truth behind the killings. The British army said it fired in response to shots from republicans.

An e-petition to put Babar Ahmad on trial in the UK rather than face extradition to the US recently secured over 140,600 signatures in addition to cross party backing and support from the Joint Committee on Human Rights and the Home Affairs Select Committee. Nevertheless, the Backbench Business Committee of the House of Commons have refused to list the matter for a full debate in the main Chamber of the House of Commons

Babar Ahmad Open Letter to Parliament - Last summer, the Coalition Government introduced the system of e-petitions as a means to "better connect the public with Parliament". It promised that any petition gaining the support of over 100,000 people would become eligible for a parliamentary debate. David Cameron said that the purpose was "to make sure that if a certain level of signatures is reached, the matter will be debated in the House, whether we like it or not. That is an important way of empowering people." It is rather shocking then to learn that an e-petition which has secured over 140,600 signatures will not be subjected to a full parliamentary debate in the main Chamber of the House where it can be put to a vote. The petition is one which goes to the heart of the values which we cherish so dearly – the right to a fair trial. It calls for Babar Ahmad, now in his eighth year of detention, to be put on trial in the UK. Ahmad is the longest detained-without-trial British citizen in the modern history of the UK. Like other British citizens such as Gary McKinnon and Richard O'Dwyer, the criminal conduct of which Ahmad is accused is alleged to have been committed in the UK. The CPS has repeatedly concluded that there is insufficient evidence to prosecute him for any offence in the UK – yet he has been incarcerated since 2004 fighting extradition to the US on the same 'evidence'.

Despite the enormous public support and cross-party backing the petition has received, the Parliamentary Backbench Business Committee has tagged the motion onto a pre-existing discussion on extradition listed in Westminster Hall for 24 November. In doing so, the Committee would prevent elected members of the House from debating and then voting upon the subject matter of the petition. The Committee's reasoning is that there is simply not enough Chamber time in the Parliamentary calendar this year. If this is true, the committee should list it for a full debate in the New Year as it has chosen to do with a separate e-petition to reduce immigration, which secured 118,000 signatures.

It is concerning when Parliament dismisses the concerns of over 140,000 people who have called for this debate. Far from being "an important way of empowering people", such a conclusion will only further alienate a public whose goodwill is being taken for granted. The petition to put Babar Ahmad on trial in the UK must be debated in the main Chamber of the Commons, whether the government like it or not. It is not just the liberty of Babar Ahmad at stake but the sovereignty of our criminal justice system.

Hostages: Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, Talha Ahsan, George Romero Coleman, Gary Critchley, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Peter Hakala, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Frank Wilkinson, Stephen A Young, 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 & Keith Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Timothy Caines, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 346 (20/11/2011)

Super-Grass Evidence

Where did it all go wrong? The matter that prompts me to write this piece is that all too often I witness convictions achieved by the Crown using what is termed 'Super-grass' evidence.

Derek "Bertie" Smalls was the first and perhaps the biggest grass this country has ever seen and the term super-grass entered the English language because of him. He had been high up in the criminal fraternity and was a successful armed robber of some notoriety. Despite his eventual imprisonment, he had had a lot of money from his blags and was considered to be what is euphemistically called a 'successful armed robber'. Not one to do things by half he actually went super grass twice, and on the second time it's alleged the judge at his trial told him that he was the lowest of the low, because even a young boy in a school-yard is taught not to 'snitch' on his mates. He had done it twice and expected accolades and credit for it

Like most people convicted in this way or from evidence used behind closed doors and known as Public Immunity Interest (PII) or Sensitive Material, I attempted to challenge this evidence and overturn my wrongful conviction. Consequently I wrote (amongst many letters) to the Crown Prosecution Service and to the Chief Constable of Police who prosecuted me. As I hoped that they would fully respond and provide clarification or answers to the issues/questions that I raised. However, as you can guess, they all refused.

I was often met with comments in relation to the tenet of finality in litigation. Nevertheless, over the years I continued to write to agencies within the Criminal Justice System because they have effective control over the material which existed and had the potential to demonstrate a person's innocence. Although as is the norm, you are met with by what is termed 'stone walling' and I was informed that I merely sought to indulge on a fishing expedition, irrespective of the reasoned and realistic arguments in support of my request for answers.

Agencies within the Criminal Justice System are accountable by law and should acknowledge your concerns. Do not take no for an answer and keep writing those letters. I have written over 4700 in four years and taken two Judicial Reviews, as well as raise awareness to my plight through the media. The power of the media is not to be brushed aside!

In most Super-grass cases it soon becomes clear that a co-defendant was central to the crime, irrespective of the reasons of a trial judge's decision to acquit them in relation to the same. The subtext transpires that they were merely acquitted as a result of some form of plea in relation to the assistance that they have provided and as a consequence insufficient evidence or such in relation to the same will be used to acquit. The question that must be raised, is this, had the detailed information of a co¬defendant not been subject to Public Immunity Interest then the evidence to be derived from the same would have bolstered the Crown's case against them, and inadvertently resulted in their conviction.

Another nefarious action is the use of informal interviews or lengthy discussions with the police where detailed information is provided. What must be asked is this. Had the same detailed knowledge that a person claims to have had about the crime, been introduced as further evidence against them, then the prosecution would have had the opportunity to cross-examine them about how they came across such detailed information concerning that

crime. These are not the sort of details one is likely to overhear in the local pub. If the prosecution had cross-examined your accuser about all of this with the context of the evidence concerning their arrest, and asked what their motive was in the first instance, normally a reward incentive or inducement. Then they themselves may have been convicted.

There may have been legal reasons concerning the admissibility of introducing this material as further evidence against them, but the scale in terms of its potential value in a number of areas towards securing a conviction against them would suggest the decision concerning its admissibility was not in the interests of natural justice.

