tion, the majority of complaints to my office come from adult male prisoners. However, the number we receive from women's prisons, young offender institutions and secure training centres is even lower than would be expected from their proportions in the prison population. The aim of this research was to find out why these groups are under-represented in the complaints we receive and to identify any learning. This is not an exercise intended to drum up more business. Instead, it is intended to ensure that the low levels of complaints from these groups are for legitimate reasons and not because of inappropriate barriers to accessing our services."

Burglar Who Sued Prison For Back Injuries Caught Carrying Stolen Widescreen TV

Ryan Hough sued a prison claiming he was disabled by falling from his bunk bed was caught carrying a widescreen television from the scene of a break-in. But a judge ruled HMP Manchester still had to pay Ryan Hough nearly £3,000 in compensation for the fall - along with court and legal costs of nearly £30,000. Hough, 36, of Moston, Manchester, claimed he was so badly injured by the accident in his cell that he could no longer manage light exercise such as playing pool or table tennis. However, following his release, police caught him as he stole the TV and computer equipment from a family in Moston whose home had been damaged in a fire. Hough pursued his claim for compensation against the prison, saying a drink and drug cocktail meant he "would not have been able to feel a thing" at the time of the burglary.

At a Manchester Civil Justice Centre hearing, a judge ruled that Hough had recovered from injuries suffered in the fall by the time of the burglary. The judge also ruled that Hough failed to mention to a doctor examining him for the lawsuit that he had suffered a number of other disabling injuries to his back, shoulder and hip years before the fall because he did not want to "contaminate" his compensation bid. Despite this, Hough still won £2,750 in damages after the judge ruled that he had the "continuing effect" of a scar on his head from the fall. This means HMP Manchester, which has successfully defended a string of false compensation claims in recent months, was left with a £29,272 bill for Hough's court costs.

Manchester Civil Justice Centre heard that Hough's upper bunk had no guard rail on it and that he fell and hurt his back and shoulder in an early-hours fall in a prison cell in September 2012. Manchester Prison accepted liability for the claim in the aftermath - only finding out Hough was fit enough for "strenuous" activity months later when he prised boarding from the property he burgled before stealing the TV. But Mr Recorder Hunter rejected the prison's attempt to withdraw the acceptance of liability on the day of trial, ruling it was not a case where "there is no evidence that the accident actually occurred". Hough wiped away tears as the figure he was to get in compensation was confirmed. "I'm not making it up," he said. "I'm the one who suffered the pain." *- Source: Telegraph*

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, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland,

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

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CPS Guidelines and the Pinocchio Effect *Chris Saltrese, Justice Gap*

The trial had all the hallmarks of 'grooming' – a gang of adults luring a vulnerable young girl into sex, drugs, prostitution and trafficking. But six weeks after it began, the juggernaut case ground to a halt. In an unusual move, Judge James O'Mahoney ruled that the complainant's evidence was too unreliable to be put to the jury. While she was undoubtedly a vulnerable witness with an unhappy life history, he said her evidence was replete with lies and contradictions as against the known facts. The seven defendants, Roma Slovaks, as was the complainant, walked free.

The newspaper report stated that the judge criticised the investigation 'the police had asked leading questions, had failed to consider the girl's "tendency to confabulate", had failed to challenge inconsistencies in her evidence and had failed to restrict the number and length of interviews with the teenager'. 'He said there had been a serious lack of neutrality during police interviews with officers telling the girl, "I know you have told the truth", and "I think it's awful what you've gone through".'

With such manifest flaws, it might be asked how the multimillion pound case got past the Crown Prosecution Service. But the answer is simple, it was in line with their guidelines. For when interviewing complainants, investigators are led to expect that - They may give inconsistent and contradictory accounts; - They may need to be repeatedly interviewed giving piecemeal accounts, sometimes saving the worst until last; - The fact of inconsistency and contradiction may be symptom of abuse and confirmatory supporting evidence; and The complainants are victims. The danger of confabulation in such circumstances is not recognised at all. Yet it is a fundamental risk, not just in this case but in all grooming and historic cases where 'case building' relies heavily on a progressive narrative by complainants, and where there is a presumption of victimhood.

In multi-complainant cases the risk is greater because not only are potential complainants allowed to be told about what others are claiming, leading to the possibility of cross-contamination, but there is a greater likelihood of the case being decided by the jury where the lurid similarity of claims may prompt a jury to convict on dubious grounds. For the fact is that the term 'vulnerable' when applied to witnesses who have a history of difficult and wayward behaviour, or as GMC police chief Sir Peter Fahy termed it 'putting themselves at risk', does not only mean they are open to sexual exploitation, but can also mean they are open to suggestion by their saviours – the police, social workers and allied multiagency services.

While it is undoubtedly true that these cases are tricky to investigate, and that serious crimes may have been committed, the CPS guidelines are in fact a rehash of the notorious 'child sexual abuse accommodation syndrome' which fuelled the 'satanic abuse' daycare cases such as McMartin and a host of miscarriages of justice. Such 'counterintuitive' theories, while popular within the sexual abuse industry, have no empirical basis and when used as an investigative tool may massively inflate claims, building a phantom shared narrative. It may then become very difficult to distinguish the real from the imagined with genuine offences becoming submerged within fantasy, or even overlooked.

However, the most imminent danger is that of miscarriages of justice. For not only are the CPS guidelines a template for investigation and prosecution, but judges may now direct the jury to similar effect. Under the rubric of 'myth busting' in the Crown Court specimen direction benchbook, juries

can be told that (at pp361-2) inconsistencies may be a result of trauma caused by the offence, and may discount them in coming to a verdict. These directions have been upheld by the Court of Appeal. Not only is this presumptive, since in order for the jury to consider the evidence in this way, they have to decide that the offence was committed, but it undermines the standard of proof.

Where a case depends substantially on oral testimony, the only way a jury can be sure of guilt is by examining the cogency and consistency of testimony. Of course there will be cases where the defendant's evidence is poor and that can support the prosecution, but in many cases all that may be possible for the defendant to give is a flat denial, with nothing other than the complainant's evidence to rely on. If a complainant's evidence is seriously inconsistent, then the only fair and rational verdict is to acquit. Of course it does not mean that a complainant is necessarily lying or mistaken about the offence, but insofar as the burden of proof is on the prosecution and the standard of proof is to be sure of guilt, then acquittal is the only safe conclusion.

With the police and CPS falling over themselves in conducting mass investigations into CSE, and other historic inquiries, Judge O'Mahoney's intervention is as timely as it is exceptional. While there are still judges who believe in the principle of the ascendancy of cogency and consistency in evidence, it has been discarded by the CPS in this field, and compromised by the Judicial Studies Board. The safeguards to the integrity of justice in England and Wales have not only been eroded, but are hanging by a thread.

Juveniles Amongst 12 Prisoners Executed Overnight in Pakistan

The mass execution of 12 people in Pakistan 17/03/15 highlights the horrific consequences of the government's decision to resume executions for all death row prisoners, Amnesty International said. The 12 men were hanged in prisons across the country this morning and had been convicted of crimes including "terrorism" and murder. Since a moratorium on executions was lifted in December 2014, Pakistan has put 39 people to death. Amongst those executed was Muhammad Afzal, who was 16 years old when he was sentenced to death. Last week, Pakistan's government confirmed a change in its policy on the death penalty by announcing that executions would resume for all capital crimes, not just for prisoners convicted on "terrorism"-related offenses. Today's hangings sadly show the horrific consequences of the government's decision to resume executions to include all death row prisoners. With thousands of people on death row and most having exhausted their appeals process, the number of lives at risk is staggering," *David Griffiths, Amnesty International*

Roy Smith and Stuart Layden - Convictions for Murder Quashed

[Ian Church, 40, had been drinking with a group of friends when he was set upon outside the Bricklayers Arms in Great Yarmouth in the early hours of 5 May 2012, he suffered head injuries and died in hospital on 7 May 2012. Roy Smith, Stuart Layden, and Kelly Taylor were convicted of murder in April 2013 at Norwich Crown Court.]

