spent, as every expert working with disadvantaged children can inform you, to try and better their opportunities and pathways that will not lead them into a never-ending circle of crime. Your office should be rejuvenating youth workers and grassroots community groups not using your position for political policing which is all Operation Shield can be; it will not prove a success but result in more young lives being ruined by the prison system. I have enclosed a summary of a Manchester Metropolitan University study into the area of Gangs and Youth Violence in Manchester City which in the fuller report proves that the police intel is deeply flawed.

Professor David Ormerod QC, possibly the leading legal academic in the country, has recently published an article in the Criminal Law Review calling for the Supreme Court to abolition joint enterprise, citing JENGbA's campaign. The Justice Select Committee have recognised that the doctrine is discriminatory particularly against marginalised black youths. The boroughs you have decided to roll out this operation are those with large BME communities who already mistrust the police because of constant harassment by stop and search. JENGbA has recently been informed that some Borough's police forces have pay performance targets linked to number of successful stop and searches officers carry out. Can you confirm if this is the case? We are copying this letter to a number of individuals, such is our sense of outrage that you and the Met police think this operation is even legal. Guilt by association is archaic and if you truly believe it can result in effective charging then it should work both ways and police officers who are corrupt in their profession and knowingly continue to cover up these malfeasance practices should also be charged with joint enterprise. We look forward to hearing your comments and meeting with you to discuss our concerns further.

Yours sincerely, Gloria Morrison Campaign Co-ordinator Joint Enterprise: JENGbA

Statisticians Question Evidence Used to Convict Ben Green

Four eminent statisticians have raised concerns about the quality of evidence used to convict a nurse of murdering two patients and poisoning 15 others. Ben Geen, 34, is serving a 30-year sentence after being convicted in 2006 of injecting patients with a variety of drugs in order to "satisfy his lust for excitement" when reviving them. There were no witnesses to the crimes, but Horton General hospital in Banbury identified an "unusual pattern" of respiratory arrests, which the prosecution said could only be explained by a member of staff deliberately harming patients. Now Sir David Spiegelhalter, of the University of Cambridge, has voiced concerns that the "extreme rarity" of respiratory arrests, claimed by expert witnesses at trial, was made without the methodical evidence-gathering and detailed analysis required. "I have no opinion on the innocence or guilt of Ben Geen, but I do feel that the statistical evidence in this case was not handled properly," he said. Geen's legal team has submitted independent reports by Spiegelhalter, Prof Norman Fenton, Prof Stephen Senn and Prof Sheila Bird to the CCRC in a bid to have the

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
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MOJUK: Newsletter 'Inside Out' No 517 (19/02/2015) - Cost £1

Norman Grant, Knocked Back by CCRC - A Perverse Decision!

CCRC admit there was a failure by The West Midlands Police Service to properly forensically secure the crime scene: the evidence given by the CPS was purely circumstantial.

'Two statements made by Forensic Scene Investigator (FSI) Brookes clearly state that the JCB was, not searched or forensically examined. Brookes gives an explanation for such, based on his assessment of the relative likelihood of obtaining forensic results given the state of the interior of the vehicle.' Police gave contradictory accounts as to when the JCB was removed from the crime scene, DC Dawson said it was moved on 12/01/2010 but DC Wilson said it was moved on 13/01/2010.

Brookes explanation is piss poor it beggars belief the JCB that was the major source of evidence on two counts; the method of committing the crime and the location of a balaclava alleged to have been worn by Mr Grant, whilst committing the crime, was not forensically examined because in his opinion it was to dirty.

The JCB was returned to the owner, who lo and behold discovered a 'balaclava', which FSI Brookes completely missed on his initial, fleeting, examination of the JCB, because he couldn't be bothered to do a proper examination of the JCB.

At para 33 of their decision, they suggest that Mr Grant had no option but to claim the balaclava was planted! Also at para 33 'Cell site evidence', the phone was in the area, what is my crime, being in an area that I grew up in my mother lives 10 yards from the bank, the next road to Murdock Road, my daughter lives 10 yards from the cemetery. Plus other family and friends in the immediate and surrounding areas, I am in that area every day, I have no exclusion order to enter Handsworth, I have the right as a citizen that does not make me a gang member, the cell site evidence if correct places me in the area this is not unusual I am always in that area, that is where I train as well. Also at para 33 they take Mr Grant to task for failing to give evidence at trial. The CCRC must be aware that no Crown Court judge, would expect a defendant with a criminal history to take the stand at trial, indeed in summing up at trial, where a defendant has not took the stand, the judge would emphatically instruct the jury, no inference can or should be made from the defendant not giving evidence.

Photographic evidence, the CCRC did not dispute a theoretical possibility that Meta Data could be manipulated in order to give a misleading impression as to timings on the disclosed working copy, which is based on the fact that he has not had what could be termed 'absolute proof' of the timings by way of access to the master copy of the photographs. Here it would have been very simple for the CCRC to request examination of the original copy and irrefutably prove the integrity of the evidence; they refused to do so, (para 21).

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

Below full text of CCRC Knock Back, followed by Norman's full comments

The Applicant's Submissions - 9. On 25 November 2012 the Commission received an application from Mr Grant asking for a review of conviction and sentence. The issues raised by and on behalf of Mr Grant in his application and supporting submissions can be summarised as follows. * A report by Mr Allan Jamieson (marked by him 'Not to be Served') relating to DNA issues. * New expert evidence from a Mr Grant Fredericks relating to the continuity and

integrity of photographic evidence produced at trial relating to the presence of the balaclava in the JCB. * A request that the balaclava be re-examined in order to identify any outstanding DNA profiles. * A request to examine' whether the item in the, JCB photograph purporting to show the. balaclava is consistent with the appearance of the item seized. * A request to examine the integrity and continuity of the JCB photograph. 10. Mr Grant has also indicated that he wants his sentence to' be reviewed.

