, the act is to be interpreted as not applying to public sector prisons that make up the vast majority of prisons in England and Wales. Given that our client’s case was successful in the high court, we are now discussing an appeal to the supreme court with our client.”

PPS not to Prosecute Soldier Who Killed Daniel Hegarty in 1972

The Public Prosecution Service (PPS) says it has decided not to prosecute in the case of a 15-year-old boy shot dead by a soldier in Londonderry in 1972. An inquest in 2011 found that Daniel Hegarty posed no risk when he was shot twice in the head close to his home in Creggan. Following the inquest, the PPS was asked to consider if the soldier responsible should be prosecuted. It now says that there is no reasonable prospect of a conviction.

CPC Assistant Director of Central Casework, Michael Agnew, said: "The standard of proof that the prosecution must reach in a criminal trial is the high one of beyond reasonable doubt. Our assessment remains that there is no reasonable prospect of proving to the criminal standard that [the soldier] did not act in self-defence having formed a mistaken but honest belief that he was under imminent attack. I understand how disappointing this decision will be for the families involved, particularly in light of the findings returned by the inquest jury," he said. We have sought to provide them with detailed reasons for our decision and to assure them that the decision was taken only after a most careful consideration of all the available evidence."

Restraint and Communication Failures Contributed to Death of Philmore Mills

Philmore Mills was a 57 year old man described by his eldest daughter as a bubbly man who got on well with most people. He was admitted to hospital with breathing problems and later on diagnosed with a tumour in his lung. His family saw him last on Boxing Day four years ago. He was wearing an oxygen mask at the time as he needed assistance with his breathing. He was disappointed about not being home for Christmas but the indication from the medical staff was that he should be expected to return home soon. 8 hours after this visit, Philmore was dead after having been restrained by police. Today, after hearing four weeks of evidence, the jury returned their narrative conclusions on the circumstances in which Philmore Mills died.

The family of Philmore Mills said: "It's been four stressful years to get to this point. We have now listened to four weeks of evidence about how events unfolded like a car crash in slow motion. Yet we are none the wiser as to how a seriously ill man with pneumonia, heart and lung disease, lung cancer and blood clots in his lungs could have been allowed to die under police restraint on the floor of a respiratory ward. It is shocking that neither the nurses, security staff or police officers spoke to each other before restraining him. None of the witnesses accepted responsibility for the death of our father/grandfather. No family should have to go through what we have gone through. We hope that all those involved will reflect on their actions and that lessons will be learned."

Kate Maynard, family solicitor, Hickman & Rose said: "A report 'Police Use of Force' issued by the IPCC today revealed "troubling issues", including the death of five people during or following the use of force by police in hospital. Dame Ann Owers expressed concerns about the use of force on those who were particularly vulnerable (see IPCC report on police use of force here). In this case, the jury found that pressure was applied to Mr Mills' shoulder sufficient to cause bruising while he was restrained face down on the floor. They also found that restraint contributed to his death and that a failure of communication between the police, security and nurses and with Mr Mills played a part."

Deborah Coles, Director of INQUEST said: "Philmore Mills was a vulnerable and seriously ill black man in need of help and yet he was failed by those who should have been there to protect and care for him. For a man so obviously unwell to be handcuffed and restrained in such a terrifying way in a healthcare setting raises serious concerns about the culture and practice in policing and health provision. This is not an isolated case. There are a disproportionate number of deaths involving the restraint of men from black and ethnic minority communities. The failures in this case, which have been exposed through the relentless attempts of the family to get to the truth, should prompt a thorough review, reflection and reform in the way the police and health service respond to people in crisis."

INQUEST has been working with the family of Philmore Mills since January 2012. The family is represented by INQUEST Lawyers Group members Kate Maynard from Hickman and Rose Solicitors and Leslie Thomas QC from Garden Court Chambers.

UK Prison Population Biggest in Western Europe *Alan Travis, Guardian*

Britain has the largest prison population in western Europe at 95,248, which is nearly 20,000 higher than France and 30,000 more than Germany, according to the latest Council of Europe figures. The annual statistics for 50 European countries show Britain is behind only Russia with its 671,027 prisoners and Turkey with 151,451. The appetite for incarceration in Britain is underlined by the number of prisoners per 100,000 population, which stands at 149.7 for England and Wales and 147.6 for Scotland, compared with 118 for France and 81.4 for Germany. The European comparison comes soon after the justice secretary Michael Gove's declaration that he believed it was possible to implement his radical prison reform programme without dramatically reducing the prison population. The Council of Europe said its 2014 penal figures showed that overcrowding had been slowly declining in European prisons since 2011, although it remaind a problem in a quarter of prison administrations. The total prison population across the 50 countries stood at 1,600,324 in September 2014, putting it near the top (94%) of the capacity of European jails. This is about 70,000 more than the figure for 2013, which stood at 1,530,222.

Britain does not feature in the European top 10 of countries with the most overcrowded prisons, with that table headed by Hungary, Belgium, Macedonia, Greece, Albania, Italy and Spain. But it does have the highest population of prisoners serving life sentences: 7,468 in England and Wales and 1,010 in Scotland, compared with 1,953 in Germany, 1,599 in Italy and 466 in France. The proportion of those prisoners is also higher in Britain at 10% compared with a European average of 3%. This reflects the much reduced use of indeterminate sentences in the rest of Europe. There are, however, fewer foreign nationals incarcerated in Britain than in other major western European countries. There were 10,834 foreign prisoners in England and Wales, compared with 14,688 in France, 19,562 in Germany, 17,457 in Italy and 20,125 in Spain. The average spent per prisoner per day in England and Wales of €109 (£84) is above the European average of €99 or £76.62

Eight Out of 10 Women Prisoners Have Committed A Non-Violent Offence

Seven out of 10 women in prison are serving sentences of less than 12 months;To mark this year's International Women's Day, a new body set up to investigate miscarriages of justice has launched a new programme aimed at assisting women who have received prison sentences for minor and non-violent crimes. The Centre for Criminal Appeals (CCA) new 'criminal appeals strategic legal representation programme' will highlight 'inappropriate and disproportionate' sentencing of women who have committed minor, non-violent crimes and/or civil offences that can also lead to imprisonment, such as the non-payment of council tax. The programme will help women in these situations to appeal their sentences.

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, Robert Knapp, 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.