1.The appellants, Roy Smith, Kelly Taylor and Stuart Layden, were convicted at Norwich Crown Court on 11 April 2013 of the murder of Ian Church. Taylor and Layden were acquitted of assaulting Peter Blake causing him actual bodily harm. These appeals are brought with leave of the full court. Each of the three appellants advances a common ground of appeal namely that the judge should have acceded to submissions that there was no case to answer in respect of the murder count. The judge rejected that submission, which also encompassed the assault count. Layden advances a second ground, namely that the judge's summing up on the identification issue that arose in his case was inadequate.

bying southern Irish political parties to pass a Nordic-style law outlawing the purchase of sex.

"This case hopefully will put a big dent in the campaign to bring in this law across the border in the Republic. There is a massive propaganda campaign to claim that north and south in Ireland sex workers are women who are trafficked into the country. This is total nonsense. In 2014 there wasn't a single arrest in connection with sex trafficking in Northern Ireland. The majority of sex workers like myself are independent and 70% are single mothers trying to earn a living in these hard times. No one has the right to take that option away from them," she said.

In October the Stormont assembly voted by 81 votes to 10 which in article 6 of Morrow's anti-trafficking bill banned payment for sex. Morrow defended his bill and criticised any move via the courts to overturn the legislation. "If Europe or any other court did this they would be ignoring the will of the people and the overwhelming majority of those in the Northern Ireland Assembly," he said. The justice minister, David Ford, has already warned that the Police Service of Northern Ireland may not be able to convict men contacting prostitutes for sex because intercept evidence from clients' mobile phones would be inadmissible in the courts.

Women/Young People In Custody Don't Trust Internal Complaints System

Women and young people in prison tend not to make formal complaints, as they mistrust the internal complaints system, said Nigel Newcomen, the Prisons and Probation Ombudsman (PPO). Today he published a thematic report on lessons to be learned from how women and young people resolve issues in prisons, young offender institutions (YOIs) and secure training centres (STCs). The report, Learning from PPO Investigations: why do women and young people not make formal complaints? sets out the findings of a project carried out to establish whether groups under-represented in the PPO caseload are sufficiently able to access the service the PPO provides. Focus groups were held in STCs, YOIs and women's prisons to understand how participants dealt with problems or complaints. We invited 14 establishments to take part, of those, 13 accepted. The project included female prisoners and children and young people aged 15-21 years old. from six young offender institutions (YOIs), four female prisons and two secure training centres (STCs).

The project found that: - there was a widespread mistrust of the internal complaints system and a belief that formal complaints were a waste of time, as they would not be dealt with or would be tampered with by staff; - very few women and young people had made a complaint to the PPO and while some had made a complaint to the prison, very few had appealed against the decision or used the second stage of the process; - many had made verbal complaints or dealt with the issue on their own; - some had taken their problem to the Independent Monitoring Board (IMB) or Barnardo's advocates; and - some had good support from prison staff and were able to turn to them when problems arose and were therefore less likely to need the PPO.

The PPO is taking on board the findings of the study and is already making efforts to provide more information about how to make an eligible complaint and to counter fear of reprisals. Other lessons that need to be learned are: - custodial staff should deal with problems when they arise, to ensure a quick and efficient resolution that avoids the need for a complaint; - the Prison Service should redesign the prison complaint forms to make the process clearer; - all prison staff should understand the internal complaint system and at what stage complaints can be sent to the PPO; and advocate services should promote their role in helping young people from YOIs and STCs with complaints.

Nigel Newcomen said: "As would be expected from the make-up of the prison popula-

There are safeguards to the application of CPR 54.12.7, though: The adoption of this approach does contain within it two important safeguards. First, no judge will certify an application as TWM unless he is confident after careful consideration that the case truly is bound to fail. He or she will no doubt have in mind the seriousness of the issue and the consequences of his decision in the particular case. Secondly, the claimant still has access to a judge of the Court of Appeal who, with even greater experience and seniority, will approach the application independently and with the same care. To my mind, these safeguards are sufficient. CPR 54.12.7 so applied does not detract from the vital constitutional importance of the judicial review jurisdiction. Moreover, it is consistent with the overriding objective of the CPR.

Safeguards are not as full as one might initially, think, however. On an appeal to the Court of Appeal (CoA) against a "totally without merit" certificate case, the CoA is limited to considering the case on the papers only, without any right to request the normal oral renewal at the CoA. See CPR 52.15.1A and 52.15A for appeals from the High Court and Upper Tribunal respectively. Nevertheless, there have been instances where the CoA has intervened. Worryingly, some "totally without merit" certificates are being wrongly applied by judges of the Upper Tribunal.

Sex Worker to Launch Legal Challenge Against NI Prostitution Ban *Henry McDonald*

Dublin-born law graduate Laura Lee is launching an unprecedented legal challenge that could go all the way to Strasbourg, against a human trafficking bill which includes banning the payment for sex among consenting adults. The region is the only part of the UK where people can be convicted of paying for sex. The law, which was championed by Democratic Unionist peer and Stormont assembly member Lord Morrow, comes into effect on 1 June.

Lee told the Guardian she will launch her case at the high court in Belfast in the same month as the law comes into effect. Lee, 37, said: "I am doing this because I believe that when two consenting adults have sex behind closed doors and if money changes hands then that is none of the state's business. The law they have introduced has nothing to do with people being trafficked but simply on their, the DUP's, moral abhorrence of paid sex. "I believe that after June 1st, sex workers' lives in Northern Ireland will actually be harder and the industry will be pushed underground." Lee, who lives in Edinburgh but travels to Belfast and Dublin to see clients, said her legal team would be referencing several articles of the European convention on human rights to challenge and overturn Morrow's law.

"First of all we will need to exhaust domestic remedies starting in the Belfast high court, possibly going to the supreme court, the House of Lords and eventually the European court of human rights. There are several articles that we can look starting with article 8 that governs the right to privacy. We will also focus on article 2 that concerns the right to life and we will argue that this law puts sex workers' safety by the fact the legislation will drive the trade further and further underground. And then article 3 is about protection from degrading treatment, which is very relevant because in Scotland police have been subjecting sex workers to terrible things such as strip searching on women working in Edinburgh saunas. Our legal team will also refer to the right to earn a living enshrined in the European social charter."

Lee said she will fund the case partly via crowd funding on social media networks and from sex worker campaign groups across the world. Lee, an Irish psychology graduate whose range of services include S&M and bondage, said she was also taking the legal challenge to thwart an attempt to introduce a similar law criminalising the consumers of sex in the Irish Republic. An alliance of radical feminist groups and a number of nuns from Catholic religious orders are lob-

2. There were five defendants on the indictment. The other two were Todd Esherwood and Tony Smith. Both were convicted of the murder of Ian Church. Esherwood sought leave to appeal against conviction and sentence and Tony Smith sought leave to appeal against sentence only. Their applications for leave were refused on paper and not renewed.