The CCRC's Review

11. In the course of its review of this case the Commission' has considered the following:

Mr Grant's application together with supporting submissions and material. * The reports prepared by Mr Jamieson and Mr Fredericks. * A transcript of the trial judge's summing-up. * The previous grounds of appeal. * The Court of Appeal judgment. * The Crown Court file. * The Crown Prosecution Service file. * The West Midlands Police Service file

Analysis and Reasons - The CCRC's Powers

12 The CCRC may refer a conviction if the following conditions are met:

1. there is a real possibility that the conviction would be overturned if it were referred; and

2. this real possibility arises from evidence or argument which was not put forward at trial or appeal (or there are exceptional circumstances); and

3. the applicant has already appealed or applied for leave to appeal (or there are exceptional circumstances).

13. The CCRC may refer a sentence if the following conditions are met:

1. there is a real possibility that the sentence would be reduced if it were referred; and

2. this real possibility arises from information or argument on a point of law which was not, put forward at trial or appeal; and

3. the applicant has already appealed or applied for leave to appeal, (or there are exceptional circumstances).

Mr Jamieson's report 14. The Commission notes that, in reality, Mr Jamieson only talks in the most general terms about the possibility of DNA degradation and transference: He provides no evidence or opinion whatsoever to suggest that such matters are of any particular relevance to, or likelihood in, Mr Grant's case.

15. Commission therefore consider Mr Jamieson's report to have no real relevance to this case.

Outstanding D.NA profiles

16. The Commission does not consider that a further examination or testing of the balaclava could realistically give rise to prospective new evidence or argument to render this conviction unsafe. In coming to this view the Commission notes that Mr Grant was convicted of being party to a' conspiracy to rob, as opposed to a robbery committed alone. By definition, others were involved, including those who may have hitherto evaded detection or conviction. Additionally, it is not uncommon for items such as balaclavas to be shared between criminal associates and used during several different offences.

17. 'Consequently, even if the balaclava were to yield DNA relating to other possible suspects, the Commission does not consider that such would in any way detract from the DNA evidence against Mr Grant. At best, it might serve to identify additional, as opposed to alternative, suspects.

The Appearance of the Balaclava

18. The Commission would observe that the enhanced photographs' purporting to show the balaclava in the JCB, were produced at trial. Both the photographs and the balaclava were therefore available to Mr Grant, his defence and,' the jury. No challenge appears to have been mounted as to whether they might be different items, either at trial, or appeal, and the Commission can see no

a witness at the end of February, which will conclude the interviews for this investigation.

Sean Brown Murder Inquest Postponed Indefinitely *BBC News N. Ireland*

The inquest into the death of a man murdered by loyalists has been postponed indefinitely. Sean Brown was abducted and killed in Bellaghy, County Londonderry, in 1997. The Northern Ireland Court Service said the main reason for the inquest being postponed was the issue of disclosure of documents. In January, it emerged that classified material deemed relevant for the inquest had been lost. It also emerged that redactions, including the blanking out of names, on 34 folders of non-sensitive material had not been completed by the Police Service of Northern Ireland. Northern Ireland's chief Constable denied a claim by the SDLP that police were protecting the murderers of Mr Brown, a Gaelic Athletic Association (GAA) official. MLA and Policing Board member Dolores Kelly had claimed Mr Brown's killers were being protected because they were "state agents" or informers. Chief Constable George Hamilton said "no-one is above the law".

Paul O'Connor, from the Pat Finucane Centre said the: "The family are very frustrated and very angry. They feel this is not moving at all and that nothing has been disclosed to date despite assurances to the contrary. This is the 24th preliminary hearing we've attended since 2007 and what happened today was that the only draft document that was forthcoming was the draft HET report on the case. Council for the PSNI confirmed that they were still unable to furnish dozens and dozens of both sensitive and non-sensitive files relating to this case, which means they've effectively supplied no documentation whatsoever," he said. In that context it was agreed that the planned date for the full inquest to go ahead, which was in March, could no longer be met and therefore was being postponed indefinitely." Mr O'Connor said the Brown family have called on members of the Policing Board in the Magherafelt area to boycott their next meeting in protest.

Archaic Operation Shield

Dear Mr Johnson, last year we gave evidence alongside leading legal academics to the Justice Select Committee in their follow up Inquiry into the issue. The JSC released their report in December. This report, which is enclosed, strongly vindicated our concerns that joint enterprise charging is 'lazy' policing and is leading to miscarriages of justice. The evidential bar in joint enterprise charging is virtually non-existent, despite what the CPS claim, it can be based on little or no evidence of what each individual did in very serious offences, we have cases where children are serving life sentences for receiving or sending a text message.

It is therefore to our complete shock to hear your decision to pilot Operation 'Shield' in three London boroughs. The tactic behind this operation completely goes against every recommendation made in the Justice Select Committee's report which was decided by a unanimous cross party committee that urgent reform was needed in joint enterprise. Charging all the 'gang' members of the offence committed by one or more is joint enterprise by the back door – but far more serious. How is the gang defined when excellent academic research from university professors and those working with inner city youths argue these definitions coming from police intel are not reliable. Your own MPS Guidance states that your department shall: 'Set the strategic direction and objectives of MPS through police and crime plan, monitoring the performance of MPS against agreed priorities.'

What is the strategic direction and objective of Operation Shield and what data is something as serious as this based on? Where is the proof that it will offer some kind of deterrent to prevent young vulnerable children becoming involved in gang activities? How can you justify tax payers money on an US model of policing that failed in the US? Surely the money would be better

And beyond this we should not lose sight of the central issue: the Court of Appeal's complete failure to review serious miscarriage cases. At a recent stakeholders' conference at the CCRC, Professor Michael Zander, a member of the original Runciman Committee, asked for evidence that the Court of Appeal had undertaken reviews into serious miscarriage cases – and the court's representative was unable to offer any evidence of such reviews. Professor Zander developed this further in his evidence before the Justice Committee and in a supplementary note to the Justice Committee has advocated a way for this to be addressed so that serious miscarriage cases are finally addressed. Another academic Professor Heaton suggested a re-trial option – but this appears more problematic. What is clear is that appeals should be reviewed where there is a fundamental view that they represent a miscarriage but do not necessarily present a distinct ground upon which the court could base a quashing of the conviction upon.