The issues of "selective disclosure" that arise in relation to this material would suggest that the decision to make the details your accuser supplied, subject to PII and to disclose it to their legal team but not to disclose it to yours would suggest that the overall decision was not in the interests of natural justice.

As is the norm in most cases, a Super-grass will put a name or names forward as being responsible for a crime along with a number of unrelated crimes, and as a result there will be a pursuing police investigation that focuses on you as a result of the information provided by the grass. They do this to bolster the information they are supplying without any substance or truth to it.

This decision also means that you are denied the opportunity to view material in which a co-defendant or super-grass had named you, or to examine or question your accuser in relation to the reasons why this had occurred. If there were any reservations on the part of the CPS about being able to introduce this material as further evidence as a result of concerns about its admissibility or such then an opportunity was missed to still make the jury aware of it because of the peculiar decision to subject it to selective disclosure.

On the face of it the disclosure to one co-defendant and not the other is an abuse of process. It must be in the interests of justice that all parties to a case are aware of any material which is either capable of supporting or undermining their case.

I am aware that the rules governing duties concerning disclosure were different at the time of my trials in 1995/96 than the subsequent duties that come into effect with the Criminal Procedure and Investigations Act 1996 shortly after my conviction.

Nonetheless at the time of my trial individual police constabularies managed the rules relating to police informants in an "ad hoc manner" as they saw fit. Still, this does not clarify matters given that in most cases a co-defendant was also a defendant and that he only supplied the information after he was charged and would then discuss the advantages of assisting the police with their enquiries. It is also a fact that in most cases the super-grass will have been' at it' for quite sometime and would have already had an unhealthy relationship with their police handler, who more than likely is in charge of the informers bureau of that police force. What this of course means is that the police handler is able to manipulate the evidence to suit the case.

It may be the case that your Constabulary were influential concerning the legally flawed and morally flawed decisions concerning selective disclosure, or the failure to introduce the super-grass information as further evidence against your co-defendant or to subject it to PII.

The issues I have raised have the potential to become a source of shame and embarrassment on the part of the CPS in both judicial circles and within the media. It is hoped that I can cause a springboard reaction amongst some of you to send out a message to the Public Prosecutor for the Crown Prosecution Service that you will not tolerate such a flagrant disregard for the rules that allows the Super-grasses system to be used any longer and another defendant to be denied access to natural justice.

suffered from racism at Frankland, from officers. I thought it was systemic, however, there were officers I felt were very fair and very helpful, but they were few and far between."

Crown prosecutor Tim Gittins, cross examining Parviz had little interest in trying to ascertain if Parviz, was telling the truth about racism in HMP Frankland. Badgering him to talk about his own conviction, Parviz refused to be drawn into discussing why he was in prison, stating emphatically, "I have come here today to speak about the situation at Frankland, not to discuss my case." Khan said he was not unhappy about being kept in a prison regime and gave no comment to the suggestion he was trying to undermine it. "I am a Muslim political prisoner," he told Gittins.

Kevan is now back in HMP Woodhill, Letters of Solidarity/Support to:

Kevan Thakrar A4907AE, HMP Woodhill, Milton Keynes, MK4 4DA

Families welcome new inquests into 1971 killings The Irish Times 16/11/11

The Ballymurphy families have welcomed a decision by the North's attorney general John Larkin to order fresh inquests into the killings of 10 people shot dead by British paratroopers in the west Belfast area in 1971. The families have been pressing for an independent inquiry into the killings by the soldiers which happened just months before the same regiment was involved in Bloody Sunday in Derry which resulted in 14 killings of innocent civilians.

They repeated their calls for an international inquiry yesterday while adding that the reopened inquests were a "very important step on our journey for truth". The families say that 11 people died, including a priest and a mother of eight children, as a result of the shootings and actions of the paratroopers which happened in August 1971 during the introduction of internment without trial. The British army said it fired in response to shots from republicans. The 11th victim was Paddy McCarthy (44) who died as a result of heart attack a short time after a soldier allegedly put an empty gun into his mouth and pulled the trigger.

"We will continue to gather evidence and locate and record witness evidence to assist a further application to the attorney general in relation to the death of Mr McCarthy. We will continue in our quest to have the truth about Pat's death to be a matter of historical record," the families said.

The families said Mr Larkin exhibited leadership and credibility in announcing that the inquests will be reopened. "We regard the original sham inquests as a serious neglect of duty by everyone involved and leave a lot of questions to be answered," they added.

The families called for the inquests to be held without delay, and with sufficient resources and funding provided to the coroner and the families' legal representatives to ensure that all of the facts were known. They added that even a fully resourced and effective inquest would have limitations. "It will be able to provide facts and gather crucial forensic, logistical and witness testimony evidence, but it will not be able to examine the causes, context and consequences of the massacre and answer so many of the questions that must be answered," the families said. "We believe that only an international and independent investigation can facilitate the discovery of the facts and provide an accurate historical account of the events of August 1971 on the streets of Ballymurphy," they said.

Sinn Féin president Gerry Adams described the decision as a "landmark legal judgment" which provided families with the possibility of getting to the truth. "The inquests must now be held without delay and the families must be provided with the necessary resources to ensure that all of the facts are uncovered," he said. Alex Attwood, the SDLP Assembly member for West Belfast, said that the decision was "a step in the right direction" which vindicated the families' campaign. Both politicians said an international inquiry must be held to reveal the full

NHS services as anyone else.

Kevan Thakrar: The Persecution Never Stops

The Crown Prosecution Service didn't get him but Prison Officers' Association might!

Though Kevan was found not guilty on all charges of attempted murder and wounding with intent of three prison officers. The Prison Officers' Association (POA) has been decrying the verdict, since the minute it was announced.