Facts and Evidence in Outline

3.The appellants had spent the evening of 4 May 2012 drinking in a snooker club in Great Yarmouth and elsewhere before ending up at the Bricklayers Arms. Roy Smith, Kelly Taylor, and Tony Smith are siblings. The Bricklayers Arms has a late licence and so was open into the early hours of 5 May. There was extensive evidence that all in the group of which they were part had been drinking during the evening. Prior to the events which led to Ian Church's death there had been two other incidents of violence involving members of the group, although none of these three appellants had been involved. Ian Church and Peter Blake had also been drinking. After midnight in the Bricklayers Arms Peter Blake had an encounter with Esherwood in which Peter Blake was assaulted. This was reflected in a separate count on the indictment on which Esherwood was convicted. After this incident, Peter Blake left the public house but then returned about half an hour later with Ian Church. They came armed with a baton and machete respectively. On their arrival at the Bricklayers Arms Peter Blake smashed its windows. The prosecution case was that the five defendants, together with others, erupted onto the street. The total number of people involved was estimated by various witnesses at 10 or 15.

4. The count alleging actual bodily harm against Taylor, Layden and Tony Smith related to the prosecution case that they chased Mr Blake away from the Bricklayers Arms and attacked him. Ian Church had remained close to the Bricklayers Arms. The prosecution case was that he was then set upon by the group, which included Taylor, Roy Smith and Layden. Each took an active part. This was prosecuted as a joint enterprise collective attack upon Ian Church during which he was beaten and kicked repeatedly. He sustained severe head injuries from which he died two days later, not having regained consciousness. None of the defendants remained at the scene to await the arrival of the police.

Were there cases to answer?

20. At the end of the prosecution case submissions were made on behalf of all three appellants that it was unsafe to leave their cases to the jury. All relied upon the second limb of Galbraith [1981] 1 WLR 1039. The well known passage from the judgment of Lord Lane CJ reads: "(1) If there is no evidence that the crime alleged has been committed by the defendant there is no difficulty - the judge will stop the case. (2) The difficulty arises where there is some evidence but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence. (a) Where the judge concludes that the prosecution evidence, take at its highest, is such that a jury properly directed could not properly convict on it, it is his duty, on a submission being made, to stop the case. (b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence on which the jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury" (per Lord Lane C.J. at p. 127)

33. Whilst the appellants Taylor and Layden argue that no jury could have convicted on the evidence as it was at the end of the prosecution case, we conclude that the highest at which the argument could realistically be put was that this was a borderline case of the sort referred to by Lord Lane in Galbraith. The decision was for the judge and will not be disturbed unless

it was one to which, on the evidence available, he could not reasonably have come. In Taylor's case there was unequivocal evidence that she had taken part in the attacks upon both victims, based upon a description from a witness standing nearby who knew her well. In Layden's case the evidence identifying him as being involved in the attack on Peter Blake and then Ian Church was less strong. Although he accepted he came out of the Bricklayers Arms at the outset and set off after Peter Blake, he denied any violence. Shelley Wright did not know him in the same way as she knew Taylor and there was the contradiction regarding his headgear. But the additional evidence to which we have referred supported the prosecution case. We do not overlook the context of these events, namely that the group had been drinking over the course of a long evening and that this was the fourth occasion on which violence had broken out. We have mentioned two others but there was a third about which the prosecution called evidence in support of its case that the group as a whole was behaving in a threatening and increasingly violent way as the evening wore on.

35. We are unpersuaded that the judge's conclusion was wrong. Both Taylor and Layden had cases to answer. We shall return to the question whether the judge summed up appropriately on the identification issue in Layden's case.

Identification relating to Layden and the Summing Up

43. The judge did not regard this as an identification case so far as Layden was concerned and thus did not give a Turnbull direction relating to Shelley Wright's identification of his involvement.

46. Mr Potts submits that at no point in the summing up did the judge engage on the task required by Turnbull in an identification case of explaining to the jury the particular features of Shelley Wright's recognition evidence, in particular the few occasions on which we she had previously seen him, that she did not know him, had not spoken to him and her fixing upon the cap as the feature she associated with the conduct of the man she was describing. He submits that to give a Turnbull direction for Roy Smith but not for Layden was likely to have given the jury a false sense of security in relying upon Shelley Wright's identification of him as being involved in the violence. Finally, he submits that to characterise her error regarding the cap which Layden was wearing as not being of great significance was to minimise a central problem with her evidence. If the man she described as engaging in unlawful activity was wearing a white or cream Burberry baseball cap, that man was not Layden.

47. In our judgment there is substance in these submissions. The attack on Shelley Wright's evidence of identification of Layden as being involved in the unlawful attack was more than a minor identification problem of the sort considered by this court in Oakwell 66 Cr.App.R CA and Curry and Keeble [1985] Crim. L.R. 737, which might relieve the trial judge of the need for a detailed consideration of Turnbull issues.

48. In the general warning about the recognition evidence, the judge did not deal with the relatively tenuous nature of Shelley Wright's previous knowledge of Layden (see paragraph [14] above) nor remind the jury that she had given evidence that it was the cream cap that she fixed upon. The first of these points is expressly referred to in Turnbull and the second was a particular weakness of the evidence of the sort which Turnbull envisaged must be drawn to the jury's attention. In respect of Shelley Wright's evidence of recognition there was no warning of the sort suggested in Turnbull about the special need for caution, the reasons for it or that a mistaken witness can be a convincing one. The jury was not reminded that even in a recognition case mistakes are sometimes made. We agree that these shortcomings were exacerbated by the clear contrast with the caution the jury was directed to apply to the

We have brought a number of successful Judicial Reviews against the unlawful s.47 Immigration, Asylum and Nationality Act 2006 decisions to remove our clients to Afghanistan. The period of detention pending their removal is therefore also unlawful, and we will be issuing false imprisonment claims against the Home Office for this. The idea is that, by challenging unlawful actions, we may one day be able to encourage a change in the relationship between the state institutions and this social group. We can use our legal expertise to not only ensure justice for the individual but to challenge the institutional antagonisms that fuel increasing counterproductive security measures and further conflict prone binary thinking; “us” Brits vs. “them” immigrants, in the hope of encouraging instead, a relationship based on individual understanding and empathy.

Meaning of 'Totally Without Merit' *Colin Yeo, Freemovement*

Normally, where an application for judicial review is made the first stage is for a judge to consider the grounds for judicial review and the acknowledgement of service and summary grounds of defence, then decide without holding a hearing whether permission should be granted. Lawyers commonly refer to this decision as being “on the papers” because there is no oral hearing. If permission is refused “on the papers”, as often occurs even in cases that ultimately go on to succeed, it is normally possible to apply for an oral renewal, also called a reconsideration. This involves submitting short reasons why permission should be granted despite the refusal on the papers and the court or tribunal will then list the case for a short oral hearing.

Not always, though. The Civil Procedure Rules (CPR) were amended so that when a judge refuses an application on the papers, the judge may also certify the case as being “totally without merit”, which has the effect of preventing the applicant from applying for an oral hearing. CPR 54.12.7 provides: 'Where the court refuses permission to proceed and records the fact that the application is totally without merit in accordance with rule 23.12, the claimant may not request that decision to be reconsidered at a hearing.' - The Upper Tribunal rules include an equivalent provision at rule 30(4A): - 'Where the Upper Tribunal refuses permission to bring immigration judicial review proceedings [or refuses to admit a late application for permission to bring such proceedings] and considers the application to be totally without merit, it shall record that fact in its decision notice and, in those circumstances, the applicant may not request the decision to be reconsidered at a hearing.'