What of the CCRC's own evidence to the Justice Committee? The thrust was that greater funding was the answer to all these problems. If that really is their view, then it is has fundamentally misunderstood the issues facing the appellate system today. The commission is unlikely to receive an injection of funding; rather it is likely to receive a further cut in the next parliament of a significant level (it could be in the region of £1m out of a budget of £6m). The Commission simply does not have the ear of government. The reason for this is exactly the same as the reticence of the Court of Appeal – it requires the machinery of the state to accept system failure. The CCRC cannot even persuade Government to slip in a fairly minor amendment to the 1995 Act to allow it to access private documents and the evidence of Justice Minister Mike Penny MP suggests it remains a non-priority for the current coalition government as it has with previous administrations. The reality is that the CCRC was a suitable compromise organisation following Runciman and which wholly failed in its early years. Latterly it has tried to reform but doesn't have the resources to do so or the support of the state to effect the changes required.

It does not exercise Section 16(2) powers under the Criminal Appeal Act – apart from the case of Michael Shields it has never availed itself of the Royal Prerogative despite an indication from the Minister that the government is open to receiving such applications. In the end we continue to apply a sticking plaster to the system as each notorious miscarriage occurs and then proceed as if nothing has happened. It is to be hoped that the justice committee will recognise that there are serious issues with our current appellate system (what is less clear is what the Committee can actually do about it, particularly at the end of a Parliament). In the meantime every day more people will be wrongfully convicted and confronted with no adequate system to address those miscarriages.

Leon Briggs Investigation Update

The IPCC's investigation into the death of Leon Briggs is in its closing stages. IPCC are currently awaiting evidence from two experts, which they hope to receive in March, and are in the process of writing the final report. Five police officers and a police detention officer remain under criminal and gross misconduct investigation. In relation to the criminal investigation the offences are of unlawful act manslaughter, gross negligence manslaughter, misconduct in public office and section 7 Health & Safety at Work Act. Four of those officers, a police constable and three sergeants, were served with further gross misconduct notices in December 2014, which relate to allegations of conferring at the police post-incident procedure on 4 November 2013, contrary to the College of Policing's Approved Professional Practice. The officers were interviewed at IPCC offices in January. All misconduct and criminal interviews have now been conducted and a date has been set to interview

basis for such a suggestion. In the Commission's view, the appearance of the item in the 'enhanced photograph seems entirely consistent with the camouflage pattern of the seized balaclava.

The Integrity of the Photographs

19. The Commission notes that, in his report, Mr Fredericks explicitly states that there is no actual evidence to undermine the integrity of the JCB photographs or the timing thereof. He simply suggests a theoretical possibility that meta data could be manipulated in order to give a misleading impression as to timings on the disclosed working copy, which is based on the fact that he has not had what could be termed 'absolute proof' of the timings by way of access to the master copy of the photographs.

20. The Commission would observe that it is entirely routine for working copies of photographs to be used for trial and that, inevitably, such files will be subject to a degree of renaming in order to refer to what they depict. In this case it is clear that the master file was' exhibited by Mr Brookes as FB1, with the working copy FB1C. The existence of the master copy would, therefore, have been known to the defence, who would have been able to challenge the authenticity or timings of the photographs if such a dispute had arisen at trial. The Commission would further note that it would be an unusual step for the master file to be released by police, in order to keep it secure, and therefore the fact that Mr Fredericks has not been provided with such, in the Commission's view, does not give rise to particular suspicion.

21. .The Commission has considered whether, in the absence of any actual evidence to question the integrity of the photographs, it should nonetheless obtain and examine the original master file and Meta data relating to the photographs. However, for the reasons outlined below, it has decided not to do so.

The Nature of the JCB Examination

22. It has, in effect, been asserted that the presence of the balaclava at the time of any examination of the JCB is highly improbable, and, therefore is supportive of the suggestion that it was planted. The Commission, however wholly disagrees. Contrary to what has been claimed, there is no evidence that the JCB was 'thoroughly examined'. Two statements made by Forensic Scene Investigator Brookes clearly state that the JCB was, not searched or forensically examined. He gives an explanation for such, based on his assessment of the relative likelihood of obtaining forensic results given the state of the interior of the vehicle. This he states was further discussed and affirmed at a subsequent forensic strategy meeting before the JCB Was returned.

23. In light of this, the Commission considers it is indeed plausible that the balaclava remained under the seat unnoticed. The Commission further considers that the forensic strategy with regard to the JCB would appear to be both reasonable and justifiable in the circumstances, namely: * The vehicle clearly did not belong to any' of the culprits significantly reducing the prospects of finding personal items belonging to them. * It had only been obtained a short time before the robbery. * The robbery had been carefully planned, and those involved were said to have been wearing masks and gloves; * The interior of the vehicle was said to be extremely dirty and any remaining footwear marks had become obscured by dust and dirt due to the engine's vibrations.

24. Consequently, it appears to the Commission that there were solid grounds for concluding that the JCB would be a poor source of forensic evidence, and should not be regarded as a forensic priority.

The Inherent Implausibility of the 'Plant' theory

25. While the Commission accepts the theoretical possibility of a 'plant', it considers such to be wholly implausible in the circumstances of this case for the reasons outlined below.

26. Firstly, and as 'observed by the Court of Appeal, there is no evidence that Mr Grant was a suspect at the time of the, discovery of the balaclava. In addition, it is a far more uncertain exercise to plant an item at a crime scene rather than on an individual. Consequently, there would have been significant risks in planting the balaclava in the JCB, not least because there would have been no way of knowing Mr Grant's whereabouts' at the time of the offence, or whether he might have an irrefutable alibi.

27. Secondly, the balaclava was not discovered by police but, rather, the owner of the JCB upon its return, which therefore had to rely on him both finding it and, notifying police.