According to BBC News Tyne & Wear, 'The Prison Officers' Association (POA) said the Crown Prosecution Service (CPS) had let prison staff down who faced "dangerous situations". It said it was consulting lawyers about a private prosecution against Thakrar. "Steve Gillan, General Secretary of the POA, said: "We are disappointed by this decision of the crown court and will do everything we can to protect our members, many of whom regularly face dangerous situations caused by the actions of violent criminals. "The POA is of the opinion that there is something wrong with the court system when a convicted murderer admits he attacked prison officers but is then acquitted after he is charged in relation to this offence, regardless of his emotional or mental state at the time."

The attack on the verdict has been led by David Thompson who was governor at HMP Frankland at the time of the incident. Who has made his feelings known to the world, he made a lengthy statement. ""I should remind everyone that these officers and every member of staff at Frankland and the prison service in general are public servants. Their work is out of sight but it requires the highest level of professionalism, courage and conviction. It is often unseen and under-reported. They deserve better recognition and they deserve better support than we have seen from the outcome of this case. Prison officers have to deal with the country's most difficult and most dangerous individuals and they have to perform those duties within the confines of the law. They are not above the law, nor should they be. In this case, other criminal justice professionals have been amazed by how professional and restrained they were in dealing with the assailant immediately after the incident."

Mr. Thompson went on to say the injured officers were "decent people, they are not the sort of people who deserve to find themselves in this terrible, hurtful situation. Staff at Frankland and elsewhere across the service will feel let down, dismayed and humiliated by part of the criminal justice system in which they serve. Colleagues in other professional agencies have expressed their dismay at how a case like this can be conducted in a manner where the victims feel they are on trial, that they have done something wrong, and then for the assailant to be exonerated."

MOJUK would like to ask Mr. Thompson to elaborate as to why he was, "amazed by how professional and restrained the prison officers were in dealing with the assailant immediately after the incident." Was he expecting them to beat Kevan to death and disappointed that they hadn't.

Further MOJUK would ask Mr. Thomspon, what happened to the data from the other CCTV camera that was operating at the time, never produced in court as it, and a handheld audio/visual cam went "missing", your were in charge of the prison on that day and should be charged with criminal misconduct, to have allowed this to happen.

All in all the trial has been a disaster for the Crown Prosecution Service. No matter how hard they tried they couldn't persuade the jury that witnesses for Kevan, were criminals who had no credibility and couldn't tell the facts as they the prisoners had experienced them.

One of the last witnesses to appear for Kevan, Parviz Khan currently serving life for conspiracy to murder backed up claims by Kevan that prison officers subjected inmates at HMP Frankland to racist abuse. Surrounded by three prison guards, he told the jury. "I personally

Thank you for taking the time to consider the contents of my letter. I hope you have found the contents of interest and of some use. Now pick the pen up and start writing, remember it's a numbers game, you will get 100 no's - but you only need one yes.

Yours sincerely, Kevin Lane / 16 Years - 287 days behind bars

Kevin Lane: A5636AE, HMP Rye Hill, Onley Park, Willoughby, CV23 8SZ

http://www.justiceforkevinlane.com/

"It is the nature and adventure of strong people that they can bring out the crucial" questions" Dietrich Bonhoeffer - *"Laws are like sausages. Its better not to see them being made"* Otto von Bismarck

Compassionate release on licence on medical grounds

I have recently been diagnosed as being terminally ill due to heart failure with complications; my life expectancy has been given as zero to a maximum of 2 years and I am advised to ensure my affairs are all in order as the inevitable may happen sooner rather than later. HMP Guys Marsh have gone into their version of palliative 'end of life' care.

However. I am advised that there is something called a compassionate release on licence on medical grounds (as opposed to compassionate release like Ronnie Biggs and the Lockerbie bomber which is only granted within - supposedly - the last 3 months of life expectation). Chapter 12 of Prison Service Orders PSO 6000 specifically states that if released on licence improvement in health is not a reason for recall.

I write to enquire if anyone on this MOJUK mailing list have any information or advice on matters of this nature; I have written to a number of Prison Law solicitors but, so far, nobody has exactly snatched my hand off. I am a 77 year old appellant in the 10th year of an 18 year tariff; my application to the CCRC is presently being polished' in the chambers of Michael Birnbaum QC and should be ready for submission very shortly. I look forward to hearing from anyone who can help.

John Allen: A1155AK, HMP Guys Marsh, Shaftesbury, Dorset, SP7 0AH

The tip of the iceberg

As the phone hacking scandal continues to grab the headlines, John Allen examines the sources of the problem and the widespread effects.

None but the most naive could have believed that the phone hacking scandal was just a News of the World problem. In fact a former Daily Mirror journalist, James Hipwell, is the first named correspondent who has said that he is prepared to provide evidence to the police investigation and judicial enquiry that hacking celebrities' phones was rife among showbusiness reporters, who spread the practice between newspapers. He said" Showbiz hacks moved from The Sun to The People the Mirror and so on. For everyone to pretend-that this is some isolated activity found only at the News of the World is ridiculous."

How long now before the practice of police and prison officers selling privileged information to "investigative journalists" comes under public examination? Already HM Revenue and Customs has begun probing tax affairs of senior Metropolitan police officers after News International provided them with details of payments made by the News of the World between 2003 and 2007. Is it too much to hope for that payments to more lowly ranked public servants who leak derogatory information which can ultimately lead to a 'trial by media' will also come under scrutiny?

Voicemail hacking began in the 1990s targeting mainly celebrities; but this undoubtedly developed as the tip of a very murky iceberg formed many years earlier as a result of the cosy relationship between

the press and police. That association warrants rigorous examination as, what started out as a very acceptable agreement for the media to give publicity to police press releases, quickly deteriorated into a situation where all grades of public employees - police and prison officers being particularly susceptible - are given to accepting bribes from factions of the media in return for confidential information.