In the case of R (Application Of Grace) v SSHD [2014] EWCA Civ 1091 the Court of Appeal considered the meaning of “totally without merit”. Zane Malik for the claimant argued that: ” … finding of TWM should not be made unless the claim is so hopeless or misconceived that a civil restraint order would be justified if such applications were persistently made.” Maurice Kay LJ rejects this approach, instead holding that “totally without merit” means “bound to fail”:

CPR 54.12.7. It is not simply the prevention of repetitive applications or the control of abusive or vexatious litigants. It is to confront the fact, for such it is, that the exponential growth in judicial review applications in recent years has given rise to a significant number of hopeless applications which cause trouble to public authorities, who have to acknowledge service and file written grounds of resistance prior to the first judicial consideration of the application, and place an unjustified burden on the resources of the Administrative Court and the Upper Tribunal. Hopeless cases are not always, or even usually, the playthings of the serially vexatious. In my judgment, it would defeat the purpose of CPR 54.12.7 if TWM were to be given the limited reach for which Mr Malik contends. It would not produce the benefits to public authorities, the Administrative Court or its other users which it was intended to produce. I have no doubt that in this context TWM means no more and no less than “bound to fail”.

entrants. However, the law deems anyone a criminal, and therefore illegal, for "knowingly entering the UK…without leave" (s.24(1)(a) Immigration Act 1971) or using a false passport (s.3 Forgery & Counterfeiting Act 1981) as examples. In most cases, asylum seekers who have fled their own country enter without leave, and without documentation. Whilst there are some allowances for asylum seekers who can show good cause for this "criminal" behaviour (under s.31 Immigration and Asylum Act 1999), the Home Office still adopts an unreasonable, rigid application of policy that criminalises asylum seekers, and justifies ongoing periods of detention and increasing removal rates without necessarily considering a nuanced narrative of these individuals, that takes into consideration the complexity of their experiences.

For example, as a victim of serious torture and sexual violence, a client of ours (who has requested to remain anonymous) fled Sierra Leone. He was refused asylum and removed on two occasions. Local officials then sent him back to the UK, after he managed to convince them he was not from Sierra Leone. Due to the serious trauma he had suffered in his home country, he was diagnosed with chronic Post-Traumatic Stress Disorder, psychopathology anxiety, agro-phobia and depression. Due to his unwillingness to be returned (for the third time), he did not actively co-operate with UK officials in obtaining an emergency travel document from the High Commission of Sierra Leone for his return. He was therefore deemed to have committed a criminal offence under s.35 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, despite his genuine fear or return that presented a reasonable excuse for his behaviour. He was charged with this crime. This "criminal" behaviour was used as a reason for the Secretary of State to serve a Deportation Order and maintain detention pending his "imminent" removal.

Two and a-half years later he was released. We issued a Judicial Review application against the Secretary of State for his unlawful detention which is deemed by medical professionals to have worsened his already serious mental health problems - as an indicator, in our Judicial Review we are seeking damages that amount to £110,000 for the almost irreversible trauma it has caused him. This hyper-securitised response and punitive application of policy that labelled him a criminal failing to consider his individual reasoning, served to wrongly justify the maintenance of an unlawful detention.

The criminalising treatment of asylum seekers is further reflected in the hostile attitude of detention staff and the humiliating way in which people are detained. They are, essentially, ambushed when going to sign at Immigration Enforcement Units - required so as not to be charged with another criminal offence; absconding. They are then effectively imprisoned. The architectural infrastructure of detention centres resembles prison, immigration removal centres, like Dover, are actually run by Her Majesty's Prison Service; I have heard asylum seekers referred to as "prisoners" by Detention Centre staff. Furthermore, allegations of violence and racism by staff are widespread. The welfare of those detained is also of serious concern. The medical department in detention seems to fail to adequately assess and treat mental illness, including the failure to pick up on suicide attempts, and there is a tendency of making unfounded presumptions of a fitness to fly. "Why do I deserve this?" becomes a hard question to answer.

With technical legal expertise, we can draw attention to, question and challenge this hostile application of policy, in cases where the Secretary of State's actions are no longer lawful. For example, we have successfully challenged a series of unlawful removal decisions taken by the Secretary of State in attempt to return our clients to Afghanistan. Following the case of Secretary of State for the Home Department v Javad Ahmadi [2013] EWCA Civ 512 the Secretary of State has not "followed the rules" when in haste, they issue a refusal to vary leave to remain alongside a decision to remove the claimant.

identification evidence in Roy Smith's case; and the reference to the colour of the cap as not being of great significance, when it was central to the argument about the weakness of Shelley Wright's evidence that Layden was involved in the violence, rather than just being there.

49. Lord Widgery made clear that a failure to follow the Turnbull guidelines would be likely to result in the conviction being quashed. We are satisfied that Layden's conviction is unsafe and must be quashed.

Conclusion: There was a case for Taylor to answer. Her appeal against conviction will be dismissed. The case of Roy Smith should not have been left to the jury. His appeal against conviction will be allowed and his conviction quashed. There was a case for Layden to answer but his appeal against conviction will be allowed for the reasons we have given. We will hear from the relevant parties in writing on the question of a retrial in his case.

http://www.bailii.org/ew/cases/EWCA/Crim/2015/431.html

Compassionate Temporary Release

1] This is an application for leave which I heard yesterday 18/03/15 and I said I would give my reasons today. The applicant's grounds of challenge in this case originally encompassed two aspects. First, the alleged failure of the prison governor to respond timeously following the applicant's application for 'Compassionate Temporary Release' (CTR). Secondly, the substantive decision to refuse CTR. The second limb of the challenge to the substantive decision was not pursued.

[2] So far as the first limb is concerned it is to be observed that the funeral which triggered the request for CTR has already taken place some time ago. In my view the matter is now academic and I have not been persuaded that there is any good reason in the public interest which would justify hearing this academic claim.

[3] There are a large number of CTR applications which not infrequently come before the judicial review court on an urgent basis. The volume of such applications and the fact that they come on for hearing at short notice underlines the necessity for the adoption of proper procedures to enable decisions being taken in a proper, timeous and lawful manner. In Kane's Application (Leave Stage) 2014 NIQB 118 Sephens, J observed:

- "[10] Before I leave this case, I would repeat what I said in relation to previous applications. The first is that there are a number of these applications being brought. They are always brought at the last moment. That is because there needs to be a decision making procedure by the prison service and that takes time. Inevitably if the funeral arrangements are not planned to allow the prison service sufficient time then the judicial review application has to be brought on an emergency basis. The method of taking the pressure of time off is to make sure that the funeral is planned to take place at a time that will enable the prison service to make its decision and if necessary or appropriate for it to be challenged. I would encourage some structure being put in place to ensure that the prison service calculate how much time they require and they inform applicants immediately that the funeral should be planned to coincide with that time scale so that one does not have emergency judicial review application being brought, as here, the day before the funeral takes place.

- [11] The second matter that I would repeat is to again encourage the prison service to anticipate that they may have to deal with similar judicial review applications at short notice and under pressure of time. That they should prepare now by gathering together a bundle of the decided cases, any relevant authorities and have a skeleton argument which could be adapted for use in any future case. I have suggested that the skeleton deals with the margin of appreciation to the prison service under article 8 ECHR and also the circumstances in which mandamus might be issued as opposed to quashing the decision and requiring a different governor to reconsider."

[4] Rule 65(1) of the Prisoner and Young Offenders' Centre Rules (NI) 1995 ("the Rules") requires that "special attention shall be paid to the maintenance of relationships between a prisoner and his family". Rule 65(2) provides that "prisoners shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside prison as may, in the opinion of the governor, best promote the interests of his family and his own social rehabilitation". In addition to these provisions rule 74 imposes a mandatory obligation on the governor to consider the prisoner's requests (such as applications for CTR) and provide a response "as soon as possible".

[5] It is incumbent on governors to have proper systems and procedures in place so that decisions on CTR are communicated as soon as possible to prisoners and, if so requested, their solicitors. Proper, lawful and efficient communication of decisions, especially those in which a challenge can be expected, is self-evidently of fundamental importance. Systems and procedures should be kept under review to ensure that best practice in this area is developed and maintained. Since I have come to the clear view that this particular application is academic I dismiss the application for leave.