28. Thirdly, Mr: Grant denies that the balaclava was his. His account to the Commission is that he has never owned the balaclava nor seen it before. Consequently, the 'plant' would therefore had to have entailed someone somehow obtaining genetic material from Mr Grant and placing it on the balaclava, before then placing the balaclava in the JCB. Thereafter, the discovery of a similar item at Mr Grant's property, namely the home made face mask, would presumably have simply been a fortuitous and coincidence for police

29. Fourthly, the person responsible for planting the balaclava (and presumably Mr Grant's DNA), would then have had to have persuaded civilian Forensic Scene Investigator Brookes' to become embroiled in the criminal conspiracy, by dishonestly altering photograph 'hash values' when compiling the photographs' working copy from the master file, an endeavour with significant risks should continuity become a significant issue of dispute at trial.

30. Finally, either the balaclava and/or Mr Grant's genetic material must have somehow either been held in reserve by those intent on framing him until such time as an opportunity arose, or alternatively, been obtained within the week between the offence and discovery of the balaclava.

Conclusions re photographs

31. For the reasons outlined above, the Commission does not consider there to be any realistic scope for the balaclava having been planted in the JCB by police. As for other possible explanations of how it might have got there," Mr Grant was silent in both interview and at trial, and has not provided the Commission with a cogent explanation for such. Consequently, the Commission does not consider that further investigating the integrity of the photographs by reference to the master file and related meta data is a matter which is either necessary or justified in this case.

Sentence

32. No specific submissions have been made in respect of sentence. However, the Commission has nonetheless considered the issue, but concluded that, in light of the seriousness of the offence and Mr Grant's repeat offending, there is no prospect of the Court coming to a different view from that previously reached.

Conclusion

33. The case against Mr Grant, while, circumstantial, was compelling. Although it is true that, even as far back as trial, the defence suggested the possibility that the balaclava was planted in reality, there, was little other option open in seeking to meet such an incriminating piece of evidence. Over and above, the balaclava's connection between' Mr Grant and the robbery, there was also the telecoms and cell site evidence; as well as Mr Grant's failure to answer questions and, indeed, give evidence.

34. While the Commission has given careful consideration to the issues raised in this application, it does not consider there to be any real possibility of those matters giving rise to substantive new evidence or argument, or which merit further forensic examination, either in terms of DNA or photographic integrity.

the interests of security and good order," Mr Hall added.

It’s Time to Talk About the Court of Appeal *Mark Newby*

When the House of Commons’ justice committee finally decided to undertake a longer inquiry into the Criminal Cases Review Commission it might have been assumed this would concentrate almost exclusively on perceived failings of the Birmingham-based watchdog. However as each witness in turn has given evidence it was a pattern of failure on the part of the Court of Appeal that has emerged. The failings exposed reveal that the Court of Appeal hasn’t significantly moved forward since the notorious cases of the Guildford 4 and Birmingham 6 which led to the CCRC’s creation. It shouldn’t be surprising that all those called to offer evidence have reached this conclusion.

The CCRC suffers as the lesser partner in a paternalistic relationship with the Court of Appeal. Provided the CCRC toes the line and heeds the warnings of the Court it will be respected by the Court and heaped with regular praise. If the Commission crosses the line the court is not slow to make its displeasure known. Over the relatively short lifespan of the CCRC we have seen a reactive institution. Certainly – as I pointed out to the Justice Committee in my evidence – the norm for the Commission is to be reactive in review.

Much has been made of the increase in demand and the easy access form created by the Commission; however the reality is that when applicants do not have good legal representation then the CCRC will simply react to the limited points raised and, apart from a few routine standard checks, go no further. Professor Carolyn Hoyle in her research confirms that where applicants have the benefit of good legal representation the quality of their applications is improved. Legal aid cuts continue to narrow the availability of such representation.

There is an emerging pattern of repeat applications to the CCRC where, on a second or third application, suddenly new material is uncovered and cases are referred. This is simply unsatisfactory and takes us back to the bad old days where applicants could apply to C3 Division at the Home Office many times before finding justice. This pattern is mirrored by the approach of the Court of Appeal which takes an equally process-driven approach to reviewing miscarriage cases.

The net result is applicants are left to submit the grounds for the court simply to cross off each and every point from the applicant’s submissions. Whilst on occasion a single judge will find material to support permission being given, this is very much the exception to the norm. The Court of Appeal has particularly over the last few years taken steps to narrow even more the opportunity of appellants to pursue appeals against their convictions. It is difficult to discern what the motivation for this is – perhaps a belief in the 'Sanctity of the Jury' or a belief that the integrity of the system is maintained by keeping people in prison. When, of course, the converse is true - any system only has integrity when it can address its errors and mistakes.

The problem is the Court of Appeal has found it impossible to do this. It is simply a step too far for the Court. Even seasoned Court of Appeal lawyers are concerned. For example we now have attempts to limit appeals by adopting a restrictive approach to extension of times applications for non-CCRC applications (judges have been directed that they cannot give permission but these must be referred to the full court). This is particularly regrettable and inconsistent, especially when the CCRC is allowed to take many years to investigate a case. The Court of Appeal is holding group courts looking at particular issues seeking to restrict further appeal possibilities. Sexual offence cases have been subject to extensive intervention as judges react to what they perceive society expects. What we are seeing is a fundamental erosion of the rights and liberties of defendants and appellants in the criminal justice system.

years in prison. Possession of extreme pornography that shows images depicting rape will also become illegal. Increasing the maximum penalty to two years in prison for online trolls who send abusive messages or material. Four new criminal offences of juror misconduct are being introduced to ensure fair trials and prevent miscarriages of justice. These are researching details of a case (including online research), sharing details of the research with other jurors, disclosing details of juror deliberation and engaging in other prohibited conduct. Making criminals contribute towards the costs of running the courts system by imposing a new fee at the point of conviction. A new offence of causing serious injury by driving while disqualified, carrying a maximum penalty of four years in prison, and increasing the maximum prison sentence for causing death by disqualified driving to 10 years. Economic growth will be supported by measures to speed up the Judicial Review process and reduce the number of meritless claims clogging the system. Insurance fraud will be tackled by new measures that ban law firms from offering inducements, such as iPads or cash, to potential clients and courts will be required to throw out personal injury cases entirely where the claimant has been found to be fundamentally dishonest, unless doing so would cause substantial injustice.

