Court will say is a totally unacceptable way to decide which cases they will accept.

Prisoners: Post-traumatic Stress Disorder (PTSD)

Ian Lavery: To ask the Secretary of State for Justice what his policy is on the training provided to prison staff who are required to care for offenders suffering from post-traumatic stress disorder.

Mr Blunt: Training for newly recruited prison officers provides officers with an understanding of mental health disorders and how to respond effectively to prisoners experiencing mental ill health. Further training is available to prison officers throughout their career depending on their role within their prison. All such training provides prison officers with the knowledge to identify offenders with mental health issues and refer to appropriate health care professionals.

Following a review of current safer custody training, all prison staff will have access to revised introductory courses on safer custody and mental health from April 2012. An enhanced mental health course, which refers specifically to post-traumatic stress disorder, will also be available to selected prison staff. House of Commons / 28 Nov 2011 : Column 745W

Lynette White case: Police officers' trial collapses

Britain's top prosecutor has expressed extreme concern after the collapse of a police corruption trial over the wrongful conviction of three men for the murder of prostitute Lynette White. Trial judge Justice Sweeney discharged the jury at Swansea Crown Court after ruling that the eight accused former police officers could not get a fair trial. The eight were jointly charged along with two civilians in the biggest trial of its kind involving former police officers in UK criminal history.

But Simon Clements, the Crown Prosecution Service's reviewing lawyer, said the case collapsed after a review discovered that files had been destroyed. The officers were alleged to have colluded to pervert the course of justice, leading to the jailing of three innocent men. Prostitute Miss White, 20, was stabbed more than 50 times at her flat in the docks area of Cardiff in 1988. Mr Clements said prosecutors were satisfied before the trial that "this was a case which should go before a jury". He said: "However, at the request of the judge on 28 November, a review by the prosecution of a certain section of the unused material has uncovered that some copies of files, originally reviewed but not considered discloseable at that time, were missing. This information related to complaints made by one of the original defendants to the IPCC and another complaint relating to the investigation. "On inquiry, it was found that these copies had been destroyed and no record of the reason for their destruction had been made by the police officers concerned. This was the first time that prosecution counsel or the CPS had been made aware of this destruction "Given the stage reached in the proceedings, the correct course of action is to offer no evidence, thus inviting verdicts of not guilty and ending the trial."

Director of Public Prosecutions Keir Starmer QC has been notified and is "extremely concerned" about the outcome, the CPS said.

Hostages: Babar Ahmad, Talha Ahsan, Norman Grant, Ricardo Morrison, 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 Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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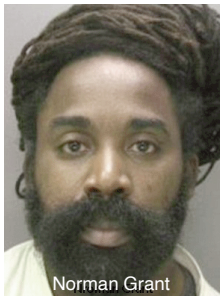
MOJUK: Newsletter 'Inside Out' No 348 (01/12/2011)

Now you See it, now you Don't - the Case of the planted Balaclava


Norman Grant

When common law rules governing the admissibility of Bad Character in criminal proceedings were abolished in 2003 and replaced with the disclosure of a defendant's previous history to the jury, good and bad detectives up and down the land must have clapped their hands together with unrestrained glee.

For immediately they knew, once a suspect's previous convictions for a similar offence were disclosed to the jury, all that was required to secure a routine conviction was a smear of DNA material planted at the scene of a crime and the rest was history. How do I know all this? Well unfortunately it happened to me!

The facts: On a cold and wintery January afternoon in 2010,

A gang of masked armed robbers visited Handsworth Cemetery, Birmingham. At about 4:00 pm. (closing time) they overpowered three members of staff. They forced them to open the safe and were bound and gagged with plastic cable ties and black tape and bundled into a Ford Connect van owned by the Cemetery.

The robbers then commandeered a JCB digger at the Cemetery and a silver BMW owned by an employee. Together the JCB, BMW and the Ford Connect van all set off in convoy for the UAE Exchange Bank situated at the corner of Soho Road and Murdock Road, Handsworth, Birmingham. Meanwhile the captives in the back of the van were making mental notes of the raiders. Later they concluded, they were a mixed gang of black-and white men wearing dark masks and dark clothing. One of the robbers spoke with a distinctive Caribbean accent.

Just after the UAE Exchange Bank had closed at 5:30 pm and the Bank tellers were cashing in their tills, a stolen Ford Focus pulled away from a parking space directly adjacent to the Bank's side window in Murdock Road. Seconds later the staff in the Bank heard a loud crashing noise as the JCB with its bucket raised smashed into the side window in Murdock Road. After several runs at the window they create, a hole big enough for two masked gunmen to enter the Bank and ransack the safe and tills and escape with a substantial amount of cash.

Eyewitnesses outside the Bank noticed the driver of the JCB fleeing down Murdock Road and described him as a white male with a dark facial mask. Simultaneously, as the robbers began their daring raid, the three captives in the Ford Connect van were jettisoned from the van nearby. Almost immediately, witnesses began to put two and two together and began to call the police on their mobile phones.

Almost two minutes later as the two gunmen exited the Bank through the hole in the wall, the first local police patrol came on the scene. The JCB had blocked the path of the police vehicle and the robbers took off down Murdock Road with the police running after them in hot pursuit. Unexpected vehicles coming up Murdock Road had caused a traffic jam and blocked the getaway route of the robber's vehicles, the stolen Ford Focus and Ford Connect van.

The panicking robbers abandoned their vehicles and made their escape on foot down Centenery Drive, a nearby alleyway and into gardens, jumping over gates and walls leaving

behind a wealth of incriminating evidence in the process. The scene of the crime was quickly cordoned off to the public and at 19:00 hours a team of Forensic Scene Investigators (FSI) arrived to begin the painstaking task of recording and recovering the evidence.

At the forefront of these was Forensic Scene Investigator Brookes who was responsible for recording and gathering evidence at the Bank and the JCB digger in Murdock Road. Initially he took a series of photographs of the inside and outside the Bank and also the interior and exterior of the JCB. Later he recovered a magazine containing six bullets from the Bank and some black tape and cable ties discarded on the pavement as the raiders fled from the police.