Alleged Cucumber Thief - Vindicated @ ECtHR

The applicant, Vitaliy Kulik, is a Ukrainian national who was born in 1977 and lives in the village of Budy, Kharkiv Region (Ukraine). Mr Kulik was arrested in 2003 on suspicion of stealing cucumbers and of disobeying and resisting police officers. According to the Government, he was taken to the police station and released the same day, while Mr Kulik alleged that he had been beaten by the police and forced to confess to the theft and only released on the next day. A doctor who saw him on the day of his release noted bruising, concussion and a possible fractured nose; Mr Kulik was later admitted to hospital for treatment for these injuries.

A few months later, Mr Kulik requested the prosecution of the police officers allegedly involved in ill-treating him whilst in detention. This request was initially refused, but the prosecutor eventually agreed to open criminal proceedings. Subsequently the investigation was repeatedly suspended, with the investigators claiming that there was either no evidence of a crime having been committed or that they were unable to identify the perpetrators. The investigation was still pending in 2012. In 2009 the local prosecutor informed Mr Kulik that disciplinary proceedings were underway against the investigators for inadequate investigation. In 2005 criminal proceedings in the cucumber theft case were dropped due to lack of proof that any crime had been committed.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the Convention, Mr Kulik complained in particular that he had been ill-treated by police officers and that there had been no effective investigation into what happened. Violation of Article 3 (investigation) / Violation of Article 3 (inhuman and degrading treatment) / Violation of Article 13 / Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

Claimant's Duty of Candour and Disclosure in Judicial Review Proceedings

The Claimant is subject to a continuing duty to make a full and frank disclosure when making a claim for Judicial Review. This duty is broad and the Court will put faith in the Claimant to inform the Court of all material facts known to them. This duty is not confined to the material facts: it extends to all relevant matters, whether of fact or of law. The importance of complying with the duty cannot be overstated, given the potential consequences to any interim order made, in relation to costs and, indeed, to the whole proceedings and to the practitioners themselves. This duty gives rise to a weighty responsibility, as articulated by McCloskey J recently in R (on the application of Bilal Mahmood) v. SSHD [2014] UKUT 00439 (IAC).

Gambaccini, who forfeited more than £200,000 in lost earnings and legal costs, said he felt he was being treated like "human flypaper" during his lengthy spell under suspicion. Police launched the investigation after an allegation in April 2013, only dropping it in September for lack of evidence. It was reopened after a second individual came forward and Gambaccini was arrested in October 2013 by Operation Yewtree officers probing historic abuse allegations. He was initially bailed until January 2014 and re-bailed six times until last October when he was told no further action would be taken. At one point he only discovered through the media that he was being re-bailed. Gambaccini told the committee he believed the dates of his re-bailing were chosen to coincide with announcements about other Yewtree investigations. Keith Vaz, the committee chairman, said the Crown Prosecution Service should apologise to Gambaccini and to others who had experienced similar ordeals.

The MPs said an initial 28-day limit should be imposed on the length of police bail and decisions to extend it should be monitored by senior officers and the courts. Warning of the "level of public distrust that has built up over the informal relationship between the police and the media", they also urged that police adopt a "zero tolerance" approach to revealing suspects' names to the journalists. The committee said: "The recent coverage of a police search of Sir Cliff Richard's home has shown again the impact one leak can have." Mr Vaz said: "The police only need to have reasonable suspicion to arrest someone. It is unacceptable that, even with little evidence, people can be kept on bail for months and then suddenly be told that no further action will be taken against them without providing any information as to why."

Theresa May, the Home Secretary, has backed the principle of an initial 28-day limit, arguing that it "cannot be right that people can spend months or even years on pre-charge bail with no oversight", and has ordered a Home Office review into the issue. But the Association of Chief Police Officers warned that a cap would be "unhelpful and expensive". It said some cases could not be rushed because they involve computers, forensics, CCTV, interpreters and medical evidence. Nearly a million people are arrested in England and Wales a year, of whom 300,000 are bailed. About 2 per cent of suspects are on bail for more than six months. There is no limit on the length of time a person can be bailed or the number of times they can be re-bailed. Nor can a suspect challenge the imposition of police bail.

Home Office Obsession With Detaining Asylum Seekers *Tamara Smillie, Duncan Lewis*

Since the late 1980s, as the overall number of asylum-seekers has risen* the U.K has responded with an increasingly restrictive policy of deterrence. A series of policies beginning in 1993 started the uncomfortable trade off between the UK's duty to accommodate refugees under the 1951 Geneva Conventions and the need to manage migration.

The then Secretary of State, Kenneth Baker, stated; "I believe that the rapid rejection of a large number of unfounded claims…will play a major part in deterring further abuse of the process...". The asylum process could then be made more stringent, with restrictions placed on the right to claim asylum so as to catch out the 'abusers.' The introduction of Fast Track procedures; the limits on the rights of appeal; the cuts to legal aid are all examples. With this shift in policy, an institutionalised culture of mistrust and hostility has emerged. In many cases it translates into a rigid and punitive application of policy, criminalising and stigmatising asylum seekers with serious consequences for very vulnerable individuals.

Secretary of State Theresa May's recent comments in a drive to push her new immigration bill unashamedly admit to the intention of creating a "hostile environment" for illegal

CPS Barristers 'Lack Presence, Self-Confidence and Flair' *Sarah Cassidy*

A report by inspectors has warned that too many Crown Prosecution Service (CPS) barristers lack "presence, self-confidence and flair" in Crown Court trials. The CPS Inspectorate found that barristers working for the service in England and Wales were often in danger of "losing" the jury because of the way they presented cases. The report found that some advocates "encountered difficulties in relation to law and procedure, which appeared to derive from a lack of confidence; advocates knew what they wanted to achieve, but were not clear how to achieve it". They had difficulty with opening and closing speeches, cross-examination and examination-in-chief. The report noted instances of CPS barristers letting the witnesses "run away" with their version of events and warned that cross examinations could be particularly unstructured.

The assessors saw examples of an advocate failing to put the prosecution's case, allowing the defendant too much leeway to reiterate the defence case, and being unaware of how to introduce a "no comment interview" in evidence. Standards of CPS barristers had taken a "step backwards" over the past three years, the report concluded. Comparing the results to earlier evaluations in 2009 and 2012, it said: "Many lessons had not been learnt. The gap in ability between crown advocates and counsel from the Bar had widened since the first review and the difference in quality between the two was noticeable in a greater number of cases than in 2009." Of the 486 assessments undertaken by the CPS nationally of Crown Advocates during 2010-11, 13 advocates (2.7 per cent) required improvement. Of the 185 assessments undertaken during 2013-14, 12 advocates (6.5 per cent) required improvement and one of these was graded as poor. This indicates some deterioration in quality, the report concluded.

The Chief Inspector Michael Fuller said the review took place against "a significant background of change" for the CPS with budget cuts and a reduction in the number of CPS advocates. The Government's Comprehensive Spending Review in 2010 had required the CPS to reduce spending by 25 per cent by the end of 2014-15. This has resulted in a reduction in the workforce and office closures, all of which impact on the ability to deliver advocacy services which were "truly value for money", the report concluded. But Mr Fuller, a former Chief Constable of Kent who was the UK's first ethnic minority officer to obtain that rank, also warned that a reliance on outside barristers to present cases posed a "real threat to in-house prosecutors' courtroom skills".

