a need to develop personal officer work to focus more effectively on women's resettlement. There were too many male staff for a women's prison which sometimes meant there were no women officers on wings at night. Drawn from a largely white population in the North East of England there were relatively few women from black and minority ethnic backgrounds, so it was therefore all the more important that equality and diversity was effectively promoted and their specific needs were identified and met.

There were activity places for most women. While some prison jobs were mundane others offered good training opportunities to enhance future employability. Few women spent their time locked in their cells but there was only limited opportunity to spend time in the open air. Resettlement work was good and all sentenced women were able to benefit from some form of offender management. A range of useful interventions were provided to help women to reduce their risk of reoffending. Services to help women reintegrate were mostly good, including some well developed family work, but better promotion of the support available for women who had been sex workers or victims of domestic violence was needed.

Low Newton continues to be an effective local women's prison for the North East. As ever, this report outlines a number of areas for improvement, but overall the prison provides a reasonably safe and respectful environment in which a purposeful regime is maintained and where individual women are encouraged to progress towards sustainable resettlement.

Nick Hardwick January 2012, HM Chief Inspector of Prisons

11th National Miscarriage of Justice Day Saturday 13th October 2012 10:00am – 5:00pm
St George's Lecture Theatre, Mappin Street, Sheffield S1 4DT
This year the Miscarriage of Justice Day public meeting and workshops will be held in the magnificent lecture theatre in the converted former church of St George. The venue has been generously provided by the University of Sheffield School of Law. The day's events are primarily designed for the benefit of the families and supporters of people believed to have been wrongly convicted of criminal offences. The day will also be an important one to anyone who is concerned about the large and growing problem of miscarriage of justice, and especially to students and journalists. Sheffield University School of Law has a strong student Innocence Project which is part of the Innocence Network UK, and which reviews cases of people who claim to have been wrongly convicted.
We expect to attract a good audience and speakers of the highest standard, to make this one of the best miscarriage of justice days ever. Please put the date in your diary now – and watch the UAI website for further information. The meeting will be chaired by Bruce Kent

Make sure your family/friends know of this meeting and delegate someone to attend.

Hostages: Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Gary Critchley, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran 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, 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.

Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Fax: 087 2023 1623

MOJUK: Newsletter 'Inside Out' No 365 29/03/2012)

Gary Critchley, Makes it to the Gate - But Fights on to Clear his Name

"Loneliness is a prisoner, Locked up in a cell, As his memories degrade, His hopes and dreams fade, He gets nearer to hell day by day by day by day by day by day . . . . "

Prisoner of the State May 1981 - March 2012 : Gary a former punk rocker jailed for a crime he insists he did not commit has had his first taste of freedom. At trial he was sentenced to no more than nine years, released after 31 years behind bars, he is 'Out and About' in Birmingham.

Lawyers backing convicted killer Gary Critchley's bid to clear his name are demanding forensic samples from the 1980 murder scene. London-based legal eagles from American company White & Case, one of the biggest law firms in the world, have taken on the 49-year-old's complicated case. They have launched a pro bono investigation into Gary's conviction and are hopeful of securing forensic items, including lead piping and hair and blood samples, from the scene.

It is the first time the international law firm has ever taken on a miscarriage of justice case such as this and lawyer Rory Hishon, 33, is relishing the challenge. He said: "What strikes us about this case is that the evidence used to convict Gary in 1981 was only circumstantial. There are a number of threads in the original prosecution case we believe we can pull at and unravel. Firstly, the victim was hit with a hammer 27 times and was completely drained of blood. Apparently the whole scene was covered in his blood – and yet none of the victim's blood was found on Gary. It was argued at the time that the blood had been washed off Gary because he had spent some time lying in the rain, but simple common sense tells us this needs more investigation. Secondly, we know that other individuals were seen walking into the flat before the murder, but this witness testimony was never heard at the trial.

"We need to find this testimony and find these witnesses. Of course it is not going to be easy, but we feel the forensics may well be the vital clue we need. If they can prove that other people were on the scene that night, apart from Gary, we will be well on the way to taking his case back to the Criminal Cases Review Commission."

Gary was jailed for nine years in 1981 for the murder of Edward McNeill, who was found bludgeoned to death in a London squat the previous year. He has always protested his innocence but was convicted of murder and detained at Her Majesty's Pleasure – the juvenile equivalent of a life sentence, – with a recommendation that he should serve 'no more than nine years'. Gary has since lost multiple appeals and the Criminal Cases Review Commission has refused to re-open his case. But the Miscarriages of Justice Organisation and The Innocence Project UK have taken up the fight to overturn his conviction. The campaign has received a huge boost with the launch of the pro bono investigation by White & Case.

Gary remains determined to clear his name and have his conviction overturned. "It is extremely important to me that this case is investigated thoroughly, I am so glad that a firm as prestigious as White & Case has seen enough in my case to want to bat for me. I have been through enough suffering in my life and it has caused so much pain for my family. If I can just clear my name for good I think that is the greatest gift I could ever give them in return for their help and support." *Adam Aspinall, Sunday Mercury, Mar 11 2012*

Campaign website - www.justiceforgarycritchley.org

Justice for Stephen Marsh

Stephen Marsh was having an affair with a work colleague, Rebecca Harris, for about eight months. Stephen regarded it as being just for fun and not to be taken seriously and told her so. He finished with her a few times as she was very possessive and wanted to be with him all the time.

Rebecca bought him a season ticket for Swansea Football Club to win him back. She wanted him to leave his wife Jaspal Marsh and marry her. Stephen refused. Rebecca was married to a man forty years older than she was and they had a small child and she was unhappy in that marriage and were going to get divorced. Her work colleagues state that she was more serious about the affair than Stephen was.

On the night that the crime occurred 29th July, 2006, Rebecca Harris drove from Swansea to Gorseinon and entered Stephen's house and stabbed Jaspal in the bedroom over 16 times with a knife from the kitchen, wounds which proved fatal. Stephen was staying in a friend's house in Swansea, some seven miles away (this is not contested). He was not physically involved at all.