Smoking Ban in Prisons: Inmate Wants Access to Enforcement Hotline

A prisoner has launched a legal challenge to give inmates the right to report unauthorised smoking in jail. Paul Black, an inmate at HMP Wymott in Lancashire since 2009, suffers from health problems aggravated by passive smoking. He wants a judicial review of a policy which denies prisoners access to an NHS phone line designed to help enforce smoking bans in enclosed public places. A judge at the High Court in London said he would soon make his decision. The NHS compliance line allows members of the public to seek enforcement of the 2006 Health Act, which limits where people can smoke in England. Justice Secretary Chris Grayling has previously backed the prison governor's decision not to allow inmates general access to the free phoneline.

Lawyers representing Mr Grayling have argued that Crown Immunity, which extends to all bodies acting as agents of the Crown - including Her Majesty's Prisons - prevents the Health Act applying to state prisons. They maintained prison rules, such as the withdrawal of privileges for inmates, are sufficient to deal with unauthorised smoking. Mr Black accused the justice secretary of breaching his own rules, as well as human rights laws. Shaheen Rahman, representing him, told the court it was not until he had launched judicial review proceedings that HMP Wymott agreed to give him personal access to the compliance line.

Black argued that left him vulnerable to being singled out and targeted, and it fell short of his request that all prisoners should have access. Ms Rahman said staff could also be among those reported for unauthorised smoking, and the prison officer who had told Black he was getting access to the line had referred to it as "the grass line". It was accepted by all sides that about 80% of prisoners smoke, she said.

Ms Rahman added it was Mr Black's case, corroborated by three other prisoners, that prison staff "appeared to turn a blind eye" and failed to enforce the smoking ban outside designated rooms. Mr Black had complained of being frequently exposed to second-hand smoke in areas where smoking was prohibited, especially on landings, in laundry rooms and in healthcare waiting rooms. Asking the court to dismiss the case, Jonathan Hall QC argued that refusing general access to the confidentiality line did not conflict with prison rules or violate the European Convention on Human Rights. Prisoners were already allowed confidential access to certain lines, including the Samaritans, but there was a risk that allowing more access could lead to possible abuse, he said. "The line has to be drawn somewhere in

35. Neither can the Commission identify any prospect of Mr Grant's sentence being reduced.

The CCRC's Decision

36. On the information available, the CCRC has decided not to refer this conviction or sentence to the Court of Appeal because: * there is no real possibility that the conviction would be overturned if referred; and * there is no real possibility that the sentence would be reduced if referred.

37. Mr Grant has been offered the opportunity to make further submissions in response to this decision. Any further information or submissions must reach the CCRC by 17 November 2011. If no further submissions are received before 17 November 2011 this decision will become final.

38. This statement sets out the CCRC's reasons in accordance with section 14(6) of the Act. This decision has been made by a Commissioner and is sighed by the Commissioner on behalf of the CCRC.

Annex Disclosure.by the CCRC

1. The CCRC has a legal duty to disclose any material that it has obtained during its review which would help the applicant to make his/her best case for a reference to the Court of Appeal. The material may be sent to the applicant in its original form, or as an extract or it may be summarised in the Statement of Reasons.

2. The CCRC may, in its discretion, provide other material where it considers it appropriate.

3. In this case, the CCRC has not sent Mr Grant any material other than the Statement of Reasons. This is because the information relied on by the CCRC in its consideration of the case is adequately summarised in the Statement of Reasons or in material already available to Mr Grant.

Points I asked to be Considered When Reviewing my Case. Norman Grant

1. The JCB was searched and "examined 12/01/2010 at Murdock Road, we need the search logs we have been asking for these logs since 2010, and no answer they kept saying there was no search logs for the JCB

2. FSI Brooks statement brooks in the unused bundle. This statement 14/04/2010 337 and 19/05/2010 340

3. Mr Grant Fredericks evidence was never produced at trial, because I only knew about him after I was sentenced, it's quite clear if I knew about him before I would have used him

4. Why would you need to visit the JCB again when in the first statement it clearly states you searched the JCB and your results were negative, now you're saying that you did not make a thorough examination

5. On the second visit to the JCB 19/01/10 Mr Ian Wilkes said that the key's for the JCB were in the side of the cab the drivers' side and he didn't see no Balaclava,

6. Barry Charles Robinson said that the Balaclava was in the middle of the JCB towards the opposite side i.e. Passenger side? This was on the 19/01/2010 but Mr Richard Crane said that has soon has you open the door the balaclava was on the floor you couldn't miss, and reckons the keys for the JCB was already inside the cab. Wilks pick the keys from down the right hand side of the JCB on the 19/01/2010 just before Crane came to pick up the JCB he would have seen the balaclava, Robinson said they got the keys from Jacksons to open the JCB, Crane said the keys were already inside the JCB, Barry Robinson said that the keys were in the office, which is right someone is not speaking the truth. All this was mentioned at trial if you look at the transcripts but not in their first statements made on 19/01/2010 15/02/2011 Robinson 13/02/2010, Robinson made his statement 26 days after Crane "considering that it was both of them that found the balaclava on the 19/01/2010.

7. This leaves something to think about. No witnesses have ever described a person wearing a balaclava with camouflage, neither at the cemetery or Murdock road or in the bank you can see from the images that they were all wearing dark masks.

8. Why would someone wear a balaclava in the JCB to take it off to blend in and run off and put another mask on? All the evidence suggests a plant.

9. Items of hardware taken from my flat cycle mask and du-rag what also has 2 holes on them you can buy these in any shops in England plus basket ball players wear these du-rags how many things am I wearing balaclava cycle mask, du-rag, white cream hat, and saying that my DNA was found in the JCB on a balaclava that doesn't make sense.