The CPS argued that conviction rates had been maintained. The report was based on the CPS's own monitoring of the weakest barristers and did not reflect the true picture. "We dispute criticism of the quality of CPS advocates and are disappointed that this finding has been made when the Inspectorate undertook no observations of advocates in action," he said. The report's findings are based on our own assessment of advocates, which is specifically targeted at those that we believe need it most. It is, therefore, an inaccurate picture of the overall quality of our advocates."

Police Should Hide Identity of Suspects in Sex Crimes *Nigel Morris, Indpendent*

The identity of sex-crime suspects, should remain secret until they are charged, a parliamentary committee will recommend today. The radio presenter Paul Gambaccini has spoken of enduring a "year from hell" while police investigated accusations of historical sex offences, claiming he was "left out to dry" on police bail much longer than was necessary. He has won powerful support from MPs on the Commons home affairs select committee, who warned that the reputation of people released on police bail while serious allegations are investigated can suffer irreparable damage. The committee also denounced the police tactic of repeatedly arresting and bailing suspects in the hope that the publicity prompts witnesses to come forward.

The Claimant's duty is not debased by the Defendant's own bilateral duty of candour to make full and frank disclosure of material relevant to the decision under challenge. Judicial Review has been described as 'a process which falls to be conducted with all the cards face upwards on the table and [where] the vast majority of the cards will start in the [public] authority's hands' (per Sir John Donaldson in R v Lancashire County Council, ex parte Huddleson [1986] 2 All ER 941). The Treasury Solicitor's Department has its own practical guidance addressed to departments and litigation case handlers intended to help them to discharge their duty as a public servant to assist the court with full and accurate explanations of all the facts relevant to the issue the court must decide (see 'Guidance on Discharging the Duty of Candour and Disclosure in Judicial Review Proceedings', January 2010, which was issued in response to Al-Sweady judgments ([2009]EWHC 1687 (Admin) and [2009] EWHC 2387 (Admin)), in which the Court found that the Secretary of State "consistently and repeatedly failed to comply with [his disclosure obligations").

This cardinal principle is often neglected as a result of modern reforms under which Judicial Review claims now proceed on an inter partes basis, as opposed to ex parte. A further factor which contributes to this hallowed duty being overlooked is the fact that, in the context of applications for judicial review, disclosure by list in accordance with the provisions of CPR Part 31 is not usually required unless the Court orders otherwise (see PD 54A paragraph 12.1). The obligation of candour is one of the reasons why the rules as to standard disclosure do not apply to applications for judicial review as a matter of course. The very nature of the judicial review enquiry, which, characteristically, raise an issue of law, the facts being common ground or relevant only to show how the issue arises, is also another reason why Judicial Review has been excluded from the CPR disclosure regime. Nonetheless, Claimant's duty of full and frank disclosure does not stop when proceedings are instituted and it continues to apply with full vigour at all stages of the Judicial Review proceedings.

This duty of candour is all the more important when making applications for interim injunctions (see R (MS) V Secretary of State for the Home Department [2010] EWHC 2400 (Admin)) for the importance of disclosure in immigration removal injunction cases). Those who seek such a relief are under a duty to make the fullest and most candid and frank disclosure of all the relevant circumstances known to them. In immigration cases, this includes promptly eliciting and supplying the immigration history.

The key elements of the duty and compliance

a. The Claimant must show the utmost good faith and disclose its case fully and fairly. This forms part of "the general obligation on parties conducting judicial review proceedings to do so openly… with the cards face up" (R (Gillan) v Commissioner of Police of the Metropolis [2004] EWCA Civ 1067 para. 54).

b. The Claimant must put before the judge all relevant material and, in particular, any material which may be adverse, or may appear to be adverse. In R (I) v Secretary of State for the Home Department [2007] EWHC 3103 (Admin), Collin J observed that '…that means that [those who bring Judicial Review proceedings] must put before the judge all relevant material and in particular any material which may be adverse, or may appear to be adverse. They must not leave the situation that the Judge does not have the full picture in order to make the relevant decision…' This also includes a duty to cite adverse authority.

c. This is a continuing duty: '…if there are further documents which should be disclosed but which cannot be obtained by the time it is necessary to lodge the claim, they should still be obtained as soon as possible thereafter and sent to the court..' (R (MS) v Secretary of State for Home Department [2010] EWHC 2400 (Admin));

d. Claimants must update the court on any material change of circumstances (R (Tshikangu v Newham London Borough Council [2001] EWHC Admin 92 at para 23).

e. In certain judicial review cases in UTIAC, a comprehensive witness statement, addressing all material issues and attaching all available relevant documents, signed by the Applicant, will be required: '…the need for this will be dictated by a combination of the particular context, the Applicant's duty of candour to the Upper Tribunal, good practice and the overriding objective…' (R (on the application of Bilal Mahmood) v. Secretary of State for Home Department [2014] UKUT 00439 (IAC) para. 20);

f. In relation to proceedings before UTIAC, rule 28 (4)(g) of the Tribunal Procedure (Upper Tribunal) Rules 2008, there is a requirement to lay out the facts: this means all material facts.

Solicitor's duty: In R (on the application of Al Sweady and others) v The Secretary of State for Defence [2009] EWHC 2387 (Admin), the Court emphasised the Solicitor's duty in litigation to make sure that the client is fully aware of the duty to ensure that proper disclosure is given and the duty to go through the documents disclosed by the client to make sure, as far as possible, that no documents have been excluded. Drawing on Matthews and Malek on Disclosure, the Court of Appeal in Hedrich v Standard Bank London Ltd [2008] EWCA Civ 905 has provided a useful summary of the Solicitor's duty on disclosure. Although, this was in the context of banking litigation, where the CPR disclosure regime operated, this approach should be closely mirrored in Judicial Review applications in order the requirements of the duty of candour are met.

Failure to comply: The consequences of failure to comply with the duty of candour can be serious both to the proceedings and to the practitioners themselves. The Courts have recognised the deterrent effect of upholding and enforcing the duty of candour. In deciding what action to take, the Court may take into account the gravity of the breach, the excuse tendered, the severity and duration of any prejudice caused to the other party, whether the consequences of the breach were remediable/remedied and proportionality. The consequences of a failure to comply with the duty of candour/full and frank disclosure may include, but not limited to, the following:

a. A discharge of the interim relief order (see R (MS) v Secretary of State for the Home Department [2010] EWHC 2400 (Admin) where injunction restraining removal was discharged because of, inter alia, material non-disclosure in the original 'without notice' application);

b. A refusal to grant permission, whether or not there might be an arguable claim (per Collins J in R (I) Secretary of State for the Home Department [2007] EWHC 3103 (Admin));

c. A finding that there has been a misuse of Court process;

d. Adverse costs implications, which may extend to practitioners concerned:

i. Wasted costs order against the practitioners: See R v Secretary of State for the Home Office, ex p Shahina Begum [1995] COD 176, where wasted costs order was made against solicitor and barrister, for failure to put Treasury Solicitor's letter before the Court and refusal to send them the bundle, despite a request to do so;

ii. Claimant being required to pay the Defendant's costs on an indemnity basis;

iii. Claimant being refused costs of Judicial Review proceedings: See R v Liverpool City Council, ex p filla [1996] COD 24 where the Claimant was refused costs because of serious breach of duty of disclosure.

e. The convening of a Hamid hearing (see R (Hamid) v Secretary of State for the Home Department [2012] EWCH Civ 3070 (Admin)); and

f. The referral of practitioners to the appropriate professional body. - Given the above list of potential untoward consequences, the solemn nature of this duty cannot be overemphasised.

were agreed with both prison governors and the unions at the outset and they have done an excellent job during a period when the prison population has unpredictably risen.' This government will always have enough space for those sent to us by the courts. And we will continue to maintain the safety of the estate, including with tough new measures to crackdown on new synthetic drugs which are driving much of the increase in prisoner violence,' he concluded. The MoJ said it is aiming to recruit 1,700 new prison officers, and a new government package of reforms would save the taxpayer £300m from 2015/2016, adding the total number of hours worked in prisons had increased from 10.6 million to 14.2 million over the past four years.

