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

MOJUK: Newsletter 'Inside Out' No 580 (28/04/2016) - Cost £1

Ched Evans Granted Retrial by Court of Appeal Miranda Grell, Justice Gap

The Court of Appeal has quashed the conviction of footballer Ched Evans and ordered a retrial. In April 2012, a jury at Carnarvon Crown Court found the former Sheffield United striker guilty of rape and he was sentenced to five years. He was released on licence in October 2014 and remains on the sex offenders register. Evans, who has always protested his innocence, was refused permission to appeal by a single judge in the Court of Appeal in August 2012 and again in November that year by the full court. Evans took his case to the miscarriage of justice watchdog, the Criminal Cases Review Commission which has the power to refer cases to the appeal courts if 'relevant and admissible evidence' that was 'not available at trial' has come to light which may undermine the safety of the original conviction. Days after Evans submitted his application in October 2014 to the CCRC, the watchdog announced – controversially, as the Justice Gap reported at the time – that it was fast-tracking the investigation into his case. Just over a year later, the Commission referred Ched Evans' case to the Court of Appeal. It currently takes the cash-strapped CCRC eight months just to look at a new case – 13 months if that applicant is out of prison.

Appeal allowed - Outside Court 6 of the Court of Appeal morning of Thursday 21st April, journalists and tourists, jockeyed for space with Evans himself, his fiancée Natasha Massey and over 20 other members of his family. The mood was tense, with nobody speaking apart from one elderly member of his entourage, who told a fellow relative: 'It's a long way to have come for only 10 minutes.' Today's judgment, welcomed by an 'extremely grateful' Ched Evans seems to vindicate a controversial decision by the Commission to fast-track the case. Kim Evans, writing for the Justice Gap back in October 2014 when the CCRC opened its investigation into the case, noted that there were then 838 cases under review, with 709 waiting – 'an overwhelming case load, particularly bearing in mind that many of those awaiting a review of their case will still be in prison, and a proportion will be innocent. This makes the CCRC's decision in the case of Evans difficult to understand.'

The CCRC denies that Evans was given any special treatment because of his celebrity status or wealth. In an interview with the Justice Gap's editor Jon Robins last month, the CCRC's Chair Richard Foster insisted: 'We don't approach things in that way.' He wouldn't be drawn on the reasons for expediting the case. Foster would only say that the CCRC has a policy on the 'prioritisation of cases'. 'If someone is very ill and they might die; if there is evidence that might be unattainable if we wait too long; if there is a risk because of the high interest in the case that evidence might become contaminated,' he said. It is unclear into which of those categories – if any – the Ched Evans case fell. The Court of Appeal has ordered that Evans is rearraigned for a retrial within the next two months and strict reporting strict restrictions remain in place. It remains to be seen, however, whether social media users, in particular, will adhere to Lady Justice Hallett's stark warnings on contempt of court this morning, given the legal confusion that currently exists about commenting online on high-profile and controversial cases.

The ruling – in full: On 20 April 2012, a jury at the Carnarvon Crown Court convicted the appellant of an offence of rape. He was sentenced to five years imprisonment and he has since been released on licence. He appealed to this court against conviction on a reference by the Criminal Cases Review Commission under s.9 Criminal Appeal Act 1995 on the basis that relevant and admissible evidence has come to light, that was not available at trial, and that undermines the safety of his conviction. On 22nd and 23rd March 2016 we heard argument and we heard the fresh evidence. In our judgment handed down this morning, we provide a detailed consideration of the issues raised on the appeal and the reasons for our decision. In summary, we have concluded that we must allow the appeal and that it is in the interests of justice to order a re-trial. Nothing can be reported that might prejudice the fairness of that re-trial. That means the contents of this statement may be reported and broadcast, in full, but nothing more about the appeal proceedings may be reported until the re-trial is concluded. The identity of the complainant in this case must not be reported. Accordingly we order: 1. The appeal is allowed. 2. We quash the conviction. 3. The appellant will be retried on the allegation of rape 4. A fresh indictment must be served. 5. The appellant must be re-arraigned on that fresh indictment within 2 months of today. 6. The appellant will be on unconditional bail as far as this court is concerned.

The venue of the re-trial, the trial judge and the date of the re-trial will be determined by the Senior Presiding Judge for the Wales Circuit, Nicola Davies J. Any applications for further directions should be made to her. Reporting restrictions under section 4 (2) of the Contempt of Court Act apply to the appeal proceedings and will continue until the conclusion of the re-trial, to avoid any prejudice to the re-trial. Any application to lift those restrictions to be made to Nicola Davies J or the trial judge. The Sexual Offences (Amendment) Act 1992 also applies so that the complainant is entitled to life-long anonymity.

"If You Don't Go to Trial, You're Never Found Innocent" *Esther Addley, Guardian*

'I want to be a voice for the voiceless,' says nun left in limbo over sex abuse allegations - For more than 30 years, Sister Frances Dominica was a constant presence at Helen House, the children's hospice she founded in Oxford in 1982. To generations of ill children and their families, the slight, softly-spoken nun became a friend and a lifeline in the darkest of times, while the small centre built in the grounds of her convent inspired a growing network of similar refuges from Canada to South Africa to Japan. If the children's hospice movement had a figurehead, it was the unimpeachable nun, who was awarded an OBE by the Queen, interviewed on Desert Island Discs and showered with honorary degrees and awards. In 2013, however, her relationship with the hospice was abruptly severed. One July afternoon the charity's chief executive contacted the Anglican sister, born Frances Ritchie, and said he had been told that two women had made allegations of historical sexual abuse against her. He told her she was immediately barred from having any contact with residents, family members or staff while the matter was investigated, and that she was not to set foot in Helen House or its sister hospice for young adults, Douglas House.

Sister Frances was never prosecuted over the allegations, which she wholly denies. In November 2013, four months after Oxfordshire county council first informed the hospice of the accusations, Thames Valley police interviewed her under caution and she was bailed. She heard nothing further, she says, until July 2014, a year after first coming under suspicion, when the Crown Prosecution Service informed her it would be taking no further action due to "insufficient evidence". "But if you don't go to trial, you are never found innocent," the 73-year-old now says. And so, after conducting a lengthy confidential risk assessment, the trustees of Helen and Douglas House announced in July 2015 they would be making her temporary ban from the hospices permanent. They said in a statement that though "no conclusions about the allegations could be made", the safeguarding standards of their regulator, the Care Quality Commission, obliged them to con-

tinue to bar her permanently from the premises. “Our unswerving dedication to care and proper governance made any other course of action unthinkable,” the trustees said later.

Last December, Sister Frances reluctantly resigned as a trustee. The nun’s relationship with the hospices she founded is now conducted at a distance of several hundred metres, looking out across her convent’s carefully tended lawns at the centres she is officially deemed too risky to enter. No one other than the nun and her accusers can be absolutely certain that she is telling the truth in insisting on her innocence, and the allegations do not relate to Helen and Douglas House or to children. Speaking to the Guardian in a small room in the clutch of modern buildings now occupied by the All Saints Sisters of the Poor, Sister Frances acknowledges that to some people her name will never be clear of the whiff of suspicion. Her gender makes her case unusual, but she is far from alone in finding herself in a form of reputational limbo – publicly accused of serious crimes, but neither convicted of them by a jury nor able fully to clear her name.

The collapse last month of the Metropolitan police’s Operation Midland, investigating claims of a VIP paedophile ring made by a now adult man called “Nick”, means that the former MP Harvey Proctor has been added to the lengthening list of figures – including the DJ Paul Gambaccini, former armed forces chief Lord Bramall and TV personalities Jim Davidson, Freddie Starr and Jimmy Tarbuck – who have been investigated and publicly named over sexual abuse allegations, but seen their investigations dropped because of insufficient evidence. “In this country you are supposed to be innocent until you are proved guilty,” Sister Frances says. “But in any kind of safeguarding issue, it feels as if you are guilty until proved innocent.” That vexed issue is unlikely to be made any easier to resolve by the halting of Scotland Yard’s Operation Midland investigation. The force said in September that one of its senior officers was wrong to have said that he considered Nick’s claims to be “credible and true”. Three days before the Midland collapse, however, the College of Policing wrote to forces reiterating its guidance that complainants should be believed unless there was “credible” evidence to the contrary. A month earlier, writing in the Guardian, the chief constable of the Metropolitan police, Bernard Hogan-Howe, had said public confidence would only be restored if all alleged rape victims were not unconditionally believed by police.