Bizarrely, however, FSI Brookes steered well clear from a detailed examination of the JCB, despite it yielding a potential gold mine of forensic opportunities, especially inside the vehicle, such as, possible biological trace material or fingerprints on the steering wheel, hand-brake, gear-stick, indicators, interior mirror, prominent levers under the seat for adjustments, cigarette stubs, sweet wrappers, empty soft drink bottles, discarded firearms and ammunition, etc.

At the minimum, we would expect the forensic expert to swab the JCB fur pre-robbery saliva and sweat, but not Mr Brookes; he was content with a visual assessment of the vehicle and some photographs of limited value.

Meanwhile further down Murdock Road, Forensic Science Officer Roberts was having more success. He also took a series of photographs of the abandoned Ford Connect van owned by the Cemetery and clambered over the partition and in the rear discovered an under-and-over 12 gauge, sawn-off shotgun, a £10 bank note and a black woollen hat found down the side of the driver's seat containing DNA of a possible suspect.

Equally proficient was Forensic Scene Manager Evans, who forensically examined the abandoned stolen Ford Focus in Murdock Road where he discovered a JD Sports plastic carrier bag, a blue builders hard hat, yellow high visibility bib, a grey-black woollen hat and latex glove with two fingertips missing also containing the DNA of another possible suspect.

If things were looking good, they were even better at the crime scene in Centenery Drive where Forensic Scene Manager Bray discovered a discarded loaded double-barrel shotgun and an assortment of banknotes, plastic moneybags and money bands in the rear of the gardens.

Back at the top of Murdock Road, DC O'Donnell checked the cabin of the JCB with a searchlight to see if footprints visible on the floor of the vehicle were suitable for forensic examination, but she noticed that some areas were muddy whereas others were dusty and dirty. She also noticed due to the vibration of the engine that was still running it caused the fine detail of the footprints to disintegrate. Moreover, PC Hanchett stated that he opened the JCB door and leaned inside and moved the lever on the steering column upwards to disable the bleeping sound. Strangely, at trial no one admitted to turning the engine off?

But when Mr. Hobbs, the police employed recovery man arrived to recover the JCB digger he had to start the vehicle using the keys still in the ignition. Once the JCB was loaded on the recovery vehicle it was placed into storage at Jackson's secure compound where it was booked in by the owner Mr. Wilkes at 20:57 hours.

Why is all this small detail relevant I here you ask? Well please bear with me. Seven days after the robbery, on the 19th January 2010, the Senior Investigating Officer, DC Maher, called FSI Brookes and asked him to pop along to Jackson's compound to take some additional photographs of the digger. He did this at 13:30 hours. Later that same afternoon DC Maher gave authorization to Mr. WIlkes for the JCB to be returned to the owners who were to collect it that afternoon.

example of. People feel very aggrieved about that." *The Sentinel, Saturday, 19/11/11*

Homophobic crime: unspoken scourge within Britain's prisons

Independent, Nina Lakhani, Monday 28 November 2011

Investigation lays bare violent abuse and exposes the taboo that reformers have still not addressed. Homophobic crime is endemic in Britain's prisons, but often ignored by the authorities, according to an investigation that has revealed allegations of verbal, physical and sexual assaults.

The report by the Howard League for Penal Reform shines a light on the last taboo in Britain's prison system, and the fact that homophobic incidents are not nationally monitored. The targeting of gay men for sexual favours is also widespread, according to victims who say they are too scared to report abuse in case they are mocked or ignored by staff.

The Howard League found that sending prisoners to vulnerable persons' units for their "own protection", along with child abusers and informants, fuelled dangerous, false stereotypes about homosexuality. One bisexual man told the League: "I've been put in segregation and slashed down my back with a razor. They say if I go into the shower they will beat me up and some ask for sexual favours. We can't report it, as we're then labelled as a grass and that leads to abuse." The research comes as the prison service takes steps to stamp out hate crimes related to race, religion and disability to comply with equality laws that come into force next April.

The Howard League found some examples of good local practice and individual prison officers who tried to ensure that all vulnerable prisoners were protected from discrimination. But inspectors this year highlighted the lack of policies and support available to protect gay and bisexual inmates at several prisons. The Warren Hill young offenders' institute in Suffolk, Wayland category C prison in Norfolk, and Askham Grange women's prison in Yorkshire are among those that must urgently improve support for gay inmates, according to Her Majesty's Inspectorate of Prisons.

Frances Crook, chief executive of the Howard League, said an unofficial "don't ask, don't tell" policy made it impossible to establish the true extent of homophobic assaults. "Anecdotally, we know there is endemic homophobia directed at gay prisoners from staff and other inmates," she said. "We have been told that the weak and vulnerable are targeted for the purchase of sexual favours or [their] exchange for canteen items, drugs or protection. The charity has been told that gay prisoners are advised by officers to 'act less gay' as a survival strategy." The prison population is 88,115 in England and Wales, with 5,000 gay and bisexual inmates, charity Stonewall estimates.

Case study: 'They don't know who they can trust, so they don't tell anyone'

I have been openly gay for 13 years and throughout my time [in prison] there were sexually explicit comments and taunts. I could handle it, but there were guys who became totally isolated and terrified. Others wouldn't admit to being gay in case they got beaten up. People get physically and sexually violated in their cells when the doors are unlocked. Many fear that reporting things to staff will make them even more vulnerable. They don't know who they can trust, so they don't tell anyone." Arto Maatta, 34, from London, spent four months in three prisons after stealing to fund a club-scene drug habit. He now works for the St Giles Trust, a charity that works with former offenders, and has set up projects to support gay, bisexual and transgender inmates.