Senior Investigating Officer - Financial Investigation

[Another excerpt from Blackstone's Senior Investigating Officers' Handbook. A must read for anyone anyone involved in Criminal Justice.] There are significant benefits from seeking financial information as an investigative strategy. This type of information can reveal details about a suspect or victim's lifestyle, financial profile and the identification and use of significant transactions. It can reveal suspects and witnesses from evidence of them making financial transactions or being present at significant times and locations. Financial information can be developed and analysed to establish patterns and trends, fill intelligence gaps and contribute to intelligence profiles.

The assistance of a Financial Investigator (FI) should be considered in all major investigations. Financial data may assist in giving an indication of motive, debt or even financial stress. No one can exist without leaving behind some kind of 'financial footprint', be it the victim, suspect or witness. This information can be used to identify: offences (including money laundering); / suspects, witnesses, victims, missing persons (and to locate); / association with others and/or links to places and premises; / information around a person's location and movements; / use of services such as phones, transport or other amenities and facilities; / motives; / lifestyles and habits.

Financial data may also have been created in one, two or all three areas of the Problem Analysis Triangle (see Chapter 2), ie victim, offender and location. For example, the creation of financial data by both the victim and offender at a certain location may be the evidence that links them together. Third parties who leave some financial data may also become useful witnesses. Financial data may indicate motive, such as personal gain. Valuable lines of enquiry can be developed by identifying a credit/debit card used to top up a mobile phone, or examining till receipts in retail premises, or use of ATMs (automatic telling machines) to see who was at or near a crime scene (as suspect or witness).

Searches of premises or vehicles should include checks for financial information that may help build a picture of a person's lifestyle or generate additional lines of enquiry (eg money suddenly going in or out of a bank account). There is a vast amount of information available in the financial world and investigators must have clear objectives when seeking it which are appropriate and beneficial to the enquiry. Vague and non-specific requests, such as 'obtain a financial profile', are not helpful.

Tournier Rules: Accredited Financial Investigators (AFI) under the Proceeds of Crime Act 2002 (POCA) are permitted to make pre-order enquiries to financial institutions under the Tournier Rules.18 These permit disclosure of information to law enforcement agencies that would otherwise be a breach of contract between the institution and their customers. Financial data may therefore be disclosed in the following circumstances: To protect the public. / To protect the institution's own interests. / Under compulsion by law. / With consent of the owner. This material is gathered by AFIs and is supplied for intelligence purposes only. If it is to be adduced into the evidential chain (including questioning during interview), a production order is required, hence the term 'pre-order enquiries'.

Grayling 'Complacent' Over Rise In Prison Suicides *Brooke Perriam, Justice Gap*

Chis Grayling was accused of 'downplaying publicly' the significance of the sharp increase in prison suicides over the last three years, according to the report of an influential committee of MPs. The Lord Chancellor had denied any link between prison staffing cuts and a sudden rise of suicides inside jails, but today – in a major report by the House of Commons' justice committee, MPs say it is impossible other than to conclude that cuts in staff have made a 'significant contribution to the deterioration in safety'. - 'The MoJ might be taking the matter of the sudden rise in self-inflicted deaths seriously internally, but downplaying publicly its significance, and the potential role that changes in prisons policy might be playing in it, is ill-advised as it could be construed as complacency and a lack of urgency.

The Ministry told us they had looked hard for evidence of factors which could be causing an increase in suicide rates, self-harm and levels of assault in prisons. Worryingly, they had not managed to arrive at any hypothesis as to why this has taken place. In our view it is not possible to avoid the conclusion that the confluence of estate modernisation and re-configuration, efficiency savings, staffing shortages, and changes in operational policy, including to the Incentives and Earned Privileges scheme, have made a significant contribution to the deterioration in safety.' Justice Committee

One of the main criticisms from MPs is what they described as a 'very real danger of unmanageable growth' in prison population, already at a record level. They say the population, now almost at a weighty 81,000, is one of the main reasons behind the deterioration in levels of safety, and rising numbers of complaints. 'Staffing levels and changes to the prison regime, including the IEP (Incentives and Earned Privileges) scheme, were causative factors in the decline in safety,' the report said, and although beyond the control of the Government, the attempts to tackle the problem made the situation worse. - 'The Government attributed operational issues and subsequent adverse outcomes to several other factors, including unexpected and extreme population pressures, increases in the use of legal highs, and a broader increase in suicide rates. We consider here the extent to which the situation can be attributed to prisons policies, or other factors beyond the Government's control.' Justice Committee

The key criticism, however, was the 28% reduction in staffing numbers in publicly run prisons since 2010. The report should be at the 'top of the tray' for the Justice Secretary, said Frances Crook of The Howard League for Penal Reform. 'Prisons that leave people to rot in their cells and exacerbate existing problems with mental health or addictions are no good to anybody. The report vindicates the long-held view of the Howard League that the safety and effectiveness of prisons is being compromised by the cut in staffing numbers and a failure to address the size of the prison population.' Frances Crook of The Howard League for Penal Reform

The MPs reckoned that a main cause behind reduced safety was the relationship between prison officers and prisoners. Their report came a day after The Howard League published a report on sex in prisons, which also examined the lreationshi between staff and prisoners – revealing officers 'turn a blind eye' to what was happening inside. 'It was difficult, if not impossible, for prison staff to determine whether a relationship between prisoners was consensual or coercive and the nature of the relationship could change over time.' Commission on Sex in Prison, The Howard League

The MoJ said reducing suicides in prison was high on the agenda but insisted there was no link between staffing levels and population to the number of self-inflicted deaths across the estate. 'Our modernisation programme has created an estate fit for purpose, and saved the taxpayer millions of pounds,' prison minister, Andrew Selous commented. 'Staffing levels

New Sentencing Measures to Take Effect Next Month

Criminal Justice and Courts Act 2015 takes effect on 13 April. The act contains a range of law changes, including increased prison terms for serious crimes such as certain terrorism offences and internet trolling. It has also changed the law so anyone who kills a police or prison officer in the line of duty faces spending the rest of their life behind bars. The act will also end the automatic release of those jailed for child rape and serious terrorism offences half-way through their prison sentence.

New offences coming into force include revenge pornography, causing serious injury by driving while disqualified, and remaining unlawfully at large following a recall from licence. The act also reduces the burden of the cost of courts on taxpayers by making criminals pay towards the cost of their court cases. It also brings in reforms that balance the judicial review system so justice is done but unmerited, costly and time-wasting applications no longer stifle progress.

Justice Secretary Chris Grayling said: "Crime has fallen, serious offenders are going to prison for longer and now we have changed the law to deliver tougher and swifter justice for victims and the public. As well as bringing in a range of vital new offences and other important legal changes our reforms are strengthening sentencing powers to provide better protection for our communities."