Unlike many of her fellow accused, the investigation of Sister Frances was not immediately made public. Her name entered the public domain only when it was leaked to the Daily Telegraph in 2015, two years after she was first accused. She echoes Gambaccini and others in calling for the law to be changed to allow those accused of sexual abuse to have anonymity “until and if you are convicted. If you got through trial and are convicted then of course your name should be out there. Ninety percent of the time, though, I think we should have anonymity just as the alleged victims have anonymity.” She says she agonises over questions of guilt and innocence in others. “You read reports, you hear people speak, and then you hear the very opposite from somebody else. All anyone can honestly know is their own involvement, either as victim or perpetrator. We will never know the truth about other people. It’s very, very complex.” Her own protestations of innocence, of course, fall into the same category. “I suppose I just have to carry on knowing in my heart that I am innocent and doing my best,” she says. Born in Inverness to Church of Scotland parents, Sister Frances was working as a paediatric nurse at Great Ormond Street hospital when she experienced what she understood as a dramatic call from God to take holy orders. By the age of 35, she was mother superior of her convent. She founded Helen House after befriending the family of Helen Worswick, a very ill two-year-old who lived at home but required 24-hour care from her family. Douglas House followed in 2004.

Being separated from her work at the hospices has been immensely painful, she says, “because if you have journeyed with families through illness and death, and the funeral and

the bereavement – and bereavement, as you can imagine, goes on for a long time after the child dies – you are very close to them.” Sebastian’s Action Trust, another charity of which the nun is a patron, offered her its full support after the investigation was dropped, saying it had found “absolutely no reason to exclude Sister Frances from our activities”. In her own case, says the nun, the fact that her name is known in connection with the allegations is not her biggest concern. “I was nervous about it at the beginning, but I really don’t mind now that people know because I think it’s part of my role.”

That role, she says, is to become a voice for those in her position – particularly teachers, fellow carers or clergy – who find themselves similarly accused, often similarly excluded from their roles because of safeguarding concerns yet unable ever to prove their innocence. “I think, without meaning to be arrogant, I think I want to be a voice for the voiceless. Because I have been … ” She trails off. “I was going to say I have been a victim.” Is she uncomfortable with that word? “Yes, because I don’t feel it. But there are a lot of people in my situation who do feel they are victims, and feel very alone in it. And that’s where I am. I’d like to be alongside, in whatever way is appropriate.”

Criminal Review System is Failing Innocent Prisoners Eric Allison, Independent

Last week, the court of appeal upheld a high court ruling that two men, convicted of crimes they did not commit, were not entitled to be compensated for the years they had spent in prison. Victor Nealon served 17 years before his rape conviction was quashed after DNA tests pointed to an unknown male as the assailant. Sam Hallam’s 2005 murder conviction was overturned by the court of appeal in 2012. In one sense, Nealon and Hallam are lucky: they were at least freed eventually. Many hundreds, who protest their innocence, remain incarcerated. There are probably more miscarriages than at any time in recent history. The Criminal Cases Review Commission (CCRC) receives 130 applications a month from prisoners claiming innocence; and the 35 universities that run Innocence projects say they each receive two to three applications a week.

There is a pattern running through many of the cases where convictions have been overturned: first, you have a defendant who, with little or no knowledge of the criminal justice system, in many cases, starts by believing the system to be fair. Then, there are police officers, believing they have the right person and hiding evidence that may help the accused – non-disclosure of witness statements and other evidence is at the heart of most wrongful convictions. In the case of John Kamara , for example, police failed to disclose 201 witness statements to the defence. The media produce prejudicial pre-trial reports which, just a few decades ago, would have risked contempt of court charges. Although the press regularly stray dangerously close to the limit in pre trial reporting, there has only been one high profile case where their reporting has led to contempt of court proceedings. In 2011, retired Bristol school teacher, Christopher Jeffries was awarded damages against newspapers who had traduced him after his arrest for murder. The papers were fined for contempt of court. Juries are ordered to ignore such reports, but is that likely, particularly in high-profile cases?

The vast majority of cases of overturned convictions also show glaring errors by defence lawyers: failure to call witnesses, or seek full disclosure of evidence and a general lack of effort are commonly cited when convictions are quashed. And with deeper cutbacks in legal aid, this situation can only get worse, with defence lawyers spending less time in pre-trial conferences with their clients. Last, but not least, you have an appeal court seemingly concerned only with maintaining the validity of the original conviction. Other factors make this system a game played on unequal terms, such as the introduction of majority verdicts in 1967. It is held that

the prosecution must prove guilt, but does, say, two out of 12 people not accepting the Crown's case constitute reasonable doubt? Seemingly not, yet many proven miscarriages, such as Kerry Holden's murder conviction in 2011, were the subject of majority verdicts.

In 2004, the law changed to allow juries to hear evidence of a defendant's previous convictions. Previously, unless a defendant attacked the character of a prosecution witness, juries were kept in the dark about previous convictions. It is much easier now for the prosecution to make its case. But is it fair? Talk about giving a dog a bad name. There was a spell, towards the end of last century, when a light was shone on criminal justice. A seemingly constant stream of high-profile convictions such as those of the Birmingham Six and Guildford Four were overturned on appeal. The public were shocked and questioned how this could have happened in a legal system that is supposedly envied across the globe. Something had to be done. So, in 1997, the Criminal Cases Review Commission (CCRC) was set up. Before then, the only resort for a case that had already been to appeal and failed was a direct appeal to the home secretary, who could refer a case back to the appeal court. In practice, only four or five cases were referred each year from around 700 applicants.On paper, the CCRC provides a safety net for the wrongly convicted. But it has disappointed those who hoped the CCRC would deal swiftly and surely with miscarriages of justice. The quango is under-resourced and seemingly unable to carry out the in-depth investigations required when prosecutions are questioned. The chair of the CCRC says that for every £10 his predecessor spent on a case 10 years ago, he now has just £4, despite a 70% increase in workload. The CCRC receives 1,560 applications a year and refers some 35 back to appeal. That suggests that 1,500 people are falsely claiming innocence. But prisoners in denial will not get parole, or better conditions. It just doesn't make sense that so many would make false claims. Of the 595 cases the CCRC has referred since 1997, about 70% have succeeded on appeal. With hundreds claiming innocence waiting in the queue to have their case considered by the CCRC and legal aid for appeals difficult to obtain, it appears the light that shone two decades ago has been well and truly switched off. The government knows there are no votes in prisoners, innocent or not.

New York Police Officer Escapes Jail After Shooting Dead Unarmed Black Man

Andrew Buncombe, Independent: A New York police officer who shot and killed an unarmed man in a dark stairwell has been told he will not go jail for the man's death. Peter Liang was on Tuesday 19th April, sentenced to 800 hours of community service for the November 2014 shooting of Akai Gurley, who was walking down a stairway in a public housing complex when the rookie police officer fired a bullet into the darkness. The court had been told he had fired his weapon by accident after being startled. The bullet ricocheted and killed 28-year-old Mr Gurley. "Given the defendant's background and how remorseful he is, it would not be necessary to incarcerate the defendant to have a just sentence in this case," said Brooklyn state Supreme Court Justice Danny Chun, according to the Associated Press. A jury had in February convicted Liang of a manslaughter charge carrying up to 15 years in prison. But the judge on Tuesday reduced the offence to criminally negligent homicide, which carries up to four years in prison. Liang, speaking softly, said he never meant to fire the gun and apologised to Mr Gurley's family. "My life is forever changed," he added. "I hope you give me a chance to rebuild it." Liang was the first New York City police officer convicted in an on-duty shooting since 2005, and the verdict prompted an outpouring of demonstrations on both sides of a closely watched case. The shooting happened in a year of debate nationwide about police killings of black men. Mr Gurley was black; Liang is Chinese-American. As the sentencing approached, dozens of demonstrators gathered outside the courthouse - some supporting Liang, others the Gurley family.