Campaign to Abolish Criminal Cases Review Commission (CCRC)

West Midlands Against Injustice (WMAI) is organizing a Demonstration to protest against wrongful convictions and failure of the Criminal Cases Review Commission to put them right on Tuesday 6th December 2011. This will be the first step in a campaign to bring to and end the CCRC, as it has long since passed its' sell by date. Second guessing what the High

. . . . On the contrary, we are of the view that the practical independence of IHAT is, at least as a matter of reasonable perception, substantially compromised. Given the IHAT's lack of independence, the secretary of state's "wait and see" policy was not tenable:

We can understand why the Divisional Court attached significance to the Baha Mousa Inquiry when coming to its conclusion on "wait and see" but that was in conjunction with the finding that IHAT is independent. However, it is not simply the benefit of hindsight or wisdom after the event that disposes us to the view that, at the time when the ongoing Baha Mousa Inquiry was being relied upon as part of the justification for "wait and see", it was entirely foreseeable that it would not and could not satisfy the Article 3 investigative obligation in relation to later allegations spreading over several years in various locations involving different units.

The Court of Appeal was not prepared to accord the same weight as the Divisional Court did to "the very heavy resource implications" of ordering a separate inquiry. The secretary of state will now have to reconsider how the Article 3 duty to undertake an effective investigation should be satisfied.

Two police officers face investigation over street brawl that ended in death

Two Staffordshire Police officers face an investigation to determine if race or religion influenced their handling of a disturbance involving an Asian man who later died.

The IPCC has launched an investigation into the way police handled the brawl which left Israr Ellahi with a fractured skull. The 30-year-old father-of-three, of Stanley Street, died 12 days after the fight, which took place in June last year in nearby Roundwell Street.

The investigation has been brought by the IPCC after an official complaint was made by Mr Ellahi's family about the manner in which Mr Ellahi was attended to while he was on the ground. The IPCC says its investigation will examine the actions of two officers who dealt with Mr Ellahi immediately after the assault. It will specifically focus on what first aid and treatment was provided and how quickly professional medical attention was sought. The investigation will also consider whether their response was influenced by Mr Ellahi's religion or race. IPCC Commissioner, Amerdeep Somal, said: "I appreciate the violent disorder which took place in Tunstall last June and Mr Ellahi's sad death, have raised strong concerns."Mr Ellahi's family has complained that police officers were negligent in the manner in which they attended to him while on the ground following the assault. "The IPCC investigation will independently scrutinise this particular complaint and impartially examine whether police officers acted appropriately in the circumstances. I would ask for patience while we investigate this specific matter."

Four youths have been locked up following the fight. Lewis Gilpin, aged 18, was given two years and eight months in youth custody for violent disorder. Danny Munro, aged 19, was sentenced to two years and nine months, 18-year-old Rian Winspare, was sentenced to two years and 10 months and Joshua Taylor, aged 18, was sentenced to 21 months.

Mr Ellahi's brother, Isbar, and friend Shafiq Mohammed, were also jailed for 42 months and 36 months respectively after admitting violent disorder.

Community representative Parvez Akhtar, aged 46, of Tunstall, said: "We are not happy with the original police investigation. Why has no-one been charged with murder or manslaughter? The public are still quite angry and we want a full investigation. People are worried. No-one wants this sort of thing to happen to anyone else. But there are no racial tensions in Tunstall. No-one wants any fighting or any other families to go through this pain."

Tunstall councillor Lee Wanger, City Independents, said: "It seems to the community that the two Asian lads were locked up for longer than the other youths involved and made an

Astoundingly, after the call from DC Maher, HR Wilkes then drove the JCB to another open-air storage compound in Hampton Street, Newtown, about a mile away.

A short while later at 15:15 hours, two employees arrived from Handsworth Cemetery, Mr. Crane and Mr. Robinson, and as Soon as they opened the door to the digger, bingo, Mr. crane stated: "I noticed what looked like a woollen khaki hat under the drivers seat." He added, "I did not have to go into the cab of the JCB [to retrieve the balaclava, using the end of my thumb and fore fingers of my left hand I picked the hat up from under the seat."

Equally bizarre, Mr. Crane did not report this remarkable discovery to Mr. Wilkes at the open-air storage compound, but drove the JCB digger back to the Cemetery where by sheer coincidence were three senior detectives nearby Working on the robbery case.

Subsequently, the distinctive khaki balaclava was sent away for forensic analysis and it came back with a mixed DNA profile of three individuals, lo and behold, one of them belonged to me. Interestingly, it also contained two human hairs, possibly of the last person that wore the mask, but inexplicably, these were destroyed.

In order to support the proposition that the khaki balaclava was in the JCB all the time, FSI Brookes stated that he took two photographs of the interior of the JCB at 10:39 and 10:41 hours on the same evening of the crime. This was in spite of the fact that Mr. Wilkes had said that the JCB had returned to Jackson's storage compound at 20:57. Mr. Hobbs the police recovery man stated at the trial that he could not recall the exact time he returned the JCB to the compound.

Even more remarkable, although FSI Brookes developed and processed the photographs and exhibited them in a presentational album it was DC O'Donnell who upon checking the photographic exhibits noticed a khaki balaclava protruding from under the driver's seat of the JCB digger. Accordingly, DC O'Donnell took the photographs to be "optimized" and after the image was enhanced, struggling to be seen, under the seat were a swirl of camouflage shades and hues that the Crown proclaim was the balaclava.

Later when Mr. Crane, the Cemetery employee, was asked to draw a sketch of where he initially found the khaki balaclava, he noted that it was in the middle of the foot well area of the digger.

We are all aware, when serious crimes are committed, in order to identify and locate the culprits; the police need to prioritize the forensic examination of certain exhibits. It is therefore, no coincidence, that a vital exhibit found at a crime scene would be forensically examined and returned to the officers in the case with, the results in about a week. Exactly the timescale here.

I have always stated, before, during and after the trial that I have never been inside that JCB digger and that an unknown police officer or Forensic Scene Investigator had planted the distinctive khaki balaclava at an unknown time. I believe once the balaclava had been forensically analyzed and it had been confirmed that it contained partial elements of my DNA genes, it was then planted inside the JCB digger. I suggest once the wicked police plan was hatched to say the balaclava was found in the JCB a week after the crime, all the officers in the case downplayed the need or necessity to forensically examine the interior of the JCB digger.