10. Who was at the cemetery by chance waiting for the JCB arrival with its balaclava now on Board? No other than Morgan and Simpson and D.S Perkins, but no statement from Ds Perkins and Simpson to say they witnessed the findings very unusual.

11. The balaclava was planted. Exclude the balaclava evidence - what is my crime, being in an area that I grew up in my mother lives 10 yards from the bank, the next road to Murdock Road, my daughter lives 10 yards from the cemetery. Plus other family and friends in the immediate and surrounding areas, I am in that area every day, I have no exclusion order to enter Handsworth, I have the right as a citizen that does not make me a gang member, the cell site evidence if correct places me in the area this is not unusual I am always in that area, that is where I train as well.

12. The balaclava in question that was found in the JCB had 3 different traces of DNA 1/3 equal to 33.3% the other 66.6% is contributed to others than me therefore the majority of the DNA belongs to someone else, if I am the minority of that DNA how can it be said that there is no shadow of a doubt that it's mine, three types of DNA no one else whose DNA was a factor was ever arrested why? This evidence should have been thrown out.

13. Why would someone wear white/cream head covering, plus balaclava and I have long dreadlocks well down pass my knees.

14. Cell sites! Seven calls were made from inside the UAE Xchange Bank, The CCTV images cannot be wrong, no CCTV captured of anyone using a phone in the bank, this was a deliberate attempt to mislead the Jury and altered deliberately to incriminate the accused.

15. Two other hairs found in the Balaclava have not been tested why is this?

16. Back in 2010 the prosecution told my barrister then that they only had 4 photo's of the JCB none with the "interior" only the "exterior" but then in Late " September 2010 we started seeing interior of the JCB and in the trial in Jan 2011 this is when I started to see Enhanced photo's appear.

17. Every car and vehicle on the scene were forensically examined apart from the JCB, this would be the first thing the crime scene investigator would have sealed off and searched with a fine toothcomb for evidence. Without the JCB these people could not have done the robbery. Something to really think about.

18. Another aspect of this case is money which Codrington said that I posted through her letter box, this was a lie it turned out to have a criminal from Manchester named Skelly fingerprints on the money was this person ever questioned or arrested? Not to my knowledge.

19. Six people entered that JCB and the "seventh found the "Balaclava" Crane who found it says it was right in front of me on the floor over a week later this is nonsense, the balaclava appeared from nowhere after all those looked and no one else saw it.

20. We need the minutes from this meeting, why is it not listed in the "Actions! 13/01/2010 a forensic strategy meeting took place between DI Tyndale, John Webber, West Midlands police forensic submissions officer - Rogers, DC 551 Maher we have requested these min-

life, which were considered by the ECtHR in Marper. Parliament's response to the finding against the UK in that case was to legislate to tighten up the use of DNA collected from a person by passing the Protection of Freedoms Act 2012. As Lord Dyson suggested, it undermine the logic of that statute to assume that Parliament meant to restrict how the police use DNA collected from a person (i.e. under Part V of PACE) but not DNA collected from a premises (i.e. under Part II of PACE). It is encouraging that the police and the Home Secretary considered themselves bound by Marper and the Strasbourg Court's interpretation of Article 8 here, although one can see from the local authority's submissions that the case could have gone the other way.
Amy Woolfson, UK Human Rights Blog

No More 'Early Release' for Child Rapists and Terrorists *Ministry of Justice*

Child rapists and terrorists will no longer be automatically released half-way through their sentence, as part of a range of tough new laws that have received Royal Assent on Thursday 12th February 2014. The measures in the Criminal Justice and Courts Act will mean these serious criminals can only be released before the end of their prison term under strict conditions at the discretion of the independent Parole Board. Offenders will have to show they no longer pose a threat to the public. Under previous laws, these serious offenders would have been released at the half-way point of their sentence, regardless of whether or not they had taken steps to change their behaviour. In addition, the maximum sentence for three terrorist offences – weapons training for terrorist purposes, other training for terrorism and making or possessing of explosives - will be increased to a life sentence by the Act. Terrorists convicted of a second very serious offence could face the "two strikes" automatic life sentence.

The Act contains a number of other changes to toughen sentencing, including stopping offenders who receive an Extended Determinate Sentence from being automatically released two-thirds of the way into their prison term – they will also need to be assessed by the independent Parole Board, meaning many of them could spend significantly more time in prison.

Justice Secretary Chris Grayling said: "It is not right that people who commit such disgraceful crimes against this country have been able to walk out of prison half-way through their sentence without having to show they are no longer a danger to the public. This is why we are ensuring that child rapists and terrorists spend longer behind bars, and they know being released early is not an automatic right. Our tough reforms will better protect victims and the public, while ensuring that serious offenders are properly punished." These changes are expected to affect up to 500 offenders a year. The new laws will come into force in the coming months. The Act will introduce a package of laws that deliver firm but fair sentencing and criminal justice reforms. Reforms in the Act include:

The maximum penalty for prisoners who fail to return from a period of temporary release will be increased from six months to two years in prison. Creating a new offence of remaining unlawfully at large following a recall from licence. The new offence will punish those who deliberately, and wilfully, seek to avoid serving the rest of their sentence in custody and carries a maximum penalty of two years' imprisonment. Changing the law so that anyone who kills a police or prison officer in the course of their duty faces spending the rest of their life behind bars. Banning cautions for criminals convicted of serious offences and, for less serious offences, stopping repeat cautions for anyone who commits the same or similar offence more than once in a two-year period. Serious offenders will instead face being brought before the courts where they could face a prison sentence. A new criminal offence of revenge porn has been created, meaning that those who share private, sexual images of someone without consent and with the intent to cause distress will now face up to two

the Court of Appeal. Andrew Arthur of Fisher Meredith acted as solicitor throughout the claim.