Nor are the rewards for these types of illicit actions negligible. Following claims that public service officers have received up to £30,000 for information, Michael Mansfield QC believes the fallout from the investigation into this type of activity will result in a dramatic increase in the penalties handed down. This would appear to be borne out by the damage limitation resignations of two of the most senior Met officers, Sir Paul; Stephenson, Commissioner and John Yates, Assistant Commissioner.

Consider the harm these unauthorised leaks can do. Were it not for the resulting trial by media which derived from the publishing of suspect material would Barry George ever have been convicted of the murder of Jill Dando? George ended up serving six years before a successful appeal overturned that questionable conviction.

For those of us 'on the wrong side of the gate' this is just part of the problem, but a very serious and important part which impacts on an ever increasing number of convictions obtained by doubtful means.

"Investigative journalism" is a debatable label. There are some (but not many) very good investigative journalists. These function at the very top of their profession, carefully evaluating each piece of information to reach a balanced conclusion. Others, regrettably, seize on any crumb of detail from any source and treat it as 'gospel' without bothering to check either its authenticity or probity. The resultant articles, frequently appearing in the more sensational "red tops" can - as was undoubtedly the case in the Barry George case - have a disproportionate effect on trial juries who, after all, can not reasonably be expected to remain uninfluenced by what they read.

The most recent example of a trial by media was the case of Chris Jeffries in the matter of the murder of Bristol landscape architect Joanna Yates. Retired teacher Mr Jeffries was admittedly something of an 'oddball' both in looks and demeanor. But quirky looks and eccentric behaviour do not automatically equate to murderous intent. Yet a series of libelous newspaper reports followed his brief arrest thirteen days after her disappearance and have been shown up as "creating substantial risks to the course of justice". No fewer than eight newspapers, The Sun, The Mirror, the Sunday Mirror, the Daily Mail, the Daily Record, the Daily Express, the Qaily Star and The Scotsman have all agreed to pay damages said to be likely to be "at least" six figures. Additionally, separate contempt charges were brought against the Mirror and the Sun with the Attorney General Dominic Grieves himself leading for the prosecution.

The trial lasted one day and three judges handed down a £50,000 fine against the Mirror whilst the Sun was charged £18,000 over a single article.

Mr Jeffries was arrested on 30th December and freed two days later. Police have now exonerated him of any involvement in Joanna's murder. Vincent Tabak, a Dutch national, pleaded guilty to her manslaughter but was found guilty of her murder and jailed for a minimum of 20 years.

It is now well known that certain Police Forces are themselves under investigation for serious breaches of Association of Chief Police Officers (ACPO), Police-Media guidelines. The selective leaking of classified information has always resulted in an ever increasing number of convictions based on suspect evidence which inevitably leads to yet another miscarriage of justice.

The iceberg still exists and will continue to do so until climate change in the form of closer regulation of the activities of rogue public servants can be implemented.

John Allen: A1155AK, HMP Guys Marsh, Shaftesbury, Dorset, SP7 0AH

As such, the CJC is right to focus on relatively cheap measures with potentially significant effects; however expensive a new web system is, it will cost a fraction of the hundreds of millions being saved (in theory, at least) following the cuts to legal aid. Equally, “nut-shell” type guides, if they are well written and updated regularly (it has to be once or twice per year for them to be useful), will be helpful.

More fundamentally, an enlightened view is needed from the Ministry of Justice; it must be right that making the justice system simpler will also make it quicker, and this will generate other savings. It will also make it fairer for those who cannot afford lawyers, and even through the fog of the financial crisis, this should be the basic aim of any reforms.

There are plenty of suggestions in the report as to how the legal profession can help out. Given the scale of the problems, there is only so much the profession – including judges – will be able to accomplish.

The Law Society and Bar Standards Board have taken a strong stance on the legal aid cuts; once the battle is lost (which it almost certainly will be), the focus should shift to public legal education and encouraging lawyers and would-be-lawyers to see themselves as responsible for increasing public understanding and access to the justice system. We also need to think carefully about whether we are doing enough pro-bono work – see my post How much free work should a lawyer do?

The CJC provides an important blueprint for a fairer and better system; it should be listened to, its recommendations taken seriously and, most importantly, funded. My fear is that there will be neither the will nor the money to carry out the transformation that the justice system really needs.

Sittingbourne family fight killer's sex change BBC News, 10th November 2011

The family of a Kent man who was beaten to death are campaigning to stop his killer getting a sex change in prison.Jim and Judy White have started a petition against prisoners receiving NHS-funded sex changes Relatives of Clive White have said taxpayers should not pay for treatment for jailed Robert Page, from Sittingbourne, who uses the name Emma.

Disabled Mr White, of Sittingbourne, was attacked with an axe and hammer in 2000. Page was jailed in 2001. Page, then 24, lived four doors away from Mr White, 56, at the time of the killing. In 2003, his murder conviction was quashed and his guilty plea to manslaughter was accepted. He is now in HMP Wakefield, West Yorkshire.

Mr White's brother Jim said: "For this man to do this, is actually despicable, that's my only thing. I feel so hurt for these people that can't get their operations and he can go ahead and get all this done through taxpayers' money."

A statement from the Department of Health said: "All decisions made about gender reassignment are rightly based on an individual clinical assessment." It added: "Transsexual prisoners have the right to receive the same range and quality of NHS treatments and services as anyone else, including treatment for gender reassignment."

A spokesman for the Prison Service said he could not comment on individual prisoners, but added that in most cases, transsexual prisoners were transferred to a prison of the same sex as their acquired gender.

Janet Scott, from the transgender support charity the Beaumont Society, said: "He's entitled to the same treatment whether he's in prison or out of prison. "It doesn't matter if he's transgender, suffering from mental illnesses, or suffering from cancer, the treatment is National Health Service treatment, standard procedure."

The Department of Health said prisoners had the right to receive the same

At the moment, information is split between the Directgov website (which I find to be sometimes bewildering, sometimes useful), the court services and the Ministry of Justice. The committee also point out something I have lamented in the past, that

. . . . Even the Government's legislation website is not up to date.