The act received Royal Assent on 12 February and commencement orders have now been made. Measures in the act coming into force include: - measures that ensure that all child rapists and terrorists serving custodial sentences will only be released before the end of their prison term if the independent Parole Board decides they no longer represent a risk to the public - 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 2 years in prison - 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 2-year period. Serious offenders will instead face being brought before the courts where they could face a prison sentence - making possession of extreme pornography that shows images depicting rape illegal - increasing the maximum penalty to 2 years in prison for online trolls who send abusive messages or material - four new criminal offences of juror misconduct. 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 - imposing a new fee at the point of conviction to make criminals contribute towards the costs of running the courts system - creating a new offence of causing serious injury by driving while disqualified, carrying a maximum penalty of 4 years in prison, and increasing the maximum prison sentence for causing death by disqualified driving to 10 years. We have also changed the law to make sure that driving bans are extended so they continue to apply after an offender has come out of prison - increasing the maximum penalty for prisoners who fail to return from a period of temporary release from 6 months to 2 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 2 years in prison - supporting economic growth through measures to speed up the Judicial Review process and reduce the number of meritless claims clogging the system - tackling insurance fraud by new measures that ban law firms from offering inducements, such as iPads or cash, to potential clients and courts will be required to dismiss personal injury cases entirely where the claimant has been found to be fundamentally dishonest, unless doing so would cause substantial injustice

CCRC Dismissed as Court of Appeal's 'Lap Dog' in Hard-Hitting Report *Jon Robins*

According to a source on the influential Justice Select Committee, MPs are concerned that the CCRC has become timid and fearful of criticism from judges. Some critics accused it of becoming the Court of Appeal's "lap dog". The report will criticise the test that the CCRC uses to judge whether an injustice case will be pursued. The test is for whether there is a "reasonable prospect" of a conviction being overturned.

Innocent victims of miscarriages of justice are "languishing in jail" due to delays and faults in the case review system, according to MPs behind a hard-hitting report. The Birmingham-based Criminal Cases Review Commission (CCRC) has been criticised for failing to investigate adequately cases of people wrongly or improperly convicted of crimes. The CCRC has been warned that it is failing to stand up to appeal court judges when seeking to overturn wrongful convictions. MPs heard evidence that despite Parliament's intention for the CCRC to be robustly independent of the legal system so that it could properly assess whether mistakes had been made, too often it proved "deferential and subservient" to the Court of Appeal. As a result it had become too "timid" in bringing injustice cases forward leaving innocent people to serve years behind bars.

Last year, Supreme Court Judge Lord Thomas called on the CCRC to no longer limit its inquiries to these types of cases, pointing out it was the "safety net" should there be any possibility a wrongful conviction had been made. Professor Jacqueline Hodgson, from the University of Warwick Law School, has suggested adding a "lurking doubt" test criterion. "Our concern is the reasonable prospect test," said one Justice Committee source. "The CCRC is applying this test too tightly – it's the wrong test. It needs to look at whether something has gone wrong, whether there is something wrong with the evidence. It's acting like another court." The report also expressed concern over the skills of case workers. "The way in which cases are handled seems to vary immensely," a source said. "The CCRC needs to be better trained and better resourced." MPs criticised the Ministry of Justice (MoJ) for cutting CCRC's funding, which they believe is financially counterproductive as it will heavily delay cases from being processed. The commission's budget has been slashed from £8.1m a decade ago to £5.1m today. The organisation had expereinced a 60 per cent increase in review applications during the same period.

Richard Foster, the chair of the CCRC, told MPs a lack of finance was the biggest inhibitor of the commission's workload. Mr Foster argued that for every £10 the CCRC spent 10 years ago, it had only £4 today. He said he was "quite certain" this was the biggest cut anywhere in the criminal justice system, but claimed that he only needed £1m from the MoJ to clear the backlog. "£1m is 0.1 per cent of the Ministry of Justice's £9bn budget, so it is a very small percentage. It is the same amount as one Tomahawk missile. I don't know how many Tomahawk missiles the Royal Navy has, but if they could manage with one fewer, we could clear our queues."

The CCRC insists only 1.2 per cent of Crown Court convictions result in requests for case reviews. Criminal appeal lawyers dismiss CCRC claims that this shows 98.8 per cent of convictions are safe, and argue that it is only the tip of a much bigger iceberg. The MPs will challenge the MoJ to find that £1m. "This is a very pressing matter – it either means that people are left languishing in prison or those who have been released still might have an unfair conviction hanging over them," said an MP. The average waiting time for assessments on cases referred to the CCRC is six to 18 months. The CCRC denied to MPs that they "lacked courage or forthrightness or did not dig deep enough". Mr Foster said: "We have an idealistic belief in our independence but that does not blind us to the legal hurdles we have to overcome. They were not set by us."

'Dad Never Stopped Trying to Clear his Name'

"We all knew Dad didn't do it but what happened to him broke up our family anyway. My mum was left single handedly to bring up the four of us," Steve Stock says. At 6.47pm on Saturday, 24 January 1970 a gang of robbers attacked supermarket staff as they took the weekly takings a short distance from Tesco's to the night safe at Lloyds bank around the corner in the Merrion shopping centre, Leeds. The store's manager and his colleague were bludgeoned around the head with iron coshes, £4,000 was snatched (enough to buy a house in 1970) and the robbers fled in a waiting getaway car. The police claimed Tony Stock was one of them. He always insisted the police lied. He said he was at his house in Stockton-on-Tees, celebrating his 30th birthday with his wife, Brenda and their four kids: Steve, who was just two years old; his two big sisters, Antoinette ("Twinnie"), five, Charlene, nine; and baby Anthony. Twinnie, Steve and Anthony still live around the corner from the house they grew up in. To this day, Twinnie recalls the party. When I asked how she felt about the book I was writing on her father's case, she told me thought it was a great idea. She said that she really wanted to know that he didn't do it.

"But you know your dad didn't do it. You were there," I pointed out. Even though I have memories of the day – singing happy birthday and celebrating – I was only five years old. It is a blurred memory," she says. People are cruel. Even though you tell them he didn't do it. You would hear the cynical remarks: 'They all say that.' It begins to chip away at you. It's years of people disbelieving you that wears you down. My father must have been a very strong character to continue his fight till he died." From day one, Tony was fighting the system and he never gave up," recalls Tony's older brother Alan, who visited him in prison every other week. He says Tony's imprisonment destroyed an entire family. In particular, he remembers the devastating impact of a 93-day hunger strike in Gartree prison.

"He lost so much weight he had to be fitted with a calliper to support one of his legs," Alan says. "He only called the strike off because he overheard prison wardens threatening to move him to the Isle of Wight which meant we couldn't see him. It didn't just wreck Tony's health, but the health of our mother, who couldn't cope." Mary Stock was heartbroken by what had happened to her second youngest child. She died of cancer soon after Tony Stock was released in 1976. "I didn't really know my dad when I was growing up," Steve says. "Life was hard for us growing up. Even now just the other day somebody came up to me and said: 'You're the bank robber's son, I remember you.' My mum was left to look after us all," Steve continues, "but life didn't move on for Dad. He never stopped trying to clear his name. And why should he? He was innocent." It's now over two years since our Dad died," Anthony adds. "We feel we can't scatter his ashes till he has justice. He spent 43 years of his life trying to clear his name. As a family, we're committed to carrying on his fight along with Uncle Alan. We know he didn't commit this crime he was imprisoned for. Anyone who takes a proper look at this case knows Dad didn't do it." The First Miscarriage of Justice: The 'Unreported and Amazing' Case of Tony Stock, by Jon Robins, published by Waterside Press

Drone Carrying Drugs and Weapons Crashes Into Prison in Smuggling Bid

A plot to smuggle drugs, mobile phones and weapons into a prison by flying them in on a drone failed after the operator crashed the remote-controlled aircraft into a jail wall. The device was spotted by guards at HMP Bedford after it crash landed into razor wire on top of the prison walls. Guards quickly removed the drone - a DJI Phantom 2, which costs up to £900 - and found a package attached containing class A drugs, a knife, screwdriver and mobile phones. The incident was revealed after the drone crash-landed at the 500-capacity category B prison on March 6.