Tripoli Papers - Failure of UK Justice System to Hold Government to Account

Torture is universally held in open contempt by the UK legal system. Except, of course, in national security cases, where the evidence of UK complicity in torture overseas may be kept secret, as the High Court case of Kamoka & Ors v The Security Service & Ors [2016] EWHC 769 (QB) reveals. The Tripoli papers: After the fall of Colonel Gaddafi in 2011, human rights researchers walked into the offices of the Libyan security services. There they found certain documents (known as 'the Tripoli papers'), which suggested strong links between western intelligence agencies and their Libyan counterparts. The documents detailed joint operations between the US, UK and Libya involving kidnap, extraordinary rendition and torture of a number of Libyans suspects, including a woman who was four and-a-half months pregnant. The High Court judgment in Kamoka has now confirmed that although judges have known about the Tripoli papers for over a decade, the evidence remained secret.

To understand this decision, it helps to rewind to the early noughties. For several decades, Libya had been an international pariah, tainted by the Lockerbie bombing, the murder of PC Yvonne Fletcher and other diplomatic incidents. Everything changed after 9/11. The UK government rekindled its relationship with the Gaddafi regime. In exchange for Libya's cooperation in the 'War on Terror' and disposing of its weapons of mass destruction, UK companies, such as BP, were granted greater access to Libyan oil and gas reserves and other investment opportunities. This was the political backcloth to Tony Blair's infamous 'kiss in the tent' with Colonel Gaddafi. As our foreign policy on Libya shifted, the UK became less of a safe haven for Gaddafi's opponents. By 2006, a number of Libyans in the UK had been arrested and charged with terrorism offences linked to the Libyan Islamic Fighting Group (LIFG). The UK decided to deport them to Libya. They were detained pending deportation and subjected to Control Orders that restricted their liberty.

Kamoka: The claimants brought claims for false imprisonment and misfeasance in public office against MI5, MI6, the Attorney General, the Foreign and Commonwealth Office and the Home Office. The issue was whether the government had wrongly suppressed the Tripoli papers at earlier hearings in Special Immigration Appeals Commission (SIAC) in 2006 and/or the High Court. The government agencies asked the court to strike out the claims on the ground that no suppression had taken place and all the evidence had already been considered by SIAC and/or the High Court. Mr Justice Irwin found that there was no suppression of evidence.

The second claimant had argued before SIAC that it was unsafe to rely on intelligence obtained from detainees in Libya due to widespread concerns about torture and the likelihood that he would be at real risk of torture if deported. The claimants, and the Special Advocates representing their interests, were therefore alive to the issues of rendition, evidence obtained by torture and cooperation between western intelligence agencies and the Libyan authorities. Despite this, the Special Advocates did not argue that the government's case was hopeless or that it was acting in bad faith. SIAC and the High Court considered the matter fully and decided the case on material other than evidence that may have been obtained by torture. With only a few exceptions, the claimants claims fell to be struck out as an abuse of process because if they were allowed to proceed, they would be challenging earlier judgments in which all the evidence had been fully heard.

Questions unanswered: Senior judges knew that the UK was secretly aiding and abetting the Libyan authorities in kidnapping, detention and torture. They said nothing about this in their open judgments at the time. We do not know what their closed judgments said on this issue, if anything. If the Libyan security service had destroyed the paperwork before their offices were searched, this particular episode in the 'War on Terror' may never have come to light.

This decision raises some fundamental issues about trust and confidence in the UK justice system and its ability or willingness to hold governments to account. After all, Judges are required not only to determine cases but to uphold the rule of law and be seen doing so.

Questions also arise about the procedure: • What public interest is served by keeping such information secret? • What are the duties on judges who learn in secret hearings that the UK government has violated international law? • How can such issues be adequately addressed in a closed hearing? • Could evidence of the UK's involvement in torture justify full or greater disclosure of such material, in the public interest? • How can the common law duty of anxious scrutiny be given full effect in such cases without disclosure? • To what extent should a judge (and government agencies) inquire into any actual or alleged UK involvement in torture if relevant to the case? The open judgment in Kamoka does not answer these questions. The decision notes that it is not the role of the Special Advocate to share closed evidence that may give rise to a further legal claim by a Claimant (see paragraph 32). This is unlikely to be the last word on the topic. Even within the practical constraints imposed by national security cases, it is widely accepted that secret hearings are inherently unfair. Special Advocates and some Judges have deep misgivings about the process. What is striking about Kamoka is its confirmation that the current system appears to give the UK government a license to involve itself in torture with effective impunity, free from public scrutiny and condemnation.

Bid to Deport Six Terror Suspects Blocked After UK Judges Cite Torture Fears In Algeria

Bureau of Investigative Journalism: Six men accused of having links to al Qaeda cannot be deported to Algeria because there is a "real risk" they would be tortured, UK judges ruled today in what marks a major defeat for the Home Office. Judges at the Special Immigration Appeals Commission (Siac) ruled against Home Secretary Theresa May and found in favour of the six men who have been fighting deportation orders for 10 years. The Home Office argued they were a national security risk to Britain, but the Siac judges agreed with the men that their human rights would be at risk if returned to Algeria. "It is not inconceivable that these Appellants, if returned to Algeria, would be subject to ill-treatment infringing Article 3 [prohibition of torture under the European Convention on Human Rights]. There is a real risk of such a breach," they ruled today. The six men are living under strict bail and curfew conditions at various locations in England. The men cannot be identified for legal reasons and the Home Secretary now has 10 days to appeal today's decision. It is highly unusual for the Home Office to lose such appeals in Siac, which often hears evidence in secret. The ruling was announced by the UK's Independent Reviewer of Terrorism Legislation on Twitter.

Three Siac judges said the threat of Islamism in the region, both in Algeria and neighbouring countries such as Libya and Mali, was contributing to a volatile political situation. They also noted the Islamist attack on the In Amenas gas installation in 2013 when 39 foreign hostages were killed during the ensuing rescue raid by security services. The Home Secretary argued they had "effective assurances" from Algeria that the men would not be tortured and pointed to an agreement signed between Tony Blair and President Bouteflika in 2006. However, the court in London noted that Bouteflika was now almost 80 and had sustained a brain haemorrhage in April 2013. Since then he has been confined to a wheelchair and makes few public appearances, the judges said. Although they noted he had been re-elected as president for a fourth term April 2014, they said some felt there was a potential power vacuum in the country which could undermine the effectiveness of the assurances on torture. In response, the Home Secretary's lawyers argued that the presence of international NGOs in Algeria, as well as the Algerian press, would help prevent and deter any abuse of the six men.

But Siac said this was not the case, as any press reporting on abuse by the authorities was not in "real time" but after the event so could not prevent the abuse from happening. The judges added that it was "obvious" that the presence of human rights NGO's in Algeria for a number of years had not managed to "prevent further abuse of any detainee" once reported. In conclusion, they said: "Viewing the evidence as a whole we are not convinced that the improvements in conditions in Algeria are so marked or so entrenched as to obviate the need for effective verification that the authorities will adhere to the assurances given. "It is not inconceivable that these Appellants, if returned to Algeria, would be subjected to ill-treatment infringing Article 3. There is a real risk of such a breach. The different means of verification of adherence advanced by the Respondent do not, taken together, amount to a robust system of verification." The six allegedly include leaders of terror groups in European countries, an associate of Abu Hamza and two men linked to a UK terror plot. None of the men have ever been convicted of terror offences in the UK. The Home Secretary argues they are a threat to national security and must be returned to Algeria.