As I have said before, no government department should be permitted to rely on a law in court unless it is accessible online. There is a huge amount to do on internet law; case summaries, press releases, up-to-date legislation. The report highlights a couple of interesting projects, and concludes that it is

. . . . beyond question that the power of the web has not yet been fully exploited to help meet the needs of those with problems that could be resolved through access to justice

But any solution will cost a lot to build and even more to maintain. And in any case, technology can only go so far:. . . . While technology and improved written materials are essential, they are not alone sufficient to achieve the support required. People are the most important resource for all self-represented litigants, but especially the most vulnerable.

Lawyers still needed: This is the crux of the problem; as alluring as it is to think that an average member of the public could litigate their own case with a few well written internet resources and a friendly judge, there is no real substitute, particularly in our adversarial system, for a lawyer representing them in court. A member of the public is no more likely to self-represent effectively in complexly litigation than they are to perform surgery on themselves. To that end, the CJC make recommendations on making the pro-bono system – within which lawyers act for free – better organised and coordinated.

Realistically, there will be nowhere near enough pro-bono lawyers to go around. To fill the gap, the CJC highlights the importance of Public legal education (or PLE) as

. . . . the true starting point for helping the public and thereby those who could become self-represented litigants. The regulatory objective of increasing public understanding of the citizen's legal rights and duties is important.

However good it is, PLE is not going to replace lawyers, but it may limit the need for them in certain limited scenarios. One of the report's recommendations is that a series of "nut-shell"-type guides are produced for various areas of law. Happily, the CJC highlights the excellent work of fellow barrister-blogger Lucy Reed and her book, Family Courts without a Lawyer, as an example of such a project.

As I have pointed out before, solicitors now have a responsibility under their code of practice to help out with PLE: . . . . The regulatory objectives set by the Legal Services Act 2007 expressly include increasing public understanding of the citizen's legal rights and obligations. This regulatory objective, alongside the related objectives of promoting the public interest and promoting the interest of consumers, is now more important than ever in light of the proposed reductions and changes to legal aid.

What this means in practice is anyone's guess, but it is the responsibility of the profession's regulators and standards bodies to encourage lawyers and would-be-lawyers, to think about this laudable aim seriously.

A big mess: The coming years and the expected avalanche of litigants in person will probably change the face of the justice system.This is therefore a timely report, and one which was needed in any event.

As you can probably tell, there is a huge amount there, and much to be discussed in the coming months and years. But my impression is that the problem is almost too big to approach in an environment where the justice system is being starved of funding.

Mother of Kevin Nunn appeals for new DNA tests BBC news, 7 November 2011

The mother of a Suffolk man given a life sentence for murder believes new DNA technology could prove her son's innocence. Kevin Nunn was jailed for at least 22 years in 2006 for killing his ex girlfriend Dawn Walker, whose body was found near the River Lark. Margaret Nunn is hoping the High Court will order Suffolk Police to release forensic evidence relating to the case. She said: "He's languishing in prison and the real culprits are out there."

The body of Ms Walker, 32, was found on 4 February 2005. She was naked from the waist down and was badly burned. Ipswich Crown Court heard that Nunn killed Ms Walker in a fit of jealousy after she had told him their relationship of more than two years was over.

Five years later Mrs Nunn continues to campaign. "At the beginning of the case the police told us the technology was not available to get a DNA sample," she said "We now believe six years on that the technology is there and I know our expert will be able to find that out if he's allowed to examine the forensic evidence." Mrs Nunn said Suffolk Police had blocked a request to release the forensic evidence. She said her son's solicitor is now waiting for a date at the High Court. "I feel anxious about it but I know that if for any reason that this should fail my message today to Suffolk Police as a mother and grandmother, we are never, ever giving up the fight for justice for our son."

A Suffolk Police spokesperson said: "Suffolk Police are aware of the application for a review into the decision to refuse access to forensic evidence in the case of Kevin Nunn and we will await the date of the High Court hearing." The family of Ms Walker did not want to comment.

Kevin Nunn LA9547, HMP Garth, Ulnes Walton, Leyland, PR26 8NE

Prisons: HMP Wandsworth

Lord Hurd to ask HMG how they propose to implement the recommendations identified in HM Chief Inspector of Prisons' report of 10 August 2011 on HM Prison Wandsworth.

Minister of State, Ministry of Justice (Lord McNally): My Lords, since the inspection was undertaken in February and March, Wandsworth prison has strengthened its management team and improved access to purposeful activity. The issues of showering provision and access to telephones have been tackled and first-night provision is better. In addition, the primary care trust has commissioned a health needs assessment to identify better the requirements of the prison population.

Lord Hurd of Westwell: What were my noble friend's feelings on first reading this very disappointing report? It details several ways in which Wandsworth prison has fallen backwards since the earlier report and is now holding people in conditions that are unsafe and fall well below the level of human decency. He has listed some things that have happened since the report was published. Can he add to that list and is he satisfied that when those things are carried out, they will solve the problems that the chief inspector reported?

Lord McNally: My Lords, my noble friend asked me what my reaction was. I was appalled. It is a disgraceful and shaming report that lists many failings. I can say only that the National Offender Management Service has reacted to the faults with proper determination. Wandsworth is a very difficult prison. It is one of our Victorian prisons, with over 1,600 prisoners, which puts a great strain on the staff, but there is no doubt that the inspection revealed many weaknesses. All I can assure my noble friend is that the strengthening of the management team signals a determination that the things that were identified will be put right.

Lord Ramsbotham: My Lords, when I was the Chief Inspector of Prisons I also had the problem of inspecting Wandsworth and producing a report very similar to the one that

has been mentioned. We introduced a procedure whereby the Prison Service was required to produce an action plan on what it was going to do, which was copied to the Secretary of State and the chief inspector and was then updated after nine months and 18 months. That report listed who was to do what, and by when, to put the recommendations right. The Minister has listed some things that have happened. Can he tell the House whether that action plan procedure is still in force and, if so, whether one has been instigated for HMP Wandsworth?