For example, FSI Brookes refused to conduct detailed forensic examinations inside the JCB. DC O'Donnell dismissed the golden opportunity to construct plaster casts of footprints in the foot well. No one agreed to switching off the engine of the JCB in situ. PC Hanchett never noticed the mask upon leaning into the JCB to disable the bleeper. Mr. Hobbs, the recovery never noticed the mask on the way to storage. FSI Brookes never noticed the mask up on return to the JCB t 0 take further, photographs of the vehicle a week after the offence. MR Wilkes never noticed anything untoward when he drove the digger the short distance to the open-air storage compound.

Are we all to believe, that this khaki balaclava can scurry in and out of sight like a frightened creature on its own accord? Are we to believe, that a total of five or more people, two of them specialist search personnel looking for discarded firearms with powerful spotlights never checked the foot well area of the digger, which is located at eye-level? Are we to believe that Mr. Crane accidentally found the mask less than two hours after FSI Brookes visited the JCB to take more photographs? Are we to believe, M. Wilkes transferred the JCB to the open-air facility on a whim? Or was he fearful that M. Crane would have involved him in the staged discovery of the planted item? Moreover, not one witness, including trained police officers in observation, mention a robber wearing the khaki balaclava?

In my opinion, once a daring robbery of this nature and calibre was conducted in my area, Handsworth, Birmingham, where I socialize and reside with my direct family and friends, the police knowing that I possess ancient previous convictions for this type of crime only had one target in their sights, and by hook or by crook, my days were numbered.

Alas, on the 2nd March 2010, some six weeks after the offence, police officers from Operation Cagnoli crashed through the doors of five potential suspects, one of them me. We were arrested, processed, interviewed and remanded to prison for trial.

Not surprisingly, the main plank in the prosecution's case entailed strong and compelling DNA evidence against four of the five defendants, namely, cellular material found in a variety of head wear and the latex glove.

The prosecution also claimed that a du-rag with distinctive tassels seized from my home on arrest was a close match to head wear worn by a gunman seen on CCTV in the Bank.

This caused a major headache for the planter of the balaclava, because if the alleged gunman in the Bank was me wearing the tassled du-rag. And the driver of the JCB was a white male, who by the way pleaded guilty to the offence and gave evidence to the fact that I did not participate in the crime. The planted khaki balaclava was obviously surplus to requirements? For there is no dispute that I only possess one head!

More crucially, at the very time the robbers were captured on the CCTV inside the Bank, I admit that I was in the Handsworth area taking calls on my mobile phone from girlfriends. Therefore, according to the Crown's case, not only must I possess two heads for two distinct masks, but my body can also be in two places at the same time as well. It seems that you cannot win with telephone evidence. For it either conclusively incriminates you, or the cell site data supports a carefully crafted defence case and you are an absolute liar.

During the trial, the other defendants gave convincing evidence as to how their DNA came to be on the woollen hats in the stolen Ford Focus and the Ford Connect van, and also the recovered latex glove.

To further exacerbate matters, a note was sent from the jury to the judge explaining that they were frightened to elect a fore person or to deliver a verdict in open court, as they felt intimidated by the family and friends of the defendants in the public gallery.

More disturbingly, after an eight-week trial with five defendants the jury returned with verdicts after just two and half hours deliberation. That is half an hour deliberation for each defendant in what was described as a complex case with complex forensic issues.

Amazingly, all were acquitted save me. I was the only defendant to accuse the police of planting evidence and the jury chose to disregard my authentic alibi evidence supported by telephone schedules. I was sentenced to serve an indeterminate life prison sentence.

Since the wrongful conviction I have had little else to do but ruminate over how and

each offence and the impact of guilty pleas which lead to reduced sentences."

Investigation team "lacks necessary independence" for MOD ill-treatment allegations

Rosalind English, UK Human Rights Blog, 23rd November 2011

Ali Zaki Mousa v Secretary of State for Defence & Anr [2011] EWCA Civ 133

The Court of Appeal has ruled that the Iraq Historic Allegations Team, set up to investigate allegations of ill-treatment of Iraqi detainees by members of the British armed forces, lacked the requisite independence to fulfil the investigatory obligation under Article 3 of the Convention.

The claimant was representative of a group of Iraqis numbering about 100 who brought judicial review proceedings against the Secretary of State for Defence alleging that they were ill-treated in detention in Iraq at various times between 2003 and 2008 by members of the British Armed forces.

The so-called "Iraq Historic Allegations Team" (IHAT) was set up to investigate these allegations. The IHAT included members of the General Police Duties Branch, the Special Investigation Branch and the Military Provost Staff. A separate panel, the Iraq Historic Allegations Panel (IHAP), was appointed to ensure the proper and effective handling of information concerning cases subject to investigation by the IHAT and to consider the results of the IHAT's investigations, with a view to identifying any wider issues which should be brought to the attention of the Ministry of Defence or of ministers personally.

At the time of the Divisional Court hearing in this case, there were already two significant public inquiries under way into specific allegations of ill-treatment of detainees in Iraq; the Baha Mousa inquiry (see our report on the findings), and the Al Sweady inquiry following the case of R (Al-Sweady) v Secretary of State for Defence [2009] EWHC 1687 (Admin), which is still ongoing. In the light of this, that Court found that the investigative obligation under article 3 did not require the Secretary of State to establish an immediate public inquiry:

. . . . It is possible that a public inquiry will be required in due course, but the need for an inquiry and the precise scope of the issues that any such inquiry should cover can lawfully be left for decision at a future date.and had not ruled out the possibility that, in the light of the IHAT's investigations and the outcome of the existing public inquiries, a public inquiry into systemic issues might be required in due course.

The Court of Appeal upheld Ali Zaki Mousa's appeal against this decision. The Court's reasoning: Taking in to account the fact that the Provost Branch were plainly involved in matters surrounding the detention and internment of suspected persons in Iraq, it was impossible to avoid the conclusion that the IHAT lacked the requisite independence, since some of the members of the IHAT were themselves Provost members. In the field, they had important responsibilities as advisers, trainers, processors and "surety for detention operations". Also included were Members of the Special Investigation Branch, the General Police Duties Branch and the Military Provost Staff , all of whom would come under scrutiny. Moreover, the Provost Marshal (Army) would also be likely to be called to account, given his position as head of the Provost Branch and the nature of his responsibilities in Iraq; it was to him that the IHAT was required to report. If the IHAT suffered from a lack of practical independence and the raw material destined for consideration by the IHAP was the product of the IHAT, the IHAP's independence was itself compromised.