At trial, Harris claimed that Stephen had planned the murder and had encouraged her to commit the crime by text messages. Stephen denies this. No text messages of any sort were recovered from her mobile phone. One-sided text messages were found on Stephen's mobile phone, but he had no idea what they meant, partially because they were vague and also because he had been drinking (Stephen was a heavy drinker).

Harris pleaded guilty to murder and was sentenced to life imprisonment with a minimum tariff of 12 years. Stephen pleaded not guilty, but was convicted of murder by joint enterprise and was sentenced to life imprisonment with a minimum tariff of 18 years.

Stephen appealed in December 2009, Michael Birnbaum QC, represented Marsh, who had thoroughly "explored every possible aspect of the case", leaving no stone unturned in putting forward 10 grounds of appeal. However three High Court judges were not persuaded and upheld the verdict.

There were and are a number of questions which give rise to concern in this case, which were not mentioned at the original trial or at the appeal.

Harris was seen in her car on CCTV in Swansea at 11.58 p.m. She stated that she was on the housing estate in Gorseinon at 12.06 a.m., some seven miles away. Bearing in mind the number of traffic lights, speed cameras and roundabouts, this is highly improbable. Prior to her driving from Swansea, Stephen did not text her at all but she texted him four times. Clearly, Stephen was not encouraging her. She claimed that the murder took place between 12.30 a.m and 12.37 a.m. when she sent separate text messages.

Again, this is improbable, as she claimed that the first message was sent outside the bedroom door and the second after she had left the house, after searching for her car keys which she had dropped outside the house in the darkness. She claims that, when she walked up the stairs in the house, she was carrying her mobile phone in one hand and the knife in the other.

Why carry a mobile phone? She claims that, when she drove home from Gorseinon to Morriston, no text messages were sent or received. But there is no gap long enough in the sequence of text messages to cover this length of time.

A retired Home Office pathologist has estimated that it is highly unlikely that the murder took place before 2.30 a.m. There are many inconsistencies and lies in her statements. The time of death is important because, if it can be proved that it took place after the time she claimed, then those vague text messages she sent could be fantasies.

The jury were not driven to the scene of the murder, which would have cast doubt on the claimed timings. Only one charge was put before the jury, namely murder.

absolutely no evidence of that in this case; certainly no evidence of that intention to be inferred from the sudden striking of one blow.

The reality of this case was that the prosecution charged the wrong offence, and that the District Judge understandably, but in my view mistakenly, sought to see that at least the perpetrator of this wholly uncalled for violence did suffer at least a conviction for some sort of offence. It requires no words of mine to underline that that is not an acceptable approach. If the prosecution charge the wrong offence, they had no business in seeking to pursue so unrealistic a course. In my view, the appellant ought not to have been convicted of an offence under section 4(1) on the basis of intending the victim to believe that unlawful violence would be used against him, even if other aspects of that offence under section 4 might have been more appropriate.

There was no evidence on the basis of which the judge could conclude in the way he did, and I would allow the appeal. The implication of the argument advanced on behalf of the respondent was that an offence under section 4(1) of the Public Order Act 1986 could be charged in almost every assault case which arises. I echo the words of my Lord, Moses LJ: it is highly desirable that offences should be properly charged, not charged on a strained or artificial basis. This was, on any sensible view, an assault and it should have been prosecuted as such. Prosecutors should not seek to confuse what should be readily understandable criminal proceedings by attaching the wrong label and then attempting to see that the label sticks." Conviction quashed.

Report on an announced inspection of HMP Low Newton,

Inspectors were concerned to find that:

- almost half of new arrivals were dependent on drugs/alcohol, there was a need to ensure appropriate first night prescribing arrangements for those who needed opiate substitution treatment
- Some good new services had been introduced for women with alcohol problems but this was still insufficient to meet the high level of need
- level of illegal drug use was commendably low but there were indicators that some women were pressurised for prescription drugs
- prison was a safe environment but many more than previously had felt unsafe at some time;
- there were too many male staff for a women's prison, which sometimes meant that there were no women officers on wings at night.

Introduction from the report: Inspection confirmed that Low Newton continued to operate effectively, essentially as a community prison for women mostly from the North East of England. Outcomes for women were good or reasonably good against each of our healthy prison tests. There was also room for improvement in each of the areas. Reception arrangements were good and supportive but almost half of new arrivals were dependent on drugs and alcohol and there was a need to ensure appropriate first night prescribing arrangements for those who needed opiate substitution treatment.

For most women the prison was a safe environment but many more than previously said they had felt unsafe at some time during their stay. The level of illegal drug use was commendably low but there were indicators that some women were pressurised for prescription drugs. Some vulnerable women found the communal dining area intimidating. A promising new violence reduction strategy had just been introduced to address some of these issues but it needed to be embedded among all staff rather than just specialists. It was good to see that incidents of self-harm had reduced. Some good support was provided to women at risk of self-harm, including group work, but there had been a reduction in individual counselling services.

Relationships between staff and prisoners were mostly polite and friendly but there was

He approached Mr Peck from his right-hand side and, it is important to note, slightly to his rear. He struck him a violent blow with his fist to the side of the head. It appears that Mr Peck was immediately knocked unconscious because, as found by the District Judge, he fell to the ground and did not move. The District Judge specifically found that the appellant had approached Mr Peck and "threw the punch in such a way that it would land before Mr Peck perceived the blow, or so soon after he perceived the threat as to prevent him from reacting to defend himself".

The judge further found that there was no evidence that Mr Peck was aware of the blow before it struck. He further found that the appellant intended to punch Mr Peck to the head, and intended to strike the blow before Mr Peck could defend himself. He then continued: "If Mr Peck saw the blow before it landed, the appellant intended that Mr Peck believe that unlawful violence would be used against him, as indeed it was." He concluded that he was sure that the appellant had both the intention to punch Mr Peck to the head and the intention to cause him to believe that unlawful violence would be used against him. He repeated that he was satisfied that the appellant had those two continuing concurrent intentions, as he put it, which were not mutually exclusive.