Lord McNally: I am not quite sure whether the system that the noble Lord refers to is still in action, but I know that Amy Rees, the new governor, has the clear direction to move with all possible speed to implement the action plan. It would be inconceivable if the Secretary of State and Ministers in the Ministry of Justice did not pay the closest attention to making sure that the recommendations made by this report are implemented with all possible speed.

Lord Bach: My Lords, this is obviously a significant and worrying report and I am sure that the House is grateful to the noble Lord, Lord Hurd, for raising the issue this afternoon. As I understand it, Wandsworth has a larger number of prisoners than any other prison in Europe-some 1,665 at the date of the report. Can the Minister the House today or perhaps write to me telling us how many of those prisoners are doubled up in cells at present? Perhaps I might briefly broaden my question. Can he confirm that capital investment in the Prison Service is generally going down heavily, year on year, and that in fact there will be no capital investment by 2013-14? In the light of the fact that the largest number of prisoners ever is in prison today-the figure on 5 November was 87,749-and in the light of cuts to prison staff, and particularly to probation staff, can he tell the House how the rehabilitation revolution is going?

Lord McNally: We will return to the rehabilitation revolution on 21 November when we discuss the Legal Aid, Sentencing and Punishment of Offenders Bill. I hope that the noble Lord will help me then with the fact that the Ministry of Justice, as part of our deficit reduction programme, has to find £2 billion in cuts. In a department that spends money only on prisons, probation, court services and legal aid, tough decisions have been made. Today it is prison spending cuts that the noble Lord does not like; I suspect that, the next time he gets up, it will be legal aid cuts that he does not like. To govern is to choose, and we have had to make some very tough decisions.

On the question of doubling up, again one of the problems for Wandsworth is that a prison built for just over 1,000 people has 1,600 prisoners. You can work out the number that are doubled up in cells. About the only good thing that I can think of in that circumstance is that they all have in-cell toilet facilities, but even that makes you squirm with horror when you think about sharing a cell containing those facilities.

Lord Dholakia: My Lords, does the Minister share my concern that the policies on diversity and race relations identified in the report have not been adequately addressed? Would he have a word with HMCIP to ensure that there will be an automatic review of this issue, not only in Wandsworth but in other prisons as well? At the end of the day, is it not right that all inmates should be treated fairly?

Lord McNally: Absolutely, my Lords. One of the reasonable things that came from this report and the prison visitors' report is that there was no identifiable race problem in the treatment of prisoners. Indeed, 29 per cent of prison officers and staff at Wandsworth are from black and ethnic communities, a figure that I found reassuring, but it is also true that the report said that because of general failures across the board, black and ethnic minority prisoners suffered from those common problems.

On the question of dealing with race relations, I understand that all prisons now have an adviser on such matters, but I will also ensure that my noble friend's suggestions are drawn to the attention of Her Majesty's Chief Inspector.

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process begun by Lord Woolf in 1997 with the Civil Procedure Act. The CJC was itself a creation of the 1997 Act, its function being to figure out how to make the civil justice system more accessible, fair and efficient. It is not possible to summarise everything in the report, but I will highlight a few parts which jumped out at me.

First, the problem. It is generally accepted that the huge impending reduction in civil legal aid will lead to many more litigants in person, which the report rebrands as "self-represented litigants", and there is a real risk that this increase will clog up the courts. The report states, in clear terms:

. . . . The forthcoming reductions and changes in legal aid will have the most serious consequences. This is not simply because of their scale, it is also by reason of their design and incidence. Among other things they will have a disproportionately adverse effect on the most vulnerable in our society.

Litigants will enter the courts, probably bleary eyed from trying in vain to locate the relevant law and procedure on the internet, to find . . . . a system of real quality, but one designed for lawyers, and which as a consequence was and is far too complex and obscure for those representing themselves. It is hard to overstate just how difficult it can be – for the person, for the court, and for other parties – when someone self- represents.

The result is . . . . a legal system that the world admires and forum of choice for much international litigation. But inot a legal system designed with self-represented litigants in mind.

No easy answer: On important point, possibly the most important, to take from the report is that there is no easy answer to this problem, and given the nature of our fiercely adversarial justice system, possibly none at all. Any proposals therefore amount to ointment rather than a cure. One of the more radical statements made by the CJC is that

. . . . The proposed reductions are a matter of regret. This is because, if the focus is on the individual citizen (and not the lawyer), their legal rights can be as important as their health, deserving of the same respect, and meriting equivalent support.

So the withdrawal of civil legal aid will probably lead to a contraction of justice in any event. However, it does provide a useful catalyst for reforming a system which needs reform anyway. Therefore, ... Everything must be done to simplify and demystify the law and the system, including its language. This includes Court forms, procedures and hearings.

Bleak picture: The report paints a bleak picture of our confusing and intimidating legal system, but there is a small exception, the small claims and fast track procedures launched by the Civil Procedure Act in 1997: . . . . In one area of the civil courts the experience of self-represented litigants seems generally to have been positive, although there remains room for improvement and further research. Small claims hearings are designed for self-represented litigants. The nature of the hearings is usually less adversarial and more inquisitorial or interventionist than in higher courts.

If more hearings can take the simplified form, then this will make the justice system slightly friendlier to self-represented litigants. But this will involve an expanded, central role for judges, who are already: . . . . at the apex of the civil justice system.

They hold the key to case management and need to be given the support – in training and administration – that they require. Mediation also gets a mention, but not in any great detail.

Traffic jam on the information superhighway

Outside of court, the growth of the web and social media (the latter sadly ignored by the CJC) presents an obvious opportunity. To that end, the CJC offer a number of suggestions, mainly focussing on the fact that there is no single website where people can go to find information about the court system and law.