Moreover, it comprised representatives of the three bodies, namely the Ministry of Defence, the Army chain of command and the Provost Branch, which would be vulnerable to criticism if the case on systemic abuse was established. Nor is it a satisfactory answer (as the Secretary of State submitted) that practical independence is underwritten by IHAT's recusal arrangements. If anything, their operation "had compounded the cause for concern":

While West London magistrates court sentenced 17 of 107 black defendents to jail, versus 21 of 237 who were white – meaning at that court black defendents were 79% more likely to be jailed. By contrast, at Wolverhampton Crown Court, which dealt with a similar number of public disorder cases, the difference was just 4%.

A previous study investigating the sibility of discrimination in patterns of sentencing was carried out by Roger Hood in the West Midlands in 1992. It also found variations across courts, with one recording that black male defendants had a 23% greater probablity of a custodial sentence than a white male.

The government's official statistics on "Race and the Criminal Justice System", published by the Ministry of Justice last month, reveal that for all indictable offences in 2010, black offenders are 17% more likely to receive immediate custodial offences than white offenders. – but a breakdown for offences was not available.

John Fassenfelt, chairman of the Magistrates' Association, said that JPs had been trying to get behind the disparityto see whether it is due to magistrates sentencing black people harder or whether there's more criminality [in certain communites]." In some inner city areas with large black communities, he said, there might not be sufficient diversity on magistrates' benches.

Professor Mike Hough, of the Institute for Criminal Policy Research, Birkbeck College, said the latest statistics showed a possibility of discriminatory sentencing practices but the statistics on their own did not prove it. He extracted the figures for those sentenced for indictable offences. The percentage of those given immediate custody was 24% for white defendants, 27% for black defendants and 29% for Asian defendants.

"They are a worrying set of statistics," he said. "At face value they suggest that defendants from minority groups face a somewhat higher risk of going to prison than similar white defendants. In some areas the difference in risk may be quite large.

"For youth justice, the picture is that over-representation of minority groups as they enter into the criminal justice system is largely preserved (rather than amplified or reduced) as young people pass through. But black defendants were more likely to be remanded in custody, and more likely to end up sentenced to custody".

Many explanations have been advanced for the disparity, he said, including the possibility of different patterns of charging by police or the crown prosecution service, different patterns in remand decisions, 'over-policing' of ethnic groups or social deprivation. Others suggest that ethnic groups are concentrated in inner cities where they are more likely to come up before district judges, formerly stipendiary magistrates, who may sentence more heavily.

Dr Coretta Phillips, at the London School of Economics' Mannheim Centre for the Study of Criminology and Criminal Justice, said: "The raw figures [in the MoJ] data are unable to take account of all the relevant legal factors which might explain these patterns.

"The research evidence on the sentencing of young offenders is complex, but there is some indication that racial discrimination plays a part in conviction, remand, and possibly sentencing patterns, in some areas, some of the time. [But] on the basis of the data published yesterday, it would be hard to conclude anything about prejudice and discrimination from the magistracy or judiciary or that there is greater criminality among minority groups."

The Ministry of Justice said: "Sentencing is entirely a matter for the courts, where decisions are taken by independent magistrates and judges based on the individual circumstances of each case.

There are many factors behind sentencing decisions, including the seriousness of

when the police planted the distinctive khaki balaclava.

The Crown claim the balaclava could not have been planted as it was photographed inside the Cabin of the JCB on the evening of the offence. Almost everyone in the case, even the jury, it seems, agree the balaclava must have been there, as the police photographs don't lie. Even an independent photographic expert agreed that FSI Brookes photographs appeared accurate and authentic. But they all overlooked one important thing? If the photographs are genuine, its' the spare or new camera with the backdated photographs that is the real villain in the case.

I suggest, when FSI Brookes went back to Jackson's compound less than two hours before the balaclava was discovered by Mr Crane, I allege he planted the mask, took photographs of it under the driver's seat and then moved it to the centre of the foot well for Mr. Crane to easily find when he came to collect the digger with Mr. Robinson.

Surely it is not unreasonable of myself, to suggest that the misuse and abuse of police powers in the modern era may extend to the case where a rogue Forensic Scene Investigator may possess a spare camera for forbidden or darker purposes, where he or she is able to reset the date and time of photographs in order to distort or recreate the reality of a crime scene, i.e. plant the balaclava after the offence.

As I stated at the outset of this piece, all it takes is some DNA planted at the scene of a crime, and the disclosure of 'Bad Character' will do the rest.

Presently, I have a new solicitor Maurice Andrews conducting the Appeal against Conviction and we are seeking further independent expert analysis and advice in relation to the backdated photographs.

Also if any of the above West Midlands FSIs or detectives including DC Morgan, DC Simpson and DS Perkins (now believed to have retired) have been involved in your case where you suspect there may have been serious police malpractice or corruption, please feel free to contact myself, or if you do not feel safe writing to me direct, write to Maurice Andrews Solicitors, Alfred Andrews House, 180-182 Soho Hill, Hockley, Birmingham, B19 lAG. Telephone: 0121-554-7282.

Norman Grant: A8832AM, HMP Whitemoor, Long Hill Road, March, PE15 0PR

Racism in the Close Supervision Units (CSCs)

A recent admission from the manager of a brutal control-unit at Woodhill Prison in Milton Keynes, euphemistically called the “Close Supervision Centre” (CSC), that prisoners suffering with mental illness are being held there has raised serious questions about the selection process for a unit that was supposedly created to hold only the most dangerous, subversive and unmanageable prisoners in the jail system.

Information provided by Kyle Major, a prisoner currently in the Woodhill CSC, would indicate that it isn't just the mentally ill that have been erroneously labelled “control problems” and sent to the CSC; it seems that ethnicity and a particular brand of religious faith also qualifies one for a place in the CSC. Of the 23 prisoners currently held in the CSCs at Woodhill and Wakefield prisons at least 12 of them are of the Muslim faith, which begs the obvious question as to why such a numerically tiny proportion of the overall prison population in England and Wales are so dispropotionately over-represented in the CSCs?