Heather Ramsey Conviction Quashed *Alan Erwin, Belfast Telegraph*

At Newry Crown Court in 2013, she had been convicted of concealing criminal property between May and September 2009. The charge related to the sum of £22,000 or thereabouts. Criminal proceedings were brought against her as part of a wider case involving her 47-year-old partner, Edward Bamber, and two other men. In November 2009 police stopped Bamber, formerly of Grange Avenue in Ballymena, in a car with £500,000 worth of cannabis, the Court of Appeal heard. He and one of the other men had brought the consignment across the border from Co Monaghan. Bamber was said to have admitted operating as a drugs courier between Belfast, Newry, Dublin and the continent. Police searches of another house linked to Ramsey in Randalstown led to the recovery of £22,000. The verdict against Heather Ramsey was held to be unsafe based on a lack of clarity in evidence that most of a £22,000 cash haul represented proceeds of crime. Senior judges in Belfast also identified issues in the charge to the jury at her trial.

Prosecutors must now indicate if they are to seek a retrial for Ramsey, who had been given a suspended sentence. Bamber later pleaded guilty to a number of drugs offences and concealing the cash as criminal property. He received a six-year jail sentence, including nine months for concealment of the money. At the trial of Ramsey, whose age and address were not disclosed, the judge ruled that Bamber's plea was relevant and admissible, despite defence claims it was unduly prejudicial. Ramsey's lawyers appealed the conviction, arguing that her partner's guilty plea was wrongly put before the jury. They also contended that jurors were not adequately directed on the lack of weight and probative value in that piece of evidence. It was argued that the plea should not have been introduced unless it could be shown that at least £17,500 of the cash represented the proceeds of criminal property.

Ruling on the appeal, Lord Justice Weatherup held that the overall terms of the charge to the jury were not consistent or adequate in conveying a question mark over the probative value of the Bamber plea. "The trial judge's direction in effect invited the jury to disregard the possibility of the limited effect of the Bamber plea on the prosecution undertaking in the appellant's case," said the judge. Lord Justice Weatherup, sitting with Lord Justices Gillen and Weir, also stated. 'It is clear from the verdict that the jury decided that the appellant had the necessary knowledge or suspicion of the tainted nature of the fund. The other issue for the jury was whether it was proved beyond reasonable doubt that the amount recovered by police included £17,500 of tainted funds. The issue for this Court is the safety of the appellant's conviction. The evidence of the Bamber plea could not satisfy the burden on the prosecution although, as we have found above, the jury were left with the impression that the

Bamber plea was capable of doing so. Had there been clear evidence that at least £17,500 of the fund represented the proceeds of criminal conduct the verdict may have remained safe. However there is a distinct lack of clarity about the state of the evidence that £17,500 of the funds represented the proceeds of criminal conduct. There was the concession by Ms Niblock of possible Bamber savings of £18,092. There was vagueness about the unattributed funds in the Bamber bank account which, while they had a direct bearing on the capacity to explain the available funds, became the focus of a debate about the application of the government statistics. There was unsupportable weight placed on the evidence of the Bamber plea. The defence case on legitimate savings was not articulated to the jury. In this combination of circumstances we are left with distinct unease about the conviction of the appellant. We conclude that the verdict is unsafe. In the circumstances the conviction is quashed. We shall hear Counsel on whether a retrial should be ordered.'

Minstry of Justice Plan For Legal Aid Residence Test Thrown Out By Supreme Court

Owen Bowcott, Guardian: Government attempts to introduce a discriminatory residence test for anyone claiming legal aid have been summarily thrown out in a unanimous supreme court ruling. Halfway through a two-day hearing, the bench of seven justices in the UK's highest court abruptly halted the case and announced on Monday afternoon that it had found against the Ministry of Justice. The surprise ruling will prevent the justice secretary, Michael Gove, from proceeding with plans to introduce the scheme this summer. If the MoJ still believes it can push ahead with the proposals, it will have to set out the measures in a bill subject to full debate in parliament. Judgments from the supreme court in Westminster are invariably reserved and delivered months after any hearing. In this case the justices, led by the president of the supreme court, Lord Neuberger, delivered their decision after a few minutes' recess at the end of the afternoon. Such a swift ruling is a humiliating setback for the MoJ. The challenge to the residence test was brought by the Public Law Project (PLP), which argued no minister has the power to impose such discriminatory regulations.

In a brief statement, the supreme court said: "The issues in this appeal were whether the proposed civil legal aid residence test in the draft Legal Aid, Sentencing and Punishment of Offenders Act (Amendment of Schedule 1) Order 2014 is ultra vires [beyond the powers of the legislation] and unjustifiably discriminatory and so in breach of common law and the Human Rights Act 1998. "At the end of today's hearing the supreme court announced that it was allowing the appeal on ground [of ultra vires] … The supreme court asked the parties whether they wished to address the court on the second issue. The case has been adjourned while this is considered."

Welcoming the decision, John Halford, the solicitor from Bindmans law firm who respesented the PLP, said: "The British legal system is rooted in two fundamental principles – that all equally enjoy the protection of our laws and all are accountable to our courts. "The lord chancellor takes an oath of office to honour these principles but planned to undermine them by withholding legal aid from those who failed his residence test, leaving them unable to enforce legal rights in the most compelling cases. "Yet today, after minutes of deliberation, seven justices of our highest court held him accountable, ruling he was acting in a legal vacuum and without parliamentary authority. Rationing justice using a residence test was, and always will be, repugnant to British law." The MoJ has argued that only those who have an established link to the UK should be entitled to legal aid, which is a scarce and costly resource that must be rationed. The case has previously divided the courts. In 2014, the high court struck down the regulation on the grounds that the justice secretary, then Chris Grayling, did not have the power to introduce it by means of secondary legislation. It also concluded that the residence test was excessively discriminatory.

However, last November the court of appeal overturned that judgment, concluding that the earlier ruling placed unjustifiable restraints on the government's ability to control the legal aid budget. Discriminating by place of residence was permissible, the court explained, because it is not a characteristic, such as sex or race, "which is specially protected by the law". Exemptions to the residence test have had to be made for members of the armed forces serving overseas, children under one year old and asylum seekers. In its original 2013 consultation paper, Transforming Legal Aid, which introduced the test, the MoJ argued that "those who do not have a strong connection [to the UK] should not be prioritised for public funding in the same way as those who do have a strong connection. We must ensure that limited resource is targeted appropriately." While Gove has abandoned many unpopular measures introduced by his predecessor, such as the ban on sending books to prisoners, the intention of imposing this restriction remained – at least until Monday's decision. A Ministry of Justice spokesperson said: "We are of course very disappointed with this decision. We will now wait for the full written judgment to consider."

Why the Government's Bail Reform Will Make Little Difference *Ed Cape, Justice Gap*

Steve Hayes, former owner of Wasps Rugby Club and Wycombe Wanderers FC was arrested in 2012 after hiring a private detective to watch a transfer target he suspected of being a drinker. The police did not have enough evidence to charge him so they released him on bail. Nearly four years later, having been re-bailed at least nine times, he was finally informed in a brief letter sent to his solicitor by the Crown Prosecution Service that they did not have enough evidence to charge him with any offence. Tom Crone, former legal manager of News International, was bailed without charge for over two years following his arrest in connection with the telephone hacking investigation, before being informed he would not be prosecuted. Paul Gambaccini was on police bail for almost a year, during which time he was re-bailed six times, before being told that the investigation was being dropped. Hayes is reported as saying that it led to the break-up of his relationship of 22 years, the rubbishing of his reputation, and the loss of £10 million in business. Gambaccini described his experience as leaving him feeling that he was the victim of a witch hunt.