DNA sample Taken for Criminal Purposes may not be Used for Paternity Test

X's wife had been found murdered. The police took DNA from the crime scene. Some of the DNA belonged to X's wife and some was found to be X's. X was tried and convicted of his wife's murder. X's wife had young children and they were taken into the care of the local authority. During the care proceedings X asserted that he was the biological father of the children and said he wanted to have contact with them. He refused to take a DNA test to prove his alleged paternity. The local authority asked the police to make the DNA from the crime scene available so that it could be used in a paternity test. The police, with the support of the Home Secretary, refused on the grounds that they did not believe that it would be lawful to do so.

There are two ways in which the police can lawfully collect and use DNA. Part V of the Police and Criminal Evidence Act 1985 (as amended) gives the police authority to collect and use samples from a person, and Part II of PACE gives the police authority to collect and use samples from premises. In S and Marper v UK (2009) 48 EHRR 50the European Court of Human Rights held that Part V of PACE (as amended) did not adequately protect the right to respect for privacy and family life under Article 8 of the European Convention of Human Rights. As a consequence, parliament enacted the Protection of Freedoms Act 2012, which restricts the use of DNA collected under Part V of PACE. Crucially, the POFA provides that DNA collected from a person may not be used for a purpose unconnected with criminal investigations. Part II of PACE was not mentioned in Marper and the POFA did not amend its wording. The Local Authority argued that the construction of Part II of PACE therefore allowed DNA collected from premises to be used for purposes unconnected with criminal investigations – such as, in this case, for a paternity test.

Decision: The Court of Appeal rejected the local authority's argument. Lord Dyson pointed out that DNA collected from premises under Part II was generally only of use if it could be linked to a person – and therefore it was as sensitive as DNA collected under Part V. It would be arbitrary and irrational to read the legislation in such a way that suggested that Parliament wanted such sensitive material to be treated in different ways depending on how it was collected. Instead, the Court should bear in mind that Parliament passed the Protection of Freedoms Act 2012 in order to remove the incompatibility between English law and the Article 8 ECHR. Consequently, Part II of PACE should be read as meaning that DNA collected from premises must not be used for purposes unconnected with criminal investigations.

Lord Dyson went on to say that if there was any doubt about how he had interpreted Part II of PACE, it should be noted that s.3 of the Human Rights Act 1998 requires primary legislation to be read and given effect in a way which is compatible with Convention rights. As the collection and retention of a person's DNA clearly engages the right to a private life under Article 8, and Marper established that using DNA collected from a person (i.e. under Part V of PACE) for purposes unconnected with criminal investigations was incompatible with Convention rights, so it followed that using DNA collected from premises (i.e. under Part II of PACE) for purposes unconnected with criminal investigations would also be incompatible with Convention rights. Consequently, the Human Rights Act also requires Part II of PACE to be read and given effect as restricting the use of DNA to purposes connected with criminal investigations.

Comment: At first blush, it might seem obvious that the local authority should be able to use DNA collected by the police in this way. In the circumstances, how else are they going to be able to resolve the question of whether X is the children's father? But this engages important principles of human rights law and specifically the right to respect for private and family

utes to no avail this is very important to my case in order to see what was discussed.

21. Everyone keeps on saying that they didn't enter the JCB cab physically, someone must have turned off the JCB, someone must have entered, Hanchett said that he did not enter the JCB he leaned inside and moved a leaver on the steering column upwards to disable the beeping sound. When the police was giving evidence they said the interior light to the JCB was not working, when my barrister and solicitor went to view it the lights were working. Another witness Howell says the JCB door stayed wide opened. My barrister and solicitor stopped me from viewing the JCB at the time as they said it would involve armed police and the jury would draw inference.

22. Another person Latimer also admitted to the crime to his drugs counsellor but this was never acted upon. I would like someone to go and view that JCB to see if there is anyway a balaclava can be hidden and missed by 6 people.

23. It took DC Brooks 11 months to write a third statement in Nov 2010, saying the engine was running for hours and hours, this is nonsense they would have to turn off the engine, plus all these statements were made in Nov Hobbs P.469 said that the keys were in the ignition of the JCB and he had to start it in order to drive it on to the recovery truck, this person was on the scene 12/01/2010 but makes is statement in Nov 2010 very strange.

DC Lee Dawson committed perjury by saying the JCB was moved from Murdock Road to Jackson's Garage at 9pm on the 12/01/2010 however DC Wilson says the JCB was not moved till after 1:00pm in the morning on the 13/01/2010

24. Forensic recovery was detrimental at this stage F.S.I could recover fingerprints, on levers, steering wheel, key fag ends, clothing, swabs from saliva sweat, fibres on seat, as described in photo's the cab was wet and damp the snow, footprints would have easily been visible and clear to re trace, at the very beginning of the enquiry no witnesses said offenders were wearing gloves for the FSI to erase himself

25. From taking fingerprints Hanchett was wearing latex gloves when he said he leaned inside to move the leaver to disable the bleeping sound he was aware of forensic recovery.

26. Claire says in image 41 she can above the shadow from the chair adjustment there is a woollen item that is khaki green in colour it has white /cream colour and a dark blue/black colour on it. 19/11/2010 DC Maher handed her the original photo's FB1F she then took image 41 and confirm the above item, plus she drew a sketch plan showing where the item was recovered after she visited Mr Crane at his home, from the sketch she drew no way could you miss the balaclava on the 12/01/2010.

27. Summary prepared by Dc Maher regarding the examination of the JCB in situ on Murdock road this means they did search the JCB on the 12/01/2010 that examination was top secret and had to be censored so that we could not read any of it. You can see this blanked out document and make up your own minds if the vehicle was searched or not.

28. I was never shown any pictures in my interview of any JCB with a balaclava in situ and neither was my lawyers I had a solicitor called Robert Charles who I managed to track down I have his details and where he can be found to help me move forward with this miscarriage of justice. If we are going to fully investigate this case we ought to through and complete in every way and look at this case with an unbiased and non judgemental way. Once we get that forensic strategy meeting we will be in a better place we have been denied this on every occasion.

29. The other suspects full forensic reports including a list of all the clothing items that were sent for forensic analysis, and the police reports to accompany these items, and what item attributed to whom.

31. My lawyers were incompetent from the beginning including Mr Maurice Andrews who took over my case from my initial legal team he did not follow my instructions, gather the

necessary information and present it.