- applications for permission to appeal against the refusal by the Court of Appeal under CPR 52.17 (the 'Taylor v Lawrence' jurisdiction) to reopen an appeal or application for permission to appeal.

1.16.2 Where one of these restrictions applies, the Registrar will inform the applicant in writing that The Supreme Court has no jurisdiction. The European Court of Human Rights accepts this letter as setting out the jurisdiction of The Supreme Court in the litigation, for the purpose of determining whether the applicant has satisfied the requirement, laid down by Article 35 of the European Convention on Human Rights, that all domestic remedies must be exhausted before an appeal can be made to the Strasbourg Court.

Criminal Appeals

1.17 Appeals to The Supreme Court in criminal proceedings in England and Wales or Northern Ireland are subject to special restrictions limiting such appeals to exceptional cases of general public importance. There is no appeal in criminal proceedings from the High Court of Justiciary or any other court in Scotland, but issues relating to criminal proceedings in Scotland may come before The Supreme Court as devolution issues under the Scotland Act 1998. See paragraph 1.18.

England and Wales (except Courts-martial)

1.17.1 Appeals to The Supreme Court in criminal proceedings in England and Wales are regulated by sections 33 and 34 of the Criminal Appeal Act 1968 and sections 1 and 2 of the Administration of Justice Act 1960.

All such appeals may be made at the instance of the accused or the prosecutor. Section 13 of the Administration of Justice Act 1960 extends the scope of sections 1 and 2, with some qualifications, to appeals relating to contempt of court (civil or criminal). Sections 36 to 38 of the Criminal Appeal Act 1968 contain ancillary provisions about bail, detention and attendance at appeal hearings.

1.17.2 Any appeal under these provisions requires the permission of the court below or The Supreme Court, which may be granted (except for a first appeal in a contempt of court matter) only if (i) the court below certifies that a point of general public importance is involved and (ii) it appears to the court below or to The Supreme Court that the point is one which ought to be considered by The Supreme Court.

1.17.3 Section 36 of the Criminal Justice Act 1972 permits the Court of Appeal to refer a point of law to The Supreme Court where (after an acquittal) the Attorney-General has referred the point of law to the Court of Appeal.

Northern Ireland

1.17.4 Similar provisions apply to appeals in criminal proceedings in Northern Ireland: see sections 31 and 32 of the Criminal Appeal (Northern Ireland) Act 1980 and section 41 of and Schedule 1 to the Judicature (Northern Ireland) Act 1978. [End]

Litigants in Person - A blueprint for a simpler, fairer justice system

Adam Wagner November 11th 2011

The Civil Justice Council (CJC) has just released a major new report: Access to Justice for Litigants in Person (or self-represented litigants). The report attacks head-on the prospect of thousands more people having to represent themselves in court once civil legal aid is mostly taken away.

The 94-page report, written by a group including a QC and a High Court judge, is a major and ambitious attempt to make the justice system fairer and simpler for people who go to court without a lawyer. A huge amount of research and thought has gone into it, building on the

A guide to bringing a case to The Supreme Court

1.1 This guide sets out some information to help you decide whether The Supreme Court can help you. The Supreme Court is an appeal courti. This means that it only deals with appeals from

In England and Wales

The Court of Appeal, Civil Division

The Court of Appeal, Criminal Division (in some limited cases) the High Court In Scotland

The Court of Session In Northern Ireland

The Court of Appeal in Northern Ireland (in some limited casess) the High Court

1.2 Unless one of these Courts has made an order affecting you, you will NOT be able to take your case to The Supreme Court. AND not all orders made by these Courts can be appealed to The Supreme COUrt4.

What is The Supreme Court?

1.3 The Supreme Court of the United Kingdom was established by Part 3 of the Constitutional Reform Act 2005 and came into being on 1 October 2009. It replaces the House of Lords in its judicial capacity and has assumed the jurisdiction of the House of Lords under the Appellate Jurisdiction Acts 1876 and 1888. The Supreme Court also has jurisdiction in relation to devolution rnatterss under the Scotland Act 1998, the Northern Ireland Act 1988 and the Government of Wales Act 2006; this was transferred to The Supreme Court from the Judicial Committee of the Privy Council.

Do I have a right of appeal?

1.4 The right of appeal to the Supreme Court is regulated by statute and is subject to several statutory restrictions. The relevant statutes for civil appeals are:

1 There is an exception to this: see Devolution at para l.18. 2 See paragraph 1.12

3 See paragraph l.12 4 See para. l.16. 5 See Devolution at para l.18.

- the Administration of Justice (Appeals) Act 1934 the Administration of Justice Act 1960
- the Administration of Justice Act 1969
- the Judicature (Northern Ireland) Act 1978 the Court of Session Act 1988
- the Access to Justice Act 1999.

The Human Rights Act 1998 applies to The Supreme Court in its judicial capacity. But that Act does not confer any general right of appeal to The Supreme Court, or any right of appeal over and above any right of appeal which was provided for in Acts passed before the coming into force of the Human Rights Act 1998.

Appeals from the Court of Appeal in England & Wales and the Court of Appeal in Northern Ireland

1.5 An appeal to The Supreme Court from any order or judgment of the Court of Appeal in England and Wales or in Northern Ireland may only be brought with the permission of the Court of Appeal or of The Supreme Courts.

1.6 An application for permission to appeal must be made first to the Court of Appeal. If that Court refuses permission, an application may be made to The Supreme Court. An application is made by filing an application for permission to appeal.

Appeals from the Court of Session in Scotland

1.7 An appeal lies to the Court from any order or judgment of a court in Scotland if an appeal lay from that court to the House of Lords at or immediately before 1 October 2009.