These people hit the headlines because they are famous or work in the media, but the story is much the same for many people who remain anonymous. Although the Home Office does not routinely collect data on police bail, prompted by a Freedom of Information request by BBC Radio 5 Live in 2013, it finally admitted that annually over 400,000 people are placed on police bail without having been charged with an offence, and that about 26,000 of them are on bail for more than six months. Many of them are subjected to conditions, such as residence at a particular address, curfew, or no travel overseas, but no official information is available on how often they are used – or whether they are effective.

The police have extensive powers to release on bail people they arrest without charging them with any offence, and to impose conditions. At present, there is no time limit on the length of time a person can be placed on bail, and the little evidence that is available suggests that about half of them are never charged. A person released on bail can apply to a magistrates' court to vary or remove conditions, but the courts have no power to order the police to unconditionally release them. A person released on bail can be arrested if they fail to turn up at the police station when required, or if they breach any of the conditions imposed, and failure to attend the police station is a criminal offence even if the person is never charged with the offence for which they were originally arrested. And the evidence suggests that these powers are used disproportionally in respect of black and minority ethnic people, and those who are vulnerable.

A due process fig leaf - In the Policing and Crime Bill, currently being discussed in Parliament, the government proposes to regulate police bail more closely. Where investigations cannot be completed whilst a person is in police detention, the presumption will be that they must be released unconditionally, rather than on bail, and that the police can only bail them if it is necessary and proportionate. Release on bail up to 28 days will be a decision for the custody officer (a police sergeant), but this can be extended for up to three months by a police superintendent. Thereafter, extension of bail will be for a magistrates' court to decide, although there is no limit to the number of times bail can be renewed. This scheme is varied if a case is exceptionally complex – the Director of the Serious Fraud Office or a senior Crown prosecutor can authorise release on bail for up to six month, after which a magistrates' court must make the decision. Magistrates' courts will normally make a decision based only on written submissions, and an oral hearing at which the suspect and their lawyer can be present will only be held if the magistrates decide that this is in the interests of justice or if the application is to extend bail beyond 12 months.

Whilst police bail without charge has existed for a long time, the power to impose conditions was introduced little more than a decade ago, and action to regulate the use of bail by the police is long overdue. However, whilst the proposal to introduce a presumption of unconditional release is welcome, the new provisions will have little effect in practice. Guidance from the College of Policing already provides that bail beyond 28 days should be reviewed by a senior officer. Putting this on a statutory footing will make no difference – the decision will still be made by a police officer. Investigations such as those in which Hayes, Crone and Gambaccini were involved are likely to be treated as exceptionally complex, meaning that under the new law they could still be placed on police bail for six months without a court being involved. Giving magistrates the responsibility for extending bail beyond three months (or six months in the case of exceptionally complex investigations), which sounds sensible, will also make little difference. The courts are always reluctant to intervene in what they regard as police operational decisions: as the High Court has stated, 'it is not for a judge to second guess the operational decisions of experienced police officers' (Hanningfield v Chief Constable of Essex Police [2013] EWHC 243). Most decisions on extending police bail will be made without the suspect or their lawyer being present, but even if there is an oral hearing, the police will be able to withhold sensitive information and it will be difficult, if not impossible, for the suspect to question the police case for bail. If the police argue, on the basis of information that they are unwilling to divulge, that if released unconditionally the suspect will flee or commit an offence, how will the suspect be able to counter that? Involving the courts in bail decisions is little more than a due process fig leaf.

In a pamphlet published by the Howard League for Penal Reform earlier this year, What if police bail was abolished? (PDF), I argued that the power to impose conditions should be abolished and that police bail without charge should be subject to an absolute limit of 14 days. Bail conditions are unenforceable (if a person breaches conditions, they will have to be bailed again if the police do not have sufficient evidence to charge) and in fact are more likely to have an adverse impact on the law-abiding as opposed to those who feel they have little to lose. The Northern Ireland Law Commission, in a report published in 2012, recognised this and recommended that the power be abolished. The government did not even consider this for England and Wales. Giving the police, and then the courts, the power to extend bail – without any limit – will not prevent thousands of people from being placed on police bail only to be told that they will not be prosecuted. Preventing the police from dangling suspects on a thread for months, and sometimes years, will not mean that they cannot carry on investigating. But it will prevent a gross abuse of power, and may

even encourage the police to carry out their investigations more efficiently.

Police Computers Obsolete, CPS Discs Misplaced *Inside Justice*

A joint report by HM Crown Prosecution Service Inspectorate (HMCPSI) and HM Inspectorate of Constabulary (HMIC) has found that some police forces are using 20-year-old computer systems, whilst the CPS is prone to slipped discs. "We were concerned to learn that a widespread issue existed concerning the Crown Prosecution Service (CPS) misplacing discs containing sensitive evidence and information, such as CCTV, 999 recordings, suspect interviews and, more alarmingly, Achieving Best Evidence (ABE) interviews," the report states. "Many officers informed us that it was common to receive several requests from the CPS to supply further copies of discs because the original copy submitted could not be found."

A system used for police to share files with prosecutors is only able to handle individual documents or attachments of less than 1MB, which the report said was "a significant barrier". In one case the CPS was fined £200,000 by the Information Commissioner's Office in November 2015 after laptops containing videos of police interviews with victims and witnesses were stolen from a private contractor's studio. Millions of pounds have been spent trying to improve the use of electronic systems in police forces and the courts, including the £98 million Criminal Justice System Efficiency Programme, and the Criminal Justice Common Platform IT programme which cost £30.5 million to August 2015. UK police forces were expected to spend £492 million on IT in 2015/16.

The report said that some forces were using systems that had been in place for up to two decades, and that victim and witness statements were generally handwritten by officers and then scanned into a computer, which "often made the documents difficult to read". A CPS spokeswoman said: "The CPS is already working, with its partners, to create a unified digital case management system, which when completed will make the use of discs obsolete. In the meantime, new standards have been developed for the handling of electronic hard media. CPS areas are working closely with their local police forces to jointly review their handling and transportation of such material."

Theresa May 'Tried to Alter Drug Report Because She Didn't Like Its Conclusions'

Ashley Cowburn, Alexandra Sims, Independent: Theresa May and her aides attempted to delete sentences they didn't agree with from a report on drugs, the former deputy Prime Minister Nick Clegg has claimed. The Liberal Democrat MP told the Guardian, the Home Secretary "didn't like the conclusions" of a report released in 2014, which found no clear link between harsh drugs laws and illegal drug use. The report, Drugs: International Comparators, said its fact-finding did not "observe any obvious relationship between the toughness of a country's enforcement against drug possession, and levels of drug use", sparking requests for further talks regarding decriminalisation.

The conclusions were derived from Portuguese data, where the report found there had been "considerable" health improvements since the country began to treat drug possession as a health rather than a criminal issue. Mr Clegg, who sits on the Global Commission on Drugs Policy, was one of a number prominent figures who signed an open letter to the UN Secretary General, Ban Ki-moon, urging the UN to review its 20-year campaign to rid the world of illegal drugs, ahead of a special summit in New York next week. In 1998, the UN formally committed itself to abolishing illegal drugs worldwide within 10 years. Recently, however, a reactionary movement has emerged which holds that the so-called War on Drugs, rather than helping the world, has created vast and powerful criminal networks and endless cycles of violence.

The summit, set to open on 19 April, is likely to be a landmark meeting as it appears it will

offer a platform to those who question the current drugs policy for the first time. The session was brought forward two years at the request of Mexico, Guatemala and Colombia, three countries on the front lines of the narcotics conflict. Mr Clegg told the Guardian said the original draft of the 2014 report had been subject to an "endless wrangle between Lib Dem ministers and Theresa May about the fullness of what would be published", arguing that there would be no change whatsoever as long as she led the Home Office.

A Home Office spokesperson said: "The UK's approach on drugs remains clear: we must prevent drug use in our communities and help dependent individuals to recover, while ensuring our drugs laws are enforced. We have seen a reduction in drug misuse amongst adults and young people over the last 10 years and more people are recovering from their dependency now than in 2009/10. Decriminalising drugs would not eliminate the crime committed by their illicit trade, nor would it address the harms and destruction associated with drug dependence.