Held: “The question for this court is as to whether there was evidence on the basis of which the judge was entitled to infer that the appellant intended to cause Mr Peck to believe that unlawful violence would be used against him. We should make clear that that was the basis upon which the appellant was charged under section 4(1) of the Public Order Act 1986, and there was no case made against him on the basis not of his intention, but rather that it was likely that such unlawful violence would have been provoked, that it is a separate and distinct basis which was not pursued in this case.

It is important to acknowledge that there is no requirement on the prosecution to prove that the victim did in fact believe that he would be visited with unlawful violence (see Swanston v DPP [1997] 161 JP 203 WL, following early authority). But, in this case, the question for this court is whether there was any evidence at all that the appellant intended his victim to believe anything, let alone that he would suffer unlawful violence. This was, as the judge specifically found, a sneaky and unprovoked attack: the appellant approached the victim from behind. As soon as the appellant got close enough, he delivered the blow in such a way as to avoid any advance warning.

In my view, there was no evidence whatever from which it could be inferred that the appellant intended to cause Mr Peck to believe that unlawful violence would be used against him. Mr Leonard suggests that there was a possibility that the victim might have noticed what was about to happen to him before the blow was delivered, in which case the actions of the appellant were such that it could be inferred that he might have intended to cause him to believe that he was about to be hit. That is, in my view, a wholly unacceptable and highly strained basis upon which to view the facts. The reality is that the intention of this appellant was to hit the victim before he knew what was happening to him. Why it was that the appellant was not charged with an assault, or even a more serious offence given the effect of striking this man unconscious with one blow, has never become apparent and could not be explained to us by counsel for the prosecution. Where the prosecution have failed to charge the obvious offence, it is quite wrong to seek to strain a view of the facts so as by some unjustifiable Procrustean method to drag it within the embrace of an offence miles away from that simple charge of assault, which is what this appellant ought to have faced.

Counsel does make the more realistic submission that there will often be cases of an assault where it can be inferred that the intention of the perpetrator of that assault will be to cause the victim to apprehend a second occasion of violence - a second blow. But there was

There should have been an alternative charge of conspiracy. In R.v. Coutts [2006] 1 WLR 2154, the House of Lords expressed concern that, if no alternative charge is offered, the jury has a stark choice of finding the defendant guilty of murder or to acquit him and letting him get away scot-free. There is no other choice. The appeal was allowed. Similarly, the appeal was allowed in R.v. Ben Caven [2011] EWCA Crim 3239.

Although Stephen denies any involvement in the murder, he believes that, if the charge of conspiracy had been left to the jury, they then would have had a choice of verdicts and he might have had a far lesser sentence, albeit for something that he was not involved in.

Stephen Marsh: A 3090 AM ,HMP Swaleside, Brabazon Road, Eastchurch, ME12 4AX

Dance Academy boss Manoucehr Bahmanzadeh wins right to appeal

Manoucehr has won his right to appeal against his nine-year jail sentence. The CCRC announced it would refer Bahmanzadeh's conviction and sentence to the Court of Appeal. It says new evidence "regarding the credibility and reliability of witness testimony" could see the Appeal courts either free the club boss or reduce his sentence, which could see him released early.

Manoucehr tells of 'unimaginable torment' in exclusive prison cell revelations

The lawyer of jailed Dance Academy boss has described his case as “the worst miscarriage of justice” she has ever seen. Solicitor Jane Hickman, of Hickman and Rose, is fighting to quash Manoucehr Bahmanzadeh’s conviction and passed a file to the Criminal Cases Review Commission (CRCC) in January last year. Source Plymouth Herald 27th January 2012

Speaking exclusively to The Herald from his prison cell Bahmanzadeh said: “I have suffered unimaginable torment for the last five years.” Bahmanzadeh was jailed for nine years in 2008 for allowing the supply of Class A drugs at the club.

During his trial at Plymouth Crown Court, Bahmanzadeh repeatedly denied he had allowed Ecstasy to be sold in the Union Street venue, highlighting how he had even offered to pay for a uniformed police officer to stand outside the club to deter dealers. Bahmanzadeh had also claimed Plymouth City Council had wanted to buy the Dance Academy from him for a number of years, suggesting that was why they closed the club down. When he took the stand in his defence, he told the jury: “I cleaned up nightclubs in this city. I got rid of the gangs. I did it and did it all on my own.”

Ms Hickman said she was expecting a provisional decision very shortly from the CCRC. She said: “I’ve been involved in law for nearly 40 years and this is one of the most remarkable cases I’ve ever come across. “Manoucehr’s case is the worst miscarriage of justice I’ve ever seen.” Ms Hickman said she was “hugely hopeful” the CCRC would refer the case back to the Court of Appeal.

She claimed the police investigation was set in train by drug dealers who bitterly resented Bahmanzadeh’s efforts to keep them out of the Dance Academy. She accused the police of not carrying out sufficient investigation of who was behind the allegations against the club boss. Ms Hickman said that among the paperwork passed to the CCRC was the suggestion that the initial undercover investigation by police was “inconclusive” and officers went back to drug dealers and “enlisted key witnesses who they knew or should have known were connected to the big drug cartels”.

The law firm, which has employed Freedom of Information requests to support Bahmanzadeh’s potential appeal, also believes the prosecution case exaggerated evidence such as the number of ambulances called to the club. Ms Hickman said if the case is referred back to the Court of Appeal, Bahmanzadeh – who was ordered to hand over £1m following a Proceeds of Crime Act application – will argue the “police improperly allowed consideration of their potential confiscation gains to affect their judgement.” Ms Hickman said: “We have

found evidence which should have been disclosed at the time which we feel is key to Mr Bahmanzadeh's defence.

