why she is going to give evidence and how the system works: that is the job of the lawyers. But, at least ideally, the judge should make sure not merely that a witness is treated fairly and respectfully by the judge and others in court. This can be very difficult, as an advocate cross-examining a witness whose evidence is harmful to his client's case is bound to be challenging to that witness, and the judge has to be wary of unfairly interfering with the conduct of the advocate's case. Particularly in the heat of the moment, it is hard to assess whether a witness is being attacked unfairly or disrespectfully, rather than simply toughly. However, it is sometimes appropriate and fair for a judge to help a witness who does not appear to have understood her role or is (often unintentionally) being unfairly treated in cross-examination – or sometimes even in chief. A judge may often be well advised, particularly in such a case, to check that a witness understands or to ask her whether there are any questions or uncertainties.

25. And where the judge clearly has a very important role when it comes to understanding is when sentencing a defendant in a criminal case or when making an order whether in a criminal, civil or family case. It is essential that a person against whom a sentence or order is made has the sentence or order fully explained in plain and accessible language. It is highly desirable that it is spelled out by the Judge in open court, so that all involved, including the public, understand what has been decided. Before leaving the court, the person against whom an order or sentence is made has to know precisely what is to be done to them, precisely what they have to do, and when and why. This can be very difficult when the order or sentence is complex.

26. All this, of course, applies to magistrates, although their position is less ticklish during the trial as there is no jury. The relationship between judge and jury can be tricky because (i) the judge is addressing a group of twelve people, normally from disparate backgrounds, and (ii) the jury does not reply to the judge (save in an occasional written note), whereas it is of course perfectly acceptable and sometimes plainly sensible for the judge to have a dialogue with a witness.

27. Reference to juries and lay magistrates is a fitting topic on which to draw to a close, because what underlies the issues discussed in this little talk is the vital importance of the justice system, and in particular the criminal justice system, being understood and trusted by the public. There are two good ways of achieving this.

The first is to ensure that the system is openly and fairly run and properly explained to the public, which has been the focus of this talk.

The second is to ensure that the public actually take part in the administration of justice, which is an overriding benefit of the lay magistracy and the jury systems. And, before I sit down, I should like to say that the Criminal Justice Alliance with its commitment to promoting and assisting in the promotion of the sound administration of the criminal justice system deserves public recognition and public gratitude for the work it does to improve the run-

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.

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MOJUK: Newsletter 'Inside Out' No 526 (23/04/2015) - Cost £1

CCRC Refer Conviction of Idris Ali to Court of Appeal

Mr Ali, along with co-defendant Alan Charlton, pleaded not guilty but was convicted in February 1991 at Cardiff Crown Court, of the murder of Karen Price (see note 1 below). He was sentenced to life imprisonment with a tariff of 15 years. Mr Ali and Alan Charlton, appealed against their convictions. In November 1994 the Court of Appeal upheld Mr Charlton's conviction and quashed Mr Ali's conviction and ordered a retrial.

In December 1994, prior to the retrial, Mr Ali pleaded guilty to manslaughter. He was sentenced to six years' imprisonment; because of the time he had already served, he was released from prison at the end of those proceedings. Mr Ali did not appeal against his manslaughter conviction. In February 2014, the CCRC referred Alan Charlton's murder conviction to the Court of Appeal. The resulting appeal is now pending.

Following its referral of Mr Charlton's murder conviction, the Commission invited Mr Ali to make an application; he did so in March 2014. Having reviewed the case in detail, the Commission has decided to refer Mr Ali's conviction for manslaughter to the Court of Appeal. The case is referred primarily on the same basis that Mr Charlton's case was referred. Namely, that there is a real possibility the Court of Appeal will conclude that the conviction is unsafe because of the risk of the prosecution amounting to an abuse of process.

The Commission's referral is based in part on new evidence that a number of officers from South Wales Police who were involved in the Lynette White murder inquiry (the Cardiff Three case), and the Philip Saunders murder inquiry (the Cardiff Newsagent Three case) (see note 2 below), were also involved in Mr Ali's case and may have used investigative techniques similar to those used in the Lynette White and Philip Saunders cases and which contributed to the quashing of the convictions in those cases. The referral is also based on a range of other issues including: Breaches by officers in the case of the Police and Criminal Evidence Act 1984 (PACE) and of PACE Code of Practice C (regarding the detention, treatment and questioning of persons by police officers) The credibility of a number of prosecution witnesses Concerns about oppressive handling by the police of key witnesses which arguably mean that the trial amounted to an abuse of process The veracity of Mr Ali's guilty plea

Notes for editors: 1. Karen Price was 15 years old and living at a residential children's home in Cardiff at the time of her disappearance. She had last been seen on 2nd July 1981 when she had run away from the children's home. Her murder was assumed to have taken place shortly after her disappearance. Her skeletal remains were uncovered by workmen digging at the rear of 29 Fitzhammon Embankment, Cardiff, on 7th December 1989. The basement flat at that address had been occupied by Mr Charlton at