"The International Comparators Study does not say there is no link or impact between tough penalties and drug use. It makes clear that approaches to drugs legislation and enforcement of drugs possession are only one element of a complex set of factors that affect drugs use, including prevention, treatment and wider social and cultural factors." The move marks one of Mr Clegg's first campaigns since stepping down as leader of the Liberal Democrats after their general election disaster. Last year Mr Clegg launched a campaign to persuade EU leaders to back global reform of drug laws, warning that the current punitive approach has failed to curb the multibillion trade in illicit substances and has criminalised millions of young people. Writing in The Independent, he said: "We are, without doubt, losing the war on drugs."

Epidemic of Penis Theft to Come to an End!

A statue of Heracles in a small French town has been endowed with a removable prosthetic penis in a bid to prevent vandalism. It will feature on the 10-foot statue during special ceremonies. The deputy mayor of Arcachon said the move came after years of vandals stealing the Greek hero's penis. He told The Local: "Considering Heracles' fragile manhood we've chosen to give him a removable prosthetic that we can add to the statue before each ceremony. "This is the best solution, otherwise you just end up constantly chasing after the anatomy of Heracles." He added: "I wouldn't want anyone - not even my worst enemies - to go through what happens to this statue." The prosthetic will not be used outside of ceremonies.

Anders Breivik's Human Rights Violated In Prison, Norway Court Rules

Jon Henley, Guardian: Norway has violated the human rights of the rightwing extremist Anders Breivik by exposing him to inhuman and degrading treatment during his imprisonment for terrorism and mass murder, a Norwegian court has ruled. Breivik, who killed 77 people in July 2011 in the country's worst acts of violence since the second world war, took the Norwegian authorities to court last month, alleging that the solitary confinement in which he had been held for nearly five years breached the European convention on human rights. Although Breivik is detained in a three-cell complex where he can play video games, watch TV and exercise, judge Helen Andenaes Sekulic of the Oslo district court ruled that the Norwegian state had broken article 3 of the convention. The prohibition of inhuman and degrading treatment "represents a fundamental value in a democratic society", she said in a written decision. "This applies no matter what – also in the treatment of terrorists and killers."

The judge ordered the government to pay Breivik's legal costs of 331,000 kroner

(£35,000).

Sekulic decided that Breivik's right to "correspondence" – a private and family life – had not been violated. The 37-year-old extremist is in principle allowed visits from family and friends, but has not received any apart from his mother before she died. Brevik had argued during a four-day hearing at the Skien prison 80 miles (130km) from Oslo, where he is serving his sentence, that solitary confinement, as well as frequent strip searches and the fact that he was often handcuffed while moving between cells, violated his human rights. Breivik, who made a Nazi salute on the opening day of the proceedings but later said he had renounced violence and compared himself to Nelson Mandela, also said isolation was having a negative impact on his health, and complained about the quality of the prison food – including microwaved meals that he described as "worse than water-boarding" – and having to eat with plastic cutlery. Breivik's lawyer, Oystein Storrvik, told the Norwegian news agency NTB that the prison authorities must now lift his client's isolation. Lawyers for the Norwegian state had said before the verdict they would appeal if it went against them, but it was not clear on Wednesday if they would do so.

Norway's most notorious prisoner was sentenced in August 2012 to a maximum 21-year sentence – which can be extended if he is still considered a danger – for killing eight people in a bomb attack outside a government building in Oslo, then shooting dead another 69, most of them teenagers, on the island of Utøya on 22 July 2011. Dressed as a police officer, Breivik spent more than an hour methodically hunting down his targets on the small island, where nearly 600 members of the youth wing of the Norwegian Labour party, which he blamed for the rise of multiculturalism in Norway, had gathered for a summer camp. Most of his young victims were killed with a single bullet to the head. He has been held in isolation since he surrendered to police on the island on the day of the attacks. Government lawyers have said solitary confinement is necessary because Breivik is "extremely dangerous", and argued the conditions of his imprisonment fall "well within the limits of what is permitted" under the European convention. But Breivik argued that the government had breached two of the convention's articles barring "inhuman or degrading treatment or punishment" and guaranteeing respect for "correspondence".

Judges heard that Breivik had one cell for living, another for studying and a third for physical exercise, and that although his visits and contacts with the outside world were strictly controlled, he had been provided with exercise equipment, a DVD player, games console, typewriter and books and newspapers. His lawyer stressed the case was important because his client would probably spend the rest of his life behind bars. Doctors, psychiatrists and prison staff who have examined him in prison told the hearing they had seen no significant changes in his physical or mental state that could be attributed to the conditions in which he was being held. Norway prides itself on a humane prison system aimed more at rehabilitation than punishment. Expressing surprise at the decision, Prof Kjetil Larsen of the Norwegian Institute of Human Rights said he thought it was clear Breivik's treatment did not violate the convention. "I thought that what came out during the trial made that even clearer," he said.

Statement From Republican Prisoners HMP Maghaberry

Over the past number of weeks Republican Prisoners have witnessed the hypocrisy of Sinn Féin and the SDLP in their efforts to recruit support in the face of the forthcoming elections. Whilst one sells itself as a republican party and the other as a party of civil rights, Republican Prisoners have witnessed the true face of both. Although both parties have agreed with Republican Prisoners in private neither have concerned themselves with Republican Roe House in the past year, with both privately conceding to others that they cannot be seen to side with Republican Prisoners. Indeed, politicians from Leinster House have remained much more involved. Both parties were in fact keen

to verbally attack Republicans and Republican Prisoners at the beginning of last month and they also stood by whilst the Director General of the Prison Service and politicians made claims that they knew to be false. Both parties were keen to portray themselves as progressive and upstanding yet their concerns have not extended to the conditions of Republican Prisoners. In the last month alone Republican Prisoners were subject to an almost 48 hour lock down, during which two men were removed from their cells and forcibly strip searched whilst our living space was turned upside down and our meager educational resources were removed. Two men attending outside hospital appointments were forcibly strip searched upon leaving and returning to the jail despite being handcuffed to a jailer throughout. Indeed, both were forced to undergo private consultations in the company of three jailers with these handcuffs on. Sleep disruption, restrictions of the landings and attempts to prevent Republican Prisoners from recording and disseminating information via the removal of computers are among other repressive measures occurring over the past month alone. Through all this, there has not been a single utterance from the SDLP or Sinn Féin. It is abundantly clear that both parties are no less than pro-brit quislings and Redmondites undeserving of the support of Republicans and the Nationalist community. *Republican Prisoners, Roe 4, HMP Maghaberry*

Violent Crime, Murder And Sex Offences Increased Last Year

Britain is facing a serious violent crime wave as new figures show stabbings and murders have soared. Homicides were up 11% and knife attacks up 9% last year according to the annual crime stats for 2015. Recorded violent crime was up 27% as a whole - though experts said this figure was largely due to changes in the way crime is recorded. Overall, the annual crime survey found there were about 6.4million incidents of crime last year - a 7% fall compared with the previous year. But that masked a total of 573 homicides in England and Wales, an 11 per cent increase on 2014. And there were 28,008 knife crimes recorded by police - a nine per increase on the previous year.It comes after Mr Cameron cut the number of frontline police officers by more than 17,000 since coming to power in 2010. People, communities and property across the country are safer as a result. “The survey shows that violence has fallen by 25% over the same period - meaning we are now seeing 427,000 fewer violent crimes a year.” Steve White, chairman of the Police Federation of England and Wales, insisted the overall picture of crime in England and Wales “is still one of trouble and concern”.He said: “While better reporting by forces can account for some of the increase in figures, we do not want the public to have a rose-tinted view of the seriousness of crime that is occurring.” The pressure on forces was highlighted by separate figures showing the number of reported sex crimes has passed 100,000 in a year for the first time. Constabularies logged 103,614 sexual offences in 2015 - a rise of 29% on the previous year and nearly double the level seen five years ago.The total included 34,741 rapes and 68,873 other sex crimes, which were the highest recorded since the year ending March 2003.Improvements in recording practices are thought to be behind the trend, as well as a greater willingness of victims to come forward following high-profile investigations after the Jimmy Savile scandal.