"It is quite amazing that while officers were carrying out an undercover operation at the Dance Academy they were congratulating him for his robust stance on drug dealers. "When put together, the evidence we have submitted to the CCRC should ensure the case is referred to the Court of Appeal and this appalling miscarriage of justice is exposed."

Bahmanzadeh, speaking from his prison cell, told The Herald: "I stood up to the drug dealers from the major drug cartels for eight years until they got the help of the police in closing the Dance Academy. "They destroyed my life's work, to run a safe, happy and friendly environment for young people. The beautiful Palace Theatre has been allowed to fall into ruin. I have suffered unimaginable torment for the last five years. I am looking forward to the chance to establish the truth of what took place and to help make sure that no-one else in Plymouth suffers this kind of miscarriage of justice".

A spokesman for the Crown Prosecution Service said: "We cannot comment at this time while the CCRC is still reaching its decision."

A spokesman for Devon and Cornwall Police said: "Devon and Cornwall Police are aware that Mr Bahmanzadeh has raised some issues around the investigation and that this is being looked at by the Criminal Cases Review Commission. "They have yet to make a decision on this review and so it would be inappropriate to comment on this matter at this time while they carry out their work."

Manoucehr Bahmanzadeh was ordered by Plymouth Crown court to pay £1 million under the Proceeds of Crime Act 2002, following his sentencing on 21 July 2008, this been paid in full, plus an additional £19,977.60 of accrued interest

Justice for Kevin Nunn - Bury St Edmunds: Convicted killer in bid to clear name

Lawyers for a convicted murderer claim advances in scientific techniques could prove he is the victim of a miscarriage of justice. Kevin Nunn, a 51-year-old former salesman, is currently serving 22 years in prison for the murder of 37-year-old Dawn Walker. Miss Walker's body was found near the River Lark, close to her home in Fornham St Genevieve, Bury St Edmunds, in 2005. At the original trial in 2006, the prosecution said Nunn, who was Miss Walker's former boyfriend, killed her out of jealousy. But Nunn, formerly of Woolpit, has maintained his innocence throughout and yesterday, at the High Court in London, his legal team began their bid to force police to grant access to forensic evidence in the case. During the hearing, Mr Justice Haddon-Cave and Sir John Thomas, President of the Queen's Bench Division, heard from counsel acting for Nunn, Suffolk police and the Crown Prosecution Service (CPS).

Nunn's team claim some of the forensic evidence might shed new light on the case. But the police and the CPS say the evidence requested had little bearing on his conviction and warn granting access could open the "floodgates" for similar applications, which are currently determined at the discretion of Chief Constables. Hugh Southey QC, for Nunn, said three items found at the crime scene - a fleece placed on Miss Walker's body, tape used to tie her to railings and sperm found on her thigh - could, if the same DNA was found on all three, prove a pattern which could point to the killer's identity. He said the three items together might have a cumulative importance to the case which the material might not have in isolation. "The ultimate issue is whether there is material which on testing might cast doubt on the conviction," said Mr Southey. "There is a clear public interest in preventing a miscarriage of justice. This is a case where evidence was circumstantial." He said Nunn was in a Catch 22 situation

Young Offenders: Young Women House of Lords / 21 Mar 2012 : Column WA184

Lord Judd to ask Her Majesty's Government what is their response to the recommendations made by the All Party Parliamentary Group on Women in the Penal System in the report entitled Keeping Girls Out of the Penal System; and what actions they will now take.[HL16264]

Minister of State, Ministry of Justice (Lord McNally): The All-Party Parliamentary Group on Women in the Penal System has made three recommendations to Ministers in its briefing paper Keeping Girls Out of the Penal System. In respect of the first recommendation to raise the age of criminal responsibility in England and Wales, the Government have no plans to raise this to 14 years. The Government believe that children are old enough to differentiate between bad behaviour and serious wrong-doing at age 10. However we accept that prosecution is not always the most appropriate response to youth offending and the majority of children under 14 years of age who commit crime will be dealt with informally or with an out of court disposal where interventions can be put in place to tackle offending behaviour and underlying problems.

The briefing paper's second recommendation is that the best interests of the child should be the paramount consideration in all matters concerning girls. The UNCRC requires that the best interests of the child should be a primary concern for a court before which that child appears. We agree and indeed every court in dealing with a child or young person is required by Section 44 of the Children and Young Persons Act 1933 to have regard to the welfare of that child or young person. It should also be noted that every local authority has a general duty to safeguard and promote the welfare of children within their area who are in need; and so far as is consistent with that duty, to promote the upbringing of children by their families.

Finally the briefing paper recommended that children should be kept out of the penal system and all agencies that come into contact with children should be judged on how they are achieving this.

We believe that minor offending by under-18s should be dealt with by using out of court disposals where this is appropriate and proportionate. In the Legal Aid, Sentencing and Punishment of Offenders Bill, currently before Parliament, we are revising the out of court framework for under-18s and doing away with the current warning scheme which forces young people up through the system regardless of the seriousness of their offending.

We are clear that custody should be reserved for those under-18s who commit serious offences or who repeatedly fail to comply with community alternatives. This approach is underpinned in law. Courts are required by statute to consider a youth rehabilitation order with a high intensity requirement as a specified alternative to custody when the custody threshold is reached for an under-18. If they still consider custody is warranted they must explain in open court why a youth rehabilitation order is not appropriate. In respect of monitoring how young people are kept out of the penal system we compile and publish data on first time entrants to the youth justice system which enables the Government to be judged on how young people are being kept out of the system.

Hughes v Director for Public Prosecutions [2012] EWHC 606 (Admin)

This is an appeal against the decision of the District Judge for the Luton and South Bedfordshire Local Justice Area. The judge asks whether he was correct in finding the appellant guilty of an offence contrary so section 4 of the Public Order Act 1986 for using threatening and abusive behaviour with intent to cause his victim to believe that immediate unlawful violence would be used against him.