The existence of racism in the prison system and indeed the wider criminal justice system has long had an evidential basis and ethnicity influences one's chances of receiving a prison sentence if convicted of a criminal offence and also the quality of one's treatment once inside the prison

system. Cultural conditioning amoungst an overwhelmingly white prison staff is largely responsible for perceiving black prisoners as intrinsically “difficult” and potentially “disruptive”, and for those black prisoners who frequently complain or question their treatment the label of “control problem” is quickly applied and the attendant repessive measures vigorously applied. Skin colour and ethnic identity in prison has always influenced and determined the degree of punishment inflicted if behaviour and attitude towards authority is an issue. When Islamphobia is thrown into the mix then repression against a targeted group of prisoners can assume a deadly edge.

For some time prison staff have been leaking stories to the media about “Muslim prison gangs” recruiting followers and creating disruption in the prison system, and the prison authoritites have publicly revealed the existence of a police / prison service intelligence unit dedicated to monitoring the activities of “Muslim extremists” within the prison population. The image created is of large gangs of black and Asian Muslim prisoners spreading their nefarious influence amoungst other prisoners and actively recruiting potential foot soldiers for terrorist activities in the outside community. Although there is no real evidence to support the scenario created it does provide a context for the victimization of Muslim prisoners and their over representation in brutal prison control units like the “Close Supervision Centre”.

If, as appears to be the case, some prisoners are being “selected” for the CSCs princibly because of their Muslim faith (or “terrorist idelolgy”) then a condition of their “progression” out of the CSC and return to the mainstream prison population would inevitably be their abandenment of that faith; failure to comply would result in an indefinite stay in conditions of strict solitary confinement and clinical physical isolation. At Woodhil prison the Iman is not allowed to enter the CSC or talk with the Muslim prisoners held there, which re-affirms the belief of these prisoners that their faith is the principle reason for their current location. Prison Service order 51 states quite clearly that “All establishments enable prisoners to participate in corporate worship and other religious activities that encourage their spiritual and personal development whilst in custody”. Clearly this does not apply to Muslim prisoners held in the CSCs. Neither it seems does Article 9 of the European Convention of Human Rights: “Everyone has the right to freedom of thought, conscience and religion; this includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private to manifest his religion or belief, in worship, teaching, practice and observance”. Stripped of even this basic human right, over 50 percent of the prisoners currently being held in the CSCs are being punished for embracing and being identified with a religion that the prison authorities view as a threat to “good order and discipline”. If there is a growing militancy amoungst young Muslim prisoners then the behaviour and attitude of racist prison staff is an important contributory factor in that, as is the psychological and physical brutalisation of Muslim prisoners in the CSCs.

No-one would dispute that in a chronically overcrowded prison system there are serious problems of control and safety, but none of that is remedied by targeting on the basis of race and relgion a specific group of prisoners and subjecting them to treatment that clearly breaches their basic human rights. A similar sort of racist targeting of black Muslim prisoners in the U.S. during the 1960s provoked the catastrophe of the Attica Prison uprising and the virtual wholesale segregation of the prison population along the lines of race and religion. There are clear signs that such a phenomenon is now happening in some English Maximum-Security prisons.

In terms of the prison “Close Supervision Centres” there is clear evidence that racism is influencing the selection process and fashioning the units into weapons of repression and abuse against “Muslim troublemakers”. It's therefore the duty of anti-racist groups and individuals to campaign for their closure.

IPCC intends to publish its investigation report when all proceedings are concluded.

Race variation in jail sentences, study suggests

• Minorities more likely to be jailed for certain crimes

• Differences remain the subject of contention

James Ball, Owen Bowcott and Simon Rogers, The Guardian, 26/11/11

Offenders from ethnic minorities are more likely than their white counterparts to be sentenced to prison for certain categories of crimes, according to an analysis of more than one million court records.

The study, carried out by the Guardian, found black offenders were 44% more likely than white offenders to be sentenced to prison for driving offences, 38% more likely to be imprisoned for public disorder or possession of a weapon and 27% more likely for drugs possession. Asian offenders were 41% more likely to be sent to prison for drugs offences than their white counterparts and 19% more likely to go to jail for shoplifting.

The findings, which accord with a history of academic research into disparities, suggest wider variations in sentencing than in some previous studies and also show variation between courts.

Frances Done, chair of the Youth Justice Board, who is working with the Magistrates' Association on disparities in sentencing, told the Guardian that she fears the "disproportionality appears to be getting worse".

She added: "As the numbers in [youth] custody have gone down, the proportion of those from black and ethnic backgrounds has gone up. We don't get the view that this is about deliberate discrimination but because of practices that have not been thought through." One cultural difference, Done said, is a "greater propensity for black young people not to plead guilty than white young people". Black youths consequently received longer sentences because credit is given for early guilty pleas.

Differences in sentencing between ethnic groups have been a subject of academic contention for a while. Some explanations suggest offenders from different ethnic minorities commit more serious offences in particular categories or have longer criminal histories; others speculate they could be indicative of prejudice in areas of the criminal justice system.

The Ministry of Justice this week released details of all 1.2 million sentences passed by English and Welsh courts between July 2010 and June 2011, including information on the age and ethnicity of defendants, if available.

The Guardian used that information on offences where ethnicity information was available – a huge sample of more then 596,000 individual judgments – to compare the outcomes for different ethnic groups. The smallest variance found was in shoplifting, where black defendents were just 1.7% more likely than white to be imprisoned, while the largest was driving offences, for which black defendents were jailed 44.3% more frequently than white.

The Judicial Office said it was worth noting that last year's Race and CJS report found data on out-of-court disposals and court proceedings showed differences in the sanctions issued to people of differing ethnicity and also in sentence lengths. These differences possibly related to a range of factors including types of offences committed and the plea entered, and should be treated with caution.