• He failed to follow my verbal instructions, they failed to acquire recorded interviews from the CPS to verify witness statements and check for alterations

• He failed to get possession of the original photographs from the CPS especially the photo in question image 41 where police officer Clair O'Donnell gave a description of the balaclava depicted in that photo.

• He also failed to get from the CPS the master disc Ash files which would authenticate the photo's (See Grant Fredericks report)

• He also failed miserably to obtain expert witness analysis report due to not having the vision to see the importance of getting all of the above materials to present to the expert analysis Mr Grant Fredericks which would enable him to assess the facts on which a decision is to be based and compile a report for the court, my verbal instructions to Mr andrews was not to proceed until he had all the facts.

• My case is very serious a life sentence is imposed upon me, by way of evidence that would support my case to the appeal courts. In spite of the facts Mr Andrews still went ahead and presented my case with no new evidence and no substance, my verbal instructions to Mr Andews were to authenticate the photographs by comparing disc/Ash files, we have no way to verify the photographs hence I would be at a disadvantage he wasted my time legal aid and the courts time.

• Mr Andrews himself agreed that if our request to the CPS were not met that would be an abuse of process and it would be a fruitless exercise he did not inform me that he had none of the aforementioned materials that I had instructed him to get.

• The caution rules you have the right to remain silence and not go into the witness box if you not so wish, I was instructed not to take the stand there is nothing illegal about that it's within the law that is my right.

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

Prison and Probation Ombudsman - 'No Worthwhile Outcome'

Last year I wrote to the Prisons and Probation Ombudsman on a number of occasions. All they seem to do is quote paragraph fifteen of the Ombudsman's terms of reference which allows them not to investigate complaints which they think will have 'No Worthwhile Outcome' or do not raise substantial issues.

This paragraph is being used to ease the ombudsman's workload as they are understaffed and have a back log of cases awaiting investigation. They are however, always going to have a backlog if they if they continue having recourse to this particular loophole.

Prisoners are going to keep complaining about the same unresolved issues. My last letter from them informed me that my complaint of not receiving a full weekly kit change at HMP Belmarsh as I am now held in a different establishment, would have 'No Worthwhile Outcome'. However, the problem still exists and will continue to do so until the ombudsman starts acting like a proper investigative body. If the ombudsman's office has quoted paragraph fifteen to you write back and ask them to reconsider.

One Law For Them

On January 31st 2015 former police officer Anthony Long appeared at Southwark Crown charged with the murder of Azelle Rodney who was shot six times in 2005. Long, who is due to stand trial on the eighth of June 2015 was given unconditional bail.

If this was anyone else they would have been remanded in custody. Is it because he is "one of their own" that the Crown Prosecution Service or the Judge, have let Mr Long roam the streets. While I was on remand in HMP Belmarsh I was denied bail on all occasions because of "the seriousness of the charges"(section 18) and because the victim was a police officer.

Another shocking thing about his case is that it was eight years before an inquiry ruled that Azelle Rodney's death was unlawful and over ten years before anyone was brought to trial. Furthermore, if Long is convicted, I very much doubt that his sentence will be anywhere near the starting point for murder with a firearm which is thirty years. If it were the other way round and it was Joe Blow found guilty and sentenced he would be headed for HMP Belmarsh High Security Unit looking at a whole life sentence but, as they say, one rule for them, another for everyone else. *Ross Macpherson A6791AD HMP Swaleside*

Prosecuting Authorities Liable for Delay in Criminal Investigations

The Court of Appeal has, handed down judgment in Zenati v Commissioner of Police of the Metropolis and another [2015] EWCA Civ 80. The issue in Zenati was whether prosecuting authorities, including the police and the CPS, owe a duty of "special diligence" when investigating a criminal offence, where a suspect is in custody, pursuant to article 5 of the European Convention on Human Rights. It has long been established that prosecuting authorities owe no such duty at common law.

The Master of the Rolls held that it is implicit in article 5(1)(c) and article 5(3) that investigating / prosecuting authorities are required to bring the relevant facts to the attention of the court as soon as possible, where they cease to have a reasonable suspicion that the detained person committed the offence in question (paragraph 20). If delay on the part of the investigating / prosecuting authorities causes a court to fail to conduct proceedings with special diligence, then those who are responsible for the delay will be responsible for the breach of article 5(3) (paragraph 43). If the investigating authorities fail to bring to the attention of the court material information of which the court should be made aware when reviewing a detention, this may have the effect of causing a decision by the court to refuse bail to be in breach of article 5(3) (paragraph 44). Lord Justice Lewison (at paragraph 58) and Lord Justice McCombe (at paragraph 60) agreed.

Sofian Zenati was arrested and remanded in custody for possession of a false passport on 10 December 2010. The police and CPS took limited steps to investigate whether the passport was genuine until mid January 2011. Although the police became aware that the passport was genuine on 19 January 2011, the police did not tell the CPS about this until 4 February 2011, after a plea and case management hearing on the same day at which bail had not been addressed. The Central London County Court struck out his article 5 and false imprisonment claims. The Court of Appeal held that it was arguable that the police had breached article 5(1)(c) between 19 January 2011 and 9 February 2011, when bail was finally granted (paragraph 21). It was also arguable that the police and the CPS had conducted the investigation in a dilatory fashion, causing Mr Zenati to be held in custody for an unreasonably long time. There was therefore an arguable breach of article 5(3) by the police and the CPS between 10 December 2010 and 4 February 2011 (paragraphs 47-48). The Court of Appeal refused an application for permission to appeal to the Supreme Court made by the police and the CPS.

Following the judgment of the Supreme Court in Michael, this judgment of the Court of Appeal again demonstrates the fundamental importance of the Human Rights Act 1998 to victims of failures by the police and prosecuting authorities. The Court of Appeal struck out a common law false imprisonment claim, but article 5 stepped in to fill the gap.

Jude Bunting acted on behalf of Mr Zenati at all levels, along with Hugh Southey QC in