Labour ’s Shadow Policing Minister Jack Dromey said it showed the folly of David Cameron ’s decision to slash the number of police officers across England and Wales. “With the thin blue line stretched ever thinner, police recorded crime is rising and some of the most serious crimes have soared to the highest levels in years. Just as the most serious, violent, sexual and online crimes are soaring, so too are the demands on a depleted police force to keep the country safe.” Lucy Hastings of charity Victim Support, said: “While the apparent increase in the reporting and better recording of crime is to be welcomed, these figures remain a serious cause for concern. “In particular, almost half of the 29% increase in recorded sexual crimes related to sexual offences against children.” An NSPCC spokesman added: “One hundred thousand reported sex crimes a year is a staggering figure to have reached.” But Policing minister Mike Penning welcomed the

fact that overall crime has continued to fall. “Police reform is working and crime is falling - it is now down by well over a quarter since June 2010, according to the independent Crime Survey for England and Wales.”

Kent Police Fined £80k For Serious Domestic Abuse Data Breach BBC News

Kent Police has been fined £80,000 after it handed data on a phone belonging to an alleged domestic abuse victim to her partner's solicitor. The Information Commissioner's Office (ICO) said it was a serious breach of the Data Protection Act. The woman gave her phone to Kent Police because she said video footage backed her claims against her partner, but the phone also contained sensitive data. Kent Police said procedures had been changed to avoid errors in the future.

ICO head of enforcement Stephen Eckersley said: "Kent Police was investigating a serious matter yet the need to take proper care of the personal details they were entrusted with does not appear to have been taken seriously." He said the force handed the solicitor "the entire contents of the complainant's mobile phone". It contained many other files, with sensitive personal data including text messages and family photographs. The woman's partner was a police officer who was subject to a professional standards investigation by Kent Police into misconduct. According to Kent Police, the unnamed officer was facing a criminal investigation over alleged domestic abuse and was then also investigated for misconduct following a breach of his bail conditions after his arrest.

The ICO said the data on the phone was sent by mistake in advance of the misconduct hearing, and the solicitor disclosed the information to his client. An investigation by the ICO found Kent Police had inappropriate security measures and it had committed a serious breach of the law, likely to have caused "substantial distress". In a statement, Kent Police said it accepted the ICO's decision. The force said: "When the data breach became apparent Kent Police referred itself to the Information Commissioner and fully cooperated with the investigation. As soon as the breach was identified a new standard operating procedure was implemented to ensure that a similar error cannot be made in the future."

Detective Sacked Over Mark Duggan Gun Enquiry *BBC News*

A detective has been sacked over his failed investigation into an associate of Mark Duggan, whose shooting by police sparked riots in August 2011. The probe centred on Mr Duggan's associate, Kevin Hutchinson-Foster, who beat a man with a gun in east London. Six days after the attack he gave the same gun to Mr Duggan, who was shot 15 minutes later by armed police. The police watchdog found errors in how an officer, named only as DC Faulkner, conducted the initial investigation. The officer was dismissed without notice. Mr Duggan, 29, was shot by police in Tottenham, north London, on 4 August 2011.

Hutchinson-Foster was found guilty of supplying a gun to Mr Duggan, which was found near to his body, and was jailed in 2013 for 11 years. However, he admitted using the same gun to beat barber Peter Osadebay six days earlier. The Independent Police Complaints Commission's report found DC Faulkner, who was initially investigating that assault, did not contact witnesses. It also found blood swabs were not subjected to forensic analysis for several months. CCTV which clearly showed an individual carrying out the assault was also not circulated at the earliest opportunity.

DC Faulkner was also found to have attempted to deceive his supervisor several months later by saying that the CCTV had been circulated when it had not. However, the IPCC found that even if the assault had been promptly investigated, it would have been highly unlikely that Hutchinson-Foster could or would have been identified before he provided the gun to Mr Duggan. The investigation followed a referral from the Met in November 2011, after it identified failings in its original investigation into the assault. In May 2015 a

police sergeant was found at a misconduct meeting to have failed to adequately supervise the investigation but no sanction was imposed by the Met.

Crown Loses Appeal Against Disclosure Order Source: Scottish Legal Briefing

Prosecutors have failed in an appeal against a judge's decision to order the disclosure of recordings of interviews of two complainers in a sex abuse case after appeal judges ruled that such label productions are subject to the control of the court, not the Crown. The Criminal Appeal Court held it is for the trial court as "master of its procedure" to determine whether to grant an application by the defence to remove them for the purposes of copying or inspection by an expert. Lord Justice Clerk, Lord Carloway, Lady Smith and Lady Clark of Calton, heard the Crown appeal against a judge's decision ordering disclosure to the defence agents by delivering copies of disc recordings of police and social work joint investigative interviews of two young boys.

The respondents "AM" and "JM", aged 16 and 15, faced two charges of sexual abuse involving the two younger boys, contrary to sections 18, 20 and 21 of the Sexual Offences (Scotland) Act 2009. Special measures had been granted in relation to both complainers, including the taking of their evidence on commission and the giving of evidence in chief in the form of prior statements. The discs and the transcriptions, which were in the custody of the Crown, were listed as productions in the lists attached to the indictment.The respondents wished to have the discs' content viewed by a forensic psychologist, but the Crown refused to provide copies of the discs to the defence, electing instead to allow "disclosure by access" by enabling the accused to inspect the discs "at a reasonable time and in a reasonable place" However, both respondents lodged preliminary and compatibility issue minutes relating to the discs and the PH judge ordered the Crown to provide copies of the discs to the respondents' agents, subject to certain conditions, after ruling that the Crown had adopted an "illegitimate blanket policy", whereby discs containing visual recordings of JIIs of children being interviewed would never be given to the defence. In the circumstances the judge concluded that the Crown's policy, which left "no element of discretion", offended the respondent's right to a fair trial under Article 6 of the European Convention on Human Rights.

On appeal, the principal contention for the Crown was that the judge had erred in holding that the respondents' article 6 rights were breached by the decision to disclose the content of the JIIs by access, rather than providing copies. In terms of section 164 of the Criminal Justice and Licensing (Scotland) Act 2010, the Lord Advocate had laid before the Scottish Parliament a Code of Practice, which established "a clear, consistent and readily understood means" which enabled parties to apply a practice meeting the "legitimate and proportionate aims of balancing the rights of an accused person and those of the witnesses". It was argued that disclosure by access was a "justified and proportionate response" to the obligations placed upon the appellant and "did not unnecessarily impede preparation of the defence".

In a decision dated September 2015 for which written reasons have now been published, Lord Carloway, said it was important to distinguish the disclosure regime, the object of which was "to ensure that the defence have knowledge of what evidence would form the case against the accused and what material there is available to refute it", and the regime covering label productions. Delivering the opinion of the court, the Lord Justice General said: "This case is concerned with recordings of the Joint Investigative Interviews. Whilst they may provide powerful information they are also label productions in the case. "As such a different regime covers their inspection by the defence. No issue of disclosure per se arises in such circumstances. The defence have had formal notice, by way of the lists attached to the indictment, of both the discs and the transcriptions. Intimation of such lists has the effect of bringing the productions specified under the control of the court whether or not they have been lodged and it is for the court to determine, as master of its procedure, what may or may not happen to them. No issue of substantive law arises. At this stage in the case the accused is entitled to see the labels, not as a result of the disclosure regime but in terms of the statute relative to the lists of production. Whilst, in modern practice the Crown may retain them until the diet of trial...it does so subject to any order of the court. If an accused wishes to remove any production from the custody of the court or Crown for the purposes of copying or inspection by an expert, he is entitled to apply to the trial court to do so. There is no need to invoke the disclosure regime, Article 6 of the Convention or European Court jurisprudence. There is no need to lodge a preliminary or compatibility issue minute. All that is required in respect of items referred to in the lists attached to the indictment is a request to the trial court to borrow them for a specified purpose (including copying). The court will thereafter decide, as a matter for its discretion but no doubt having regard to the principles of fairness, including equality of arms, whether it is in the interests of justice to grant the application." He added: "Given that the labels are to be used as evidence in chief, it is difficult to conceive of a situation in which the court would refuse such an application, albeit perhaps subject to conditions. The court has effectively granted that application. The appeals will simply be refused on that basis."