The difference in racial sentencing between courts was also considerable. Haringey magistrates court, which dealt with many of the Tottenham riot cases, sentenced – before the summer disturbances – 11 of the 54 black defendants it dealt with for public disorder or weapons offences to prison, as compared to 5 of 73 white defendants.

you will not be ordered to pay the Government's legal costs.

Smiley Culture's death in police raid does not justify charges, IPCC rules

Reggae star's family furious at watchdog's finding that despite a flawed operation there was 'no evidence of a criminal offence' Amelia Hill, guardian.co.uk, Tuesday 29 November 2011

Police have been criticised by an independent watchdog for a botched raid that led to the death of reggae star Smiley Culture, it was revealed on Tuesday. Smiley Culture died in a drugs raid on his home in March from stab wounds that police claim were self-inflicted. The Metropolitan Police Service (MPS) claim that Smiley Culture, otherwise known as David Emmanuel, died after stabbing himself through the heart during a drugs raid at his Surrey home on 15 March 2011.

The Independent Police Complaints Commission (IPCC) conducted an investigation into Emmanuel's death. The summary of their final report – the coroner has asked that the full report is not made public or shared with Emmanuel's family – condemns the raid as significantly flawed and compels the MPS to overhaul the way they plan and execute future drug seizures. But the commission also concluded there was no evidence to justify pursuing criminal charges against any of the four officers at Emmanuel's house when the singer, 48, is alleged to have killed himself.

"The investigation has found no evidence that a criminal offence may have been committed," IPCC commissioner Mike Franklin announced in a statement. "The investigation [also] found there were no individual failings which, for the purposes of the [Police (Conduct) Regulations 2008], amounted to misconduct. However, the IPCC investigation did raise concerns about several areas of the operation, which included operational planning and risk management," Franklin added. "A separate report detailing the learning identified by the IPCC investigation is being sent to the MPS so that they can consider its recommendations and respond to the IPCC with actions for implementing learning where required."

Merlin Emmanuel, the singer's nephew, said his family has reacted to the IPCC findings with "anger, resentment and resilience" and accused the watchdog of treating them with "contempt". None of the officers involved in the death of Emmanuel was suspended, and the IPCC's decision to treat them as witnesses and not suspects mean they were never formally interviewed. Emmanuel's family want to know why the four officers handcuffed him after his fatal injury, even though an independent pathologist's report stated that the stab wound would have caused "rapid collapse and death within a few minutes". They also question why the officer at the time of Emmanuel's death refused a direct request by the IPCC's lead investigator to give a formal interview.

They will now launch a private prosecution against the officers involved in the tragedy. "We firmly believe Smiley was murdered and that the IPCC have let us down and treated us miserably," said Merlin Emmanuel. They promised us a thorough investigation and that they would get to the bottom of what happened.But there are still so many unanswered questions – and the IPCC have now made sure that the officers who saw what happened are never going to be pressed to tell the truth about what happened that day," he said.

Their disappointment in the IPCC's investigation has caused Emmanuel's family to set up The Campaign for Justice: a 24-hour advice and support line for people whose loved ones have died in police custody. "Our experience has led us to the sad and awful conclusion that not only will there continue to be deaths in police custody but that grieving families will not receive justice or empathy from the system as it currently operates," said Merlin Emmanuel.

The IPCC report has been sent to the official coroner to begin preparation for the inquest, which will be held with a jury.The inquest, however, will not take place before the conclusion of criminal trials to which Emmanuel was allegedly linked. Trials are scheduled to be heard in early 2012. The

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Giszczak v. Poland - Two violations of Article 8

Rright to respect for private and family life of the European Convention on Human Rights

The case concerned a Polish prisoner's complaint about not being allowed to visit his daughter who was in intensive-care and that, following her death, he decided not to go to her funeral as it was not clear whether he would have to attend in prison uniform and chains and under police escort.

Six years into his prison sentence, Mr Giszczak was informed on 21 April 2008 that his 11-year old daughter had been hit by a bus and was in intensive care in a coma. A week later, he applied for compassionate leave to visit her. The authorities subsequently refused this request, on the ground that Mr Giszczak was convicted of a serious crime and, involved in the prison subculture, was rude towards prison officers. His daughter died on 16 May 2008. Her funeral took place on 21 May 2008.

Mr Giszczak did not go to his daughter's funeral as he says that he was led to believe that he would have to attend in prison clothes with shackles (chains) on both his hands and legs and under uniformed police escort. Informed orally of this decision the day before the funeral, he decided not to go out of fear of disturbing the ceremony.

The Government submitted that Mr Giszczak must have misunderstood as he clearly would have been allowed to go to his daughter's funeral in normal clothes and with simple handcuffs.

The written decision granting him permission to attend his daughter's funeral was served on him on 26 May 2008. It specified that he could attend if escorted by the police but did not mention whether he could go in normal clothes or without joined shackles.

Mr Giszczak complained about the refusal to allow him to visit his seriously injured daughter in hospital and, following her death, to attend her funeral in normal clothes. The case will be examined under Article 8 (right to respect for private and family life). The application was lodged with the European Court of Human Rights on 13 August 2008.

Decision of the Court; Article 8 (right to respect for private and family life)

The Court considered that the reasons given for not allowing Mr Giszczak to visit his daughter in hospital had not been convincing as the authorities' concerns (gravity of the offence and rude behaviour) could have been addressed by organising his escorted leave. The Court therefore concluded that the refusal had not been "necessary in a democratic society" as it had not corresponded to a pressing social need and had not been proportionate to the legitimate aim – namely protecting public safety and preventing disorder or crime – pursued. There had therefore been a violation of Article 8 concerning the refusal to let Mr Giszczak visit his dying daughter in hospital.

As concerned the compassionate leave to go to his daughter's funeral, the Court noted that the written decision had only been served on Mr Giszczak four days after the funeral had actually taken place. Furthermore, it had not been particularly precise. Nor had he been given clear information about the conditions for attending his daughter's funeral when informed orally of the decision. Indeed, the fact that Mr Giszczak had not been informed in time and in a clear and unequivocal manner about the conditions of his compassionate leave had resulted in him refusing to go as he was worried about causing disruption. There had therefore been a further violation of Article 8 on account of the Polish authorities' failure to reply adequately and in good time to Mr Giszczak's request to go to his daughter's funeral.