The judge concluded that the appellant did intend to cause a Mr Peck to believe that unlawful violence would be used against him.

A few of the features which tend to undermine the idea that only one person was involved are:

(a) DNA discovered in relation to Hilda is not from the man convicted, but from two others;

(b) Photographs of Hilda's body in the copse show that she was clearly visible, and confirm the striking evidence of a local landowner. Ian Scott took his dogs for a walk the day after the murder in the very area where the body was supposed to have been left. He saw nothing and has always maintained he would have done had she been there because he was carefully identifying trees for felling.

(c) The 16-year-old could not drive, descriptions given by witnesses of the driver do not fit him;

(d) Changes at her house over the days of her disappearance.

Until an independent inquiry takes place, the reader must be the judge.

R (McAuley) v Coventry Crown Court [2012] EWHC 680 (Admin)

This case deals with extension of custody time limits due to lack of court resources and sets out the procedure to be followed in 'routine cases'. The case is essential reading for all advocates, and ends with a chilling warning to government:

The case was an application for judicial review of a decision made in the Crown Court at Coventry to extend the time a defendant is permitted to be detained in custody pending trial – the Custody Time Limit (CTL). Its significance is the contention by the claimant that the CTL was unlawfully extended in a routine case as there had been a systemic failure in Her Majesty's Courts and Tribunal Service (HMCTS) by failing to provide sufficient funds to enable defendants in custody to be tried within the maximum period allowed by law. The claimant sought an order quashing the decision and damages.

At the hearing, HMCTS conceded that the CTL should not have been extended; they therefore quashed the decision. And stated they would give their reasons later so they could give guidance in relation to the extension of CTL in routine cases.

Although the present case is what is properly described as a routine case, it is quite apparent that in the present financial circumstances facing Her Majesty's Government, pressure on court resources available to try such cases will be tight. That is without doubt a highly relevant consideration even in routine cases. However it is important to note that the Secretary of State when seeking funds for the Ministry of Justice did not make any amendment to the time limit set out in the Regulations or ask Parliament to approve an amendment. Therefore it must be inferred that the Secretary of State and Parliament considered that those responsible for the day-to-day management of HMCTS would be able to manage the money provided to them so that in routine cases, such as the present, it would not be necessary to extend a CTL unless there were exceptional or unusual circumstances.

It is clear from the evidence adduced before us that the claimant was right in his primary contention that there had been a systemic failure to manage the budget and to apply the correct principles.

"Although other considerations may apply to cases which are not routine, lack of money provided by Parliament in circumstances where the custody time limits are unchanged, will rarely, if ever, provide any justification for the extension of a CTL. If the Ministry of Justice concludes that it does not have sufficient funds for cases to be tried within CTL, then the Secretary of State must amend the Regulations and seek the approval of Parliament. If that is not done, the court has no option but to apply the present CTL and HMCTS must find the necessary money or face the prospect of a person who may represent a danger to the public being released pending trial." http://www.bailii.org/ew/cases/EWHC/Admin/2012/680.html

because in order to get a review of his case he needed to provide new evidence. But, said Mr Southey, he could not get that new evidence unless the latest scientific testing techniques were brought to be bare on the forensic materials currently held by the police.

Fiona Barton QC, for Suffolk police, said the current guidelines for the disclosure of evidence "strikes the right balance" between preventing miscarriages of justice and ensuring a workable justice system. She said the Criminal Cases Review Commission looked for "evidence or material that is now available which might undermine a conviction". She added: "This is not an absolute right to go on a fishing expedition." Speaking about the sperm sample found on Miss Walker's legs at the murder scene, Miss Barton said its origin was inconsequential because at no stage had the prosecution claimed it was from the killer. All three parties in the case have a further seven days to make any submissions to the judges, who will return to the High Court at a later date to deliver their verdict.

Justice for Kevin Nunn - http://www.kevinnunn.webeden.co.uk/

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

Mark Duggan Killing - Cover up Already Done and Dusted by IPCC

Fury at threat to inquest into police killing Paul Peachey ,Independent, Tuesday 27th March 2012

The family of the man whose shooting by police triggered last summer's riots has condemned the watchdog investigating the pre-planned operation for withholding details that could scupper a full inquest. The family's solicitor said its confidence in the Independent Police Complaints Commission (IPCC) was disappearing after learning that material about police decision-making on the day Mark Duggan was shot could not be provided to the coroner in charge of his inquest.

The coroner yesterday put back the planned opening of the hearing until next year and will rule in October if the court has enough information for it to go ahead. A special inquiry could be held instead, where some evidence is heard behind closed doors.

"This is the latest twist in the Duggan investigation and leaves them [the family] uninspired by the IPCC's assertion of independence," the family's solicitor, Marcia Willis-Stewart, said. "I don't know about public confidence, but the family's confidence is going by the day." The delay marks the latest conflict between the family and the watchdog investigating the circumstances of the shooting. The IPCC said it was expecting to deliver its final report into the incident to the coroner by early autumn - more than a year after Mr Duggan's death. But it added that it may have material "it could not properly disclose to a coroner" over the decision by officers to shoot Mr Duggan, North London Coroners' Court was told yesterday.

The IPCC said it had informed the family about the change of circumstances, but the family said it was concerned that the organisation was acting as a "shield" for the police.

Mr Duggan was a passenger in a minicab when he was killed by a single shot to the chest during an operation involving officers from Scotland Yard's Trident gun crime unit on 4 August in Tottenham, north London. Anger over the shooting led to riots in the area, with unrest soon spreading across London and then to other parts of the country.

The police and the IPCC have apologised to Mr Duggan's parents for failing to tell them directly about their son's death. They only learned of the killing from watching television, according to their MP, David Lammy. Initial reports suggesting that Mr Duggan shot at police were later dismissed by ballistics tests, which found that a bullet lodged in one officer's radio was issued by police. The inquiry failed to establish the sequence of events concerning a handgun inside a box that was reportedly found at the scene of the shooting. The IPCC

said yesterday that a criminal trial of two men about the circumstances in which Mr Duggan allegedly acquired the gun would run into October and was the reason for the inquest's delay.