1.8 As a general rule, permission to appeal is not required from an interlocutor of the Inner House of the Court of Session on the whole merits of the causes, The appeal must be filed

within 42 days of the date of the interlocutor appealed from; and the notice of appeal must be signed by two Scottish counsel who must also certify that the appeal is reasonable.

1.9 As a general rule, permission to appeal is not required from an interlocutory judgment of the Court of Session where there is a difference of opinion among the judges or where the interlocutory judgment is one sustaining a dilatory defence and dismissing the actions. The appeal must be filed within 42 days of the date of the interlocutor appealed from; and the notice of appeal must be signed by two Scottish counsel who must also certify that the appeal is reasonable.

1.10 Permission to appeal is required for an appeal to The Supreme Court against any interlocutory judgment of the Court of Session that does not fall within para. 1.9, and only the Inner House of the Court of Session may grant permission to appeal. A refusal by the Court of Session to grant permission to appeal is final and no appeal may then be made to The Supreme Court.

1.11 Permission to appeal from the Court of Session is also required for an appeal to The Supreme Court under the provisions of certain Acts of Parliament, and permission may be granted either by the Court of Session or, if refused by the Court of Session, by The Supreme Court. When permission to appeal is granted where para.1.1 0 or this paragraph applies, it is not necessary for two Scottish counsel to certify that the appeal is reasonable. 6 See Glossary.

Appeals from High Court in England/Wales/Northern Ireland: leapfrog appeals

1.12 In certain cases, and subject to certain conditions, an appeal lies direct to The Supreme Court from the High Court in England and Wales or in Northern Ireland. Under sections 12 to 16 of the Administration of Justice Act 1969, appeals in civil matters may exceptionally be permitted to be made direct to The Supreme Court from

(i) the High Court in England and Wales

(ii) a Divisional Court in England and Wales and

(iii) the High Court of Northern Ireland.

These appeals are generally called leapfrog appeals.

1.12.1 A certificate of the High Court must first be obtained and then the permission of The Supreme Court must be applied for and given before the appeal may proceed. No application may be made to The Supreme Court without the certificate of the High Court.

1.12.2 A leapfrog appeal is only permitted if

(i) the judge in the High Court certifies (immediately after judgment or on an application within 14 days) that the "relevant conditions" are satisfied, that a sufficient case has been made out to justify an application for permission to appeal to The Supreme Court, and that all parties consent;

(ii) The Supreme Court (on an application made within one month) gives permission for the appeal, and

(iii) it is not a case of contempt of court or one in which an appeal to the Court of Appeal (or the Court of Appeal of Northern Ireland) (a) would not have lain even with permission or (b) would not have had permission granted for it.

1.12.3 The "relevant conditions" (which are set out in section 12(3) of the Administration of Justice Act 1969) are that a point of general public importance is involved and that it either:

"(a) relates wholly or mainly to the construction of an enactment or of a statutory instrument, and has been fully argued in the proceedings and fully considered in the judgment of the judge in the proceedings, or

(b) is one in respect of which the judge is bound by a decision of the Court of Appeal or of The Supreme Court in previous proceedings, and was fully considered in the judgments given by the Court of Appeal or The Supreme Court (as the case may be) in those previous proceedings."

(In the case of leapfrog appeals from Northern Ireland the references in this paragraph to the Court of Appeal must be read as references to the Court of Appeal of Northern Ireland.)

Judicial review: civil matters

1.13 An application for permission to apply for judicial review is made to the Administrative Court (which is part of the Queen's Bench Division of the High Court). If the judge in the Administrative Court refuses the application without a hearing, an application can be made for his decision to be reconsidered at a hearing. Where permission to apply for judicial review has been refused by the Administrative Court after consideration on paper and after reconsideration at an oral hearing, the applicant may apply to appeal against the refusal of permission. An application must be filed in the Court of Appeal within 7 days. For an appeal to be successful, the applicant needs to be granted both i) permission to appeal against the Administrative Court's determination; and ii) permission to apply for judicial review.

1.14 If the Court of Appeal refuses to grant permission to appeal against the decision of the Administrative Court to refuse permission to apply for judicial review, there is no further right of appeal to The Supreme Court. The Supreme Court has no jurisdiction to issue such an appeal.

But if the Court of Appeal (a) grants permission to appeal against the Administrative Court's refusal of permission to apply for judicial review, but then (b) itself refuses permission to apply for judicial review, The Supreme Court does have jurisdiction.

Civil contempt of court cases

1.15 In cases involving civil contempt of court, an appeal may be brought under section 13 of the Administration of Justice Act 1960. Permission to appeal is required and an application for permission must first be made to the court which heard the original case. If that application is refused, an application for permission may then be made to The Supreme Court. Where the decision of the court below is a decision on appeal under the same section of the same Act, permission to appeal to The Supreme Court is only granted if the court below certifies that a point of law of general public importance is involved in that decision and if it appears to that court or to The Supreme Court that the point is one that ought to be considered by The Supreme Court. Where the court below refuses to grant the certificate required, an application for permission may not then be made to The Supreme Court.

What are the restrictions on a right of appeal?

1.16 Permission to appeal to The Supreme Court is subject to a number of statutory restrictions.

- The most important general restriction on rights of appeal is section 54(4) of the Access to Justice Act 1999. This provision means that The Supreme Court may NOT entertain any appeal against an order of the Court of Appeal refusing permission to bring an appeal to the Court of Appeal from a lower court. In other words, where the Court of Appeal refuses to give permission for a party to appeal to the Court of Appeal, then that decision cannot be challenged in The Supreme Court.

1.16.1 Other restrictions relate to applications brought by a person in respect of whom the High Court has made an order under section 42 of The Supreme Court Act 1981 (restriction of vexatious legal proceedings);

- applications brought from a decision of the Court of Appeal on an appeal from a county court in probate proceedings;

- applications brought from a decision of the Court of Appeal on an appeal from a decision of the High Court on a question of law under Part III of the Representation of the People Act 1983 (legal proceedings);