Article 41 (just satisfaction): The Court held that Poland was to pay Mr Giszczak

2,000 euros (EUR) in respect of non-pecuniary damage.

Taking a case to the European Court of Human Rights This briefing by Liberty

Even though the HRA has now come into force in the UK it is still possible to make an application to the ECHR. There are three key requirements that you must meet:

1. You must be a victim of a violation of one or more of the articles of the Convention. Generally, this means you must be directly affected by a breach of the Convention. In some cases it will be enough to show you are likely to be affected by a breach or that you belong to a group of people, some of whom are likely to be affected. For example, gay men were permitted to challenge laws that criminalized gay sex even though it was unlikely that the individual applicants would ever be prosecuted because the laws were rarely enforced.

2. Before you make an application to the ECHR you must pursue any proceedings that you could take in the UK that are capable of providing you with an adequate remedy for the breach of your Convention rights. Now that the HRA is in force this will generally mean that you will have to take proceedings in the UK under the HRA. This may not be necessary, however, where it is clear that the best you could hope to achieve from taking proceedings under the HRA is a declaration of incompatibility.

3. You must make your application to the ECHR within six months of the conclusion of any court proceedings that you have taken in the UK that could have provided you with a remedy or, if there were no proceedings that it was reasonable to expect you to take, within six months of the alleged breach of your Convention right. When you make an application to the ECHR you will be asked to complete one of the ECHR's application forms. However, it is not necessary to fill out one of these forms to meet the six month rule. All you need to do is to get a letter to the court within the six months setting out:

1. Your details (name, address and nationality). 2. The country against which you are making your application. 3. The facts that have given rise to your application.

4. The article or articles of the Convention that you say have been breached.

You should send your letter to: The Registrar; European Court of Human Rights

Council of Europe. 67075 Strasbourg-Cedex, France

Fax: 00 33 3 88 41 27 30 Tel: 00 33 3 88 41 20 18

When it has received your letter the ECHR will send you one of its application forms to complete. If there is not enough space on the form you can set out your case in a longer document which you attach to the form. It is important that you submit your completed application form within any deadline set by the ECHR or, if no deadline is set, within a few weeks of receiving it. If you do not submit the form speedily you run the risk that the ECHR will decide that you have not met the six month deadline. If you cannot meet any deadline that is set you should contact the ECHR and try to agree an extended deadline.

Once the ECHR has acknowledged receipt of your application form it may be some time (months if not years) before you hear anything further. At this stage the ECHR may rule your application inadmissible. The ECHR will not give reasons and there is no right of appeal. If your application is ruled inadmissible you will not be able to proceed with it.

If it is not ruled inadmissible at this stage, your application will be allocated to one of the ECHR's four sections. A panel of seven judges from that section will deal with the case. This panel will always include the judge appointed by the United Kingdom. Very significant cases may be dealt with by the ECHR's Grand Chamber. These cases are considered by a panel of seventeen judges. A case could be transferred to the Grand Chamber at any stage in the proceedings.

Your application will also be communicated to the Government at this stage, that is, the Government will be informed that you have made an application and will be invited to respond. You will be given an opportunity to respond to the Government's observations and there may be further exchanges of written representations.

The ECHR will then decide whether your application is admissible. It can rule your application inadmissible if you have failed to meet one of the three requirements set out above or if the ECHR considers that it is 'manifestly ill-founded', in other words, that it is not arguable. If the ECHR finds your application inadmissible at this stage it will give reasons, but there is no right of appeal.

If the ECHR finds your application admissible it will then go on to decide whether there has been a breach of the Convention. The ECHR usually refers to this as considering the merits of the application. At this point you have the right to put in a claim for compensation. The ECHR calls this 'just satisfaction'. It should include a claim for legal expenses if you have incurred any. Your claim for just satisfaction should be sent to the ECHR within two months of the ECHR finding your application admissible. Both sides may make further representations before the ECHR decides on the merits of the application.

When the ECHR has made its decision on the merits of your application, you will be notified of the date on which its judgment will be made public. The judgment will be published on the ECHR's website on that day. If the ECHR finds that there has been a breach of your rights it may award you compensation although it does not always do so on the basis that its finding that there has been a breach of your rights is enough.

Once a section of the ECHR has made a final decision on the merits of an application, either party, the Government or the Applicant, can ask to have the application referred to the Grand Chamber. This is the only form of appeal that the ECHR's rules allow for. The Grand Chamber only rarely agrees to a referral. There is no appeal from a final decision made by the Grand Chamber.

Hearings: The ECHR deals with most cases without holding a hearing; it reaches its decisions on the basis of written representations made by the parties. When the ECHR does decide to hold a hearing this will usually take place before the ECHR has decided on the admissibility of the application, although it may also hold a hearing after an application has been found admissible if it has not already held one.

Legal representation: Although you can make an application to the ECHR yourself, it would be wise to get a lawyer experienced in ECHR proceedings to represent you. Most cases are ruled inadmissible at an early stage and are not communicated to the Government. Having a lawyer present your arguments for you may help you get over this hurdle.

If the ECHR decides to hold a hearing after it has found your application admissible, the ECHR rules require you to be represented by a lawyer at that hearing unless the ECHR allows otherwise.

Legal Aid: The ECHR has a system of legal aid although the payments which a lawyer receives under the scheme are very low. You can apply for legal aid once your application has been communicated to the Government. It is particularly useful to have legal aid if the ECHR holds a hearing on your case, as legal aid will pay the cost of your and your lawyer's trip to Strasbourg. Eligibility for legal aid will depend on the Legal Services Commission accepting that you would be eligible for legal aid in this country.

If you are not eligible for legal aid, your lawyer may agree to represent you under a conditional fee agreement, that is, on the basis that they will only get paid if you win your case and get your legal costs paid by the Government. However, as very few applications to the ECHR are successful, your lawyer may be reluctant to take this risk. If you lose your case