"The IPCC also alerted the coroner and other interested persons to the possibility that it is likely to be in possession of material that would be relevant to the issue of police decision-making but which could not be provided to the inquest for legal reasons," it added in a statement.

A senior official for the IPCC said last year it had erred in saying in the aftermath of the shooting that Mr Duggan had exchanged fire with police officers. The Metropolitan Police yesterday declined to comment, citing the inquiry.

[At a pre inquest hearing Monay 26 March HM Coroner moved the date for the inquest into the death of Mark Duggan from 15 October 2012 to the 28 January 2013. The Coroner was advised that a related criminal trial is likely to run into October this year and, as the result of representations made by the Crown Prosecution Service, evidence relevant to the criminal trial that is also relevant to the inquest, will not be provided to all interested persons to the inquest until that trial has concluded.The IPCC investigation into the shooting of Mr Duggan is continuing and the Coroner was advised that the IPCC will provide him with a final investigation report in early Autumn.

The IPCC also alerted the Coroner and other interested persons to the possibility that it is likely to be in possession of material that would be relevant to the issue of police decision-making but which could not be provided to the inquest for legal reasons.]

With thieves like Warwickshire Police - Who Needs Criminals

Cash seized as evidence by Warwickshire Police has been stolen. The force confirmed an investigation had begun after £113,000 disappeared from its secure storage area at its Leek Wootton headquarters. It confirmed the matter had been referred to the Independent Police Complaints Commission (IPCC). Police said the money had been originally seized in 2009 under the Proceeds of Crime Act.

It is linked to the convictions of three people at Warwick Crown Court in January 2010 for a variety of offences including possession of firearms and conspiracy to pervert the course of justice. The money was reported as missing in September 2011. Warwickshire Police said that since this date, a confidential investigation had taken place to try to identify the thief or thieves. The force said it had now determined that a wider appeal for information from its staff and the public was necessary.

The IPCC has ruled the investigation should be carried out locally. It is being led by the anti-corruption unit of Warwickshire Police's professional standards department. Warwickshire Police has appealed for anyone with information on the theft to contact the force on the non-emergency 101 number.

Don't try for me, Argentina *Rosalind English, UK Human Rights Blog, 23rd March 2012*

Wright v Argentina [2012] EWHC 669 (Admin): The Administrative Court has just found that a British citizen cannot be extradited to Argentina to be tried for a drug smuggling offence because she would face inhuman and degrading treatment in the Argentinian prison system contrary to her Article 3 rights under ECHR.

Background: The appellant was apprehended at the airport in Buenos Aires with cocaine in her luggage. She was remanded into preventative detention and questioned, but eventually she was granted bail. In breach of her bail conditions, she fled the Argentinean jurisdiction and returned to the United Kingdom via Brazil. The Argentinian government issued a request for the appellant's

"Nuclear disaster is both avoidable and inevitable. Nuclear technologies have too many inherent risks and widespread consequences to be a sensible choice for energy production." The words are those of Rebecca Johnson, a former senior advisor to the Blix commission on weapons of mass destruction, writing about the disaster at Fukushima earlier this month. Back in 1984, this was exactly Hilda Murrell's position.

Murrell was a respected horticulturist: a rose was named after her shortly before she was murdered at the age of 78. She was a committed environmentalist and regarded Margaret Thatcher's nuclear power policy as utterly misguided. She began campaigning against it, accumulating high quality information about the risks from scientists and activists, and intended to provide it in person to the Sizewell B public inquiry, where she had was accreditated as a witness. She was an outstanding and outspoken independent voice. The murder occurred before she could be heard. Her nephew's book chillingly reveals the threats, fears and surveillance she reported to others before she died.

A central theme of her research was the hazardous nature of radioactive waste and the difficulty in managing it. This still besets the nuclear industry, to the extent that the US currently has a moratorium on new reactors in some states. Murrell was also acutely aware of the Three Mile Island disaster in 1979. Her critique embraced nuclear weapons as well.

At which point we pan across to Commander Rob Green. The Argentinian cruiser, the General Belgrano, was sunk in 1982 during the Falklands war by HMS Conqueror, a nuclear submarine. Green was in naval intelligence.

The truth about where the Belgrano was whether it was really necessary to sink her became a very hot political potato.A great deal of speculation and information entered the public domain that undermined the government's position. Although entirely without foundation, there must have been at least a suspicion that Green might in some way have been connected with the supposed leaks.

Ultimately, the MP Tam Dalyell, who had been asking questions about the Belgrano's sinking just before her disappearance, was driven to tell the Commons that British intelligence lay behind Murrell's murder in their search for material they thought she may have secreted at her home.

In the official version of her murder, Murrell was the victim of a demeaning and callous assault, abduction and murder by a young adolescent, on his own, without obvious motivation. The police version of the sequence of events is bizarre. On one and the same day, Hilda - having been assaulted in her home - is forced into her own car, driven through Shrewsbury in broad daylight past the police station and a number of witnesses, to a country lane some miles away. The car crashes into a verge with the driver's door jammed.The driver then exits via the passenger seat and takes Hilda with him, but not before she has retrieved the car keys and put them in her pocket.

He assaults her again in a field, where she loses her hat and spectacles. She is then either dragged or pushed across a ploughed field over a fence into a copse where she is stabbed,although not fatally, and left to die of hypothermia. Her body was not found for two days.

While DNA from the convicted man shows he was in Hilda's house, there are a huge number of other evidential matters that Rob Green has assembled which challenge the manner of this killing. Although many of them are not new, most have not been assembled in an intelligible format until now, and some have never been presented in court proceedings.

solution until the legislation for intermediaries for defendants came into force. The Ministry of Justice's recent position on applications has been that funding pre-trial falls under the remit of the Legal Services Commission and for the purposes of trial is to be funded by the Court. If the Legal Services Commission rejects an application for funding for pre-trial work, the defence may then request that the Court provides the funding for this work. Although the Court Service and Legal Services Commission are now under the Ministry of Justice "umbrella", the suggested allocation of funding appears to be inconsistent with the finding in Sevenoaks.