Report on an Announced Inspection of HMP Elmley by HM Chief Inspector of Prisons

HMP Elmley is situated on the Isle of Sheppey in Kent and at the time of this inspection held 1,160 adult men. Its primary function is a Category B local prison serving Kent courts but it also has a category C training function for about 240 men, about half of whom are sex offenders. When we last inspected HMP Elmley in June 2014, we left with real concerns about the safety and stability of the prison. Serious staff shortages had led to a poor and unpredictable regime which was causing palpable frustration and tension. This announced inspection fifteen months later found the prison greatly improved - but still with much to do.

The prison was now much safer. Contrary to national trends, levels of violence and self-harm had reduced. The number of serious incidents, including acts of concerted indiscipline, which had caused us so much concern at the previous inspection, had also significantly reduced. There had been three self-inflicted deaths in 2014 but none so far in 2015, and recommendations from Prison and Probation Ombudsman reports into previous deaths were being systematically implemented. Good use was made of Listeners, prisoners trained by the Samaritans to provide emotional support, and prisoner violence reduction representatives to help make the prison safer. The prison had introduced a number of successful measures to improve the management and care of prisoners with the most complex needs and behaviours. A multi-disciplinary case management approach had been introduced for prisoners with the most complex behaviour. The environment in the segregation unit had improved and the introduction of a spur for prisoners, who were vulnerable for reasons other than their offence, had reduced the numbers segregated for their own protection. Vulnerable prisoners as a whole reported feeling safer than at the last inspection. Safeguarding procedures for adults at risk were now embedded in the prison and this work was supported by a forensic social worker who was based in the prison.

Security was well managed overall. 'Spice', a synthetic drug that mimics the effects of cannabis and is very difficult to detect, and other so-called 'legal highs', and the debt and violence associated with them are a significant threat to safety across the prison system. Spice

had been a serious problem at Elmley but there was evidence that an effective whole-prison strategy to reduce supply and demand was being effective. There was more the prison needed to do to improve safety further. Critical early days processes had improved but needed sharpening up; for instance, not all prisoners were able to make a phone call when they first arrived. The management of behaviour was not sufficiently consistent and there was too little reinforcement of good behaviour. We were particularly concerned about oversight of the use of force. Most use of force incidents involved full use of control and restraint which may have indicated inadequate de-escalation. Some serious incidents, including the use of batons, had not been investigated and record keeping was poor. Some CCTV footage of planned incidents that we reviewed showed poor management and excessive force. Use of special accommodation, a bare cell with no fittings, was high and there was insufficient documentation to show its use was justified.

Overall, staff-prisoner relationships were generally positive but the prison's continued staff shortages and reliance on detached duty staff meant that relationships were too variable and staff had little time to develop the authoritative and positive relationships needed - the failure to tackle offensive displays or ensure attendance at activities were examples of this. The strategic management of equality and diversity was weak but prisoners with protected characteristics generally reported positive relationships with staff although perceptions were more mixed about other issues. The lack of monitoring and consultation made it impossible for the prison to understand and address any concerns. The impressive chaplaincy met the faith needs of prisoners and was well integrated into the life of the prison. Responses to complaints were improving. Health care had also improved since the last inspection and was now generally good. There was a high demand for mental health services which were very good and health care staff worked well with uniformed residential staff. The in¬patient unit provided good care to men with the most acute needs. Access to health care remained a problem.

Access to basic facilities such as showers and clean bedding had improved but the physical environment was still unacceptably poor. Although there had been efforts to make improvements, too much remained dirty and in poor repair. A major bed bug infestation on one of the house-blocks was simply unacceptable - these cells were not fit for use and the unit needed to be taken out of action for a few days to allow pest controllers to eradicate the infestation. Hundreds of prisoners were in overcrowded cells and many were forced to use toilets screened only by a shower curtain a few feet away from their cell mates. Some cells were in poor condition with broken furniture and graffiti. Graphic displays of pornography were not challenged.

The most significant factor in the improved stability of the prison was that time out of cell had become much more predictable. It was still too limited but it was delivered consistently so prisoners could plan phone calls or domestic tasks with confidence. Activities were cancelled too often and attendance was poor. Managers had begun to address the recommendations we made at the last inspection to improve activities. New and more flexible courses had been introduced to better meet the needs of the population and quality assurance measures had been strengthened. Nevertheless, this had started from a very low base and further improvement was still required.

The prison held a complex mix of category B and category C prisoners. For those with a short time to serve, the new community rehabilitation company had made a good start. All prisoners had their practical needs assessed on arrival and before release. Most practical resettlement services were good. Work to help prisoners develop and maintain positive family relationships had much improved. Work to address the needs of category C sex offenders serving longer sentences was less effective. The prison's reducing reoffending policy did not address their needs and there was insufficient work to address their behaviour and help them progress. There were a significant number of vacancies in the offender management unit and so prisoners had limited contact with their offender supervisors. The risk assessment backlog had reduced but the quality of assessments was variable. Some elements of public protection work needed improvement. HMP Elmley had made impressive progress in the 15 months since its last inspection and in important areas such as violence, self-harm and the availability of legal highs, had bucked the national trends. The prison had been right to focus on improving stability and safety. This needs to be maintained, and together with the required improvements to the environment, should now provide the platform for getting more prisoners into good quality purposeful activity and doing more to address the behaviour and progression of these serving longer sentences. 26 recommendations from the last inspection had not been achieved and 22 only partly achieved. Inspectors made 71 new recommendations Martin Lomas, HM Deputy Chief Inspector of Prisons

Theresa May Faces Backlash Over Call to Leave ECtHR

Theresa May's call for Britain to withdraw from the European Convention on Human Rights would be a betrayal of the post-war generation who helped create it, human rights groups have said. In a speech on the EU, the Home Secretary said that the ECHR was able to "bind the hands of Parliament", by preventing the deportation of foreign criminals, and called for Britain to stay in the EU but withdraw from the Convention. The comments drew immediate criticism from human rights campaigners. Amnesty said that leaving the ECHR would "strike at the very architecture of international protections", while Liberty criticised Mrs May for "playing fast and loose" with the legacy of Winston Churchill, who was one of the Conventions early architects. Shadow Home Secretary Andy Burnham, meanwhile, called the proposal a "backward step" that Labour would "fight all the way". "So regardless of the EU referendum, my view is this: if we want to reform human rights laws in this country, it isn't the EU we should leave but the ECHR and the jurisdiction of its court." The home secretary, who is seen as a potential future Tory leader, used the speech to express support for membership of the EU, but also to reach out to the Eurosceptic wing of the party. But her comments place her on a collision course with cabinet colleagues, including the justice secretary, Michael Gove, who has put forward plans for a British bill of rights based on Britain staying inside the convention.Downing Street conceded that the comments did highlight "differences" between May and David Cameron, although it warned against overstating them. "The PM has made clear he wants to see reform of the ECHR and has ruled absolutely nothing out if we don't achieve that," his official spokeswoman said. But sources admitted that the government's position did not currently require withdrawal from the ECHR. Labour's Falconer accused May of "sacrificing Britain's 68-year-old commitment to human rights for her own miserable Tory leadership ambitions".

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