On this basis, defence representatives should be pro-active in seeking the assistance of a Registered Intermediary where appropriate. This will be particularly obvious where an expert report has raised concerns about disability or mental health. It will also be a key consideration in cases where a defendant has been found fit to plead but where there are significant outstanding concerns about their ability to participate effectively in the trial process. Registered Intermediaries are highly regarded and their value in the trial process has been positively acknowledged by the judiciary, lawyers and trial participants.

The Judicial Studies Board strongly encourages judges to use intermediaries where necessary and recommend seeking a referral report when in doubt (see the Advocacy Training Council Guide "Raising the Bar: the handling of vulnerable witnesses, victims and defendants in court" -. In light of the clear endorsement of the use of Registered Intermediaries by the courts, defence representatives should be firm in pursuing this avenue where necessary to enable a fair trial.

Who really killed Hilda Murrell?

[Andrew George, was jailed for life in 2005 for Murrell's murder. George was aged 16 at the time and in care at a children's home near her home. The prosecution believed that he panicked during a burglary before abducting Murrell. George's DNA was found to match samples taken from the scene, yet a previously undisclosed witness statement made by a forensic scientist in the case, Michael Appleby, indicates that he found DNA under Murrell's fingernails from another man. Andrew appealed in June 2006 but was turned down.]

New evidence about the bizarre nature of her killing lends weight to her nephew's demands for the case to be reopened *Michael Mansfield, guardian.co.uk, Tuesday 20 March 2012*

Campaigner Hilda Murrell, 78, who was murdered in March 1984, had been due to give evidence at the public inquiry into the Sizewell B nuclear reactor. Who killed her - and why - has already been the subject of books, plays and films, and the conviction of a man for her abduction and murder in 2005 failed to answer many of the questions surrounding her death.

The reasons for this enduring enquiry are exposed at length in A Thorn In Their Side, a book being launched this week to mark the 28th anniversary of her death. The author is Hilda's nephew, Robert Green, with whom she had a close relationship and who was a commander in naval intelligence during the Falklands war. He has followed and chronicled the case meticulously. Was this just a random, bungled burglary by a lone 16-year-old - as the police would have it - or was it an operation involving several individuals on behalf of a government agency, namely the security services?

The book cannot definitively answer this question, but it raises serious and substantial doubts about the criminal investigations to date. The accumulated concerns make an overwhelming argument for these to be reopened by an independent police force unconnected with any previous enquiries, or by an independent commission of inquiry.

extradition to Argentina through diplomatic channels so that she could face a drug smuggling charge. The appellant was subsequently arrested and brought before the magistrate's court where she argued that extradition would breach her rights under Article 8. The District Judge did not accept that argument and an extradition order was consequently issued.

The appellant, who wishes to be tried in this country, stated first that she admits she would plead guilty to a charge of attempting to import cocaine into the United Kingdom if charged in this jurisdiction. To achieve that aim of being tried in this country, she brought these judicial review proceedings, seeking permission to challenge first the decision of the Commissioner of the Metropolitan Police not to investigate the claimant's involvement in a conspiracy to import the cocaine into the United Kingdom and second the decision of the Director of Public Prosecution not to prosecute the appellant for that offence.

The task before the Administrative Court was therefore to determine how this appellant would be treated in Argentina in the prisons where she would be detained and whether there is a real risk that the appellant if extradited would be subjected to torture or to inhuman or degrading treatment or punishment in Argentina (Soering v United Kingdom (1989) 14 EHRR 439,468[88]). The thrust of the appellant's case was that her expert evidence showed a "scenario of systematic human rights violations" in Argentinean penal institutions which proved that she would be at real risk of suffering from first a lack of proper supplies, second systematic abuse from prison staff, including cruel punishment and degrading searches and third violence on inmates by fellow prisoners, which is not prevented by prison staff.

The appeal was allowed on the basis that the extradition of the appellant to Argentina would on the specific facts of this case infringe her rights under article 3 ECHR..

The court's reasoning: Silber J accepted that the respondent is bound by international treaties on human rights and that Argentinian detention conditions are duly supervised. However, he was more inclined to the evidence adduced by the appellant that the relevant supervisory bodies were "either unable or unwilling" to ensure that proper food and resources are available to prisoners. Further NGO and prisoner campaign group evidence about ill-treatment by prison staff and intrusive body searches led the judge to find that there existed *a disturbing pattern of cruel, inhuman treatment being suffered by female prisoners and especially foreign ones in Argentina*.

Therefore in his view, it was "very likely" that the appellant would be subjected to this treatment in the absence of any adequate redress available to her: *the evidence adduced before us demonstrates clearly that there is a systemic abuse of foreign women prisoners in Argentina so that the appellant would if extradited be subject to shortages of basic food and personal hygiene products, frequent physical violence and degrading intimate searches in the presence of men. The evidence shows that there would be inadequate redress available to her and the respondent would be unable to prevent these abuses.*

On the other hand, Silber J did not agree that there was anything strikingly unusual or exceptionally compelling about the appellant's position as she is not currently suffering from any mental or depressive illness or other ailment, so as to enable her to invoke the protection of Article 8 against extradition. In this case, the appellant had admitted to "an extremely grave crime" of being party to a conspiracy to bring into the United Kingdom over 6 kilos of cocaine. That factor militated against precluding the extradition of the appellant on article 8 grounds.

Comment: One might have thought at a time of delicate relations between two countries the UK courts might refrain from throwing spanners into the diplomatic machine, but not a bit of it.

To be fair, Silber J was anxious that his finding should not form any sort of basis for assuming or believing that future attempts by the Government of Argentina to obtain extradition orders will fail for these reasons.

He appears to suggest that the outcome of this hearing might have been different if the Argentinian government had given sufficiently firm undertakings with respect to the appellant's detention, or if an attempt had been made to cross-examine the appellant's witness on her evidence or otherwise to contradict her "powerful evidence". But that is doubtful; the judiciary's anxiety to export Human Rights to the rest of the world, in the tradition set by Chahal v United Kingdom (1996) 23 EHRR 413, appears unstoppable.

Silber J also reassures us that "the reasoning in this case on the article 3 ECHR issue also would not apply to a country which was a party to the ECHR as it could always be assumed that such a country would ensure the article 3 rights of the requested person would be complied with." But that, too, is to be doubted, since our courts do not hesitate to pass judgment on Convention compliance of other signatory countries if it affects the rights of the individual or individuals before them:

Defendants and the Use of Registered Intermediaries

Felicity Williams – Tooks Chambers - Shauneen Lambe – Just for Kids Law/ Lawrence & Co

Those appearing before the criminal courts will be familiar with the use of special measures procedures to protect vulnerable witnesses at all stages of the trial process. Those special measures include the use of Registered Intermediaries. Section 29 of the Youth Justice and Criminal Evidence Act 1999, brought into force, in 2003, the use of intermediaries to assist in the examination of witnesses. The Ministry of Justice wanted to ensure that intermediaries had, amongst other things, specialist training and so developed a register of trained and qualified approved intermediaries. Registered Intermediaries are now frequently sought to assist Prosecution witnesses.

Registered Intermediaries are highly qualified professionals (for example speech and language therapists) who have specialist skills appropriate to the need of the witness and specialist training in assisting communication within the criminal trial process. They undergo, amongst other things; an initial rigorous selection, distance learning, 4 day classroom, court, livelink and police station practice, they are required to undertake and pass a multiple choice assessment on procedure, a written test and an oral assessment in a mock trial setting before they are accepted on the register. Once on the register these intermediaries are bound by a code of conduct, a code of ethics and they are accountable, if necessary, to a formal complaints procedure which can include a formal adjudication with the power to remove the intermediary from the register if appropriate.

Registered Intermediaries are increasingly sought by the police and prosecuting authorities. However, the equivalent and available safeguards for children and vulnerable defendants are often overlooked. This is in part due to the fact that the statutory provision for defendants, section 33BA of the 1999 Act (added by the Coroners and Justice Act 2009), has not been brought into force. However, that is not a bar to the courts granting a defence application for the use of an intermediary. The case law, discussed below, underlines that the courts have an inherent power to grant such an application for a defendant. Conditions that are likely to make support necessary for a young or vulnerable defendant include; communication difficulties, learning disability (and low levels of IQ) and mental health problems. Research provided by the Prison Reform Trust shows:

(1) Over 60% of children who offend have communication difficulties and, of this group, around half have poor or very poor communication skills;

(2) Around 25% of children who offend have an IQ less than 70; and, 7% of adult offenders have an IQ of less than 70 and a further 25% have an IQ between 70 and 79.

Given the prevalence of these issues, it is surprising that defence applications for Registered Intermediaries are limited. Defence representatives need to be alert to the possibility that a Registered Intermediary might be appropriate and assist the client. We have been grant Registered Intermediaries at first instance in the criminal courts and, recently, following a refusal of an application by the Youth Court, obtained an order for a Registered Intermediary for a young defendant with ADHD through commencing judicial review proceedings.

The availability of intermediaries to assist the defence and the defendant is founded on the basic principle of the right to fair trial and, in particular, the right to "effective participation" in the trial process. The leading decisions include R (C) v Sevenoaks Youth Court [2010] 1 All ER 735 and <>R (AS) v Great Yarmouth Youth Court [2011] EWHC 2059 (Admin). In Sevenoaks the Claimant obtained a report from a chartered psychologist that demonstrated that he suffered learning disabilities and ADHD. It confirmed that the Claimant "might be assisted" by the appointment of an intermediary. The Youth Court made an order for an intermediary and, subsequently, quashed the order believing that there was no power to make it. The Divisional Court confirmed that the Youth Court had a duty under its inherent powers to take such steps as were necessary to ensure a fair trial that included the appointment of an intermediary. The Court found that it was appropriate for the Ministry of Justice to make arrangements for the payment of intermediaries.

The Sevenoaks decision was followed in the Great Yarmouth case. The Claimant in Great Yarmouth was diagnosed with ADHD. Having considered a report from a Chartered Psychiatrist, Mr Justice Mitting concluded that the Claimant "would undoubtedly benefit from the assistance of a registered intermediary". He found that without the Claimant receiving appropriate assistance there was a real risk that the he might not receive a fair trial.

In addition, it is clear that the Court of Appeal considers the use of intermediaries for defendants an important tool to ensure effective participation in the trial process. In the case of R v Walls [2011] EWCA Crim 443 the court stated:

"There are available to those with learning disabilities in this age, facilities that can assist. Consideration can now be given to the use of an intermediary under the court's inherent powers as described in the Sevenoaks case… Plainly consideration should be given to the use of these powers or other ways in which the characteristics of a defendant evident from a psychological or psychiatric report can be accommodated with the trial process so that his limitations can be understood by the jury, before a court takes the very significant step of embarking on a trial of fitness to plead".

Two additional matters flow from seeking the assistance of a Registered Intermediary. Firstly, the safeguard of using a Registered Intermediary, as opposed to a non-registered intermediary. A Registered intermediary is registered with the Witness Intermediary Service of the Ministry of Justice and National Police Improvement Agency.

Any intermediary on the register has undergone the safeguards mentioned above and a defendant and their legal team can be safe in the knowledge that the intermediary is bound by the professional code of conduct and ethics, set out in the Registered Intermediary Procedural Guidance Manual 2012.

Secondly, is the question of funding, the position following Sevenoaks was that funding was a matter for the Ministry of Justice, in effect this remains the case although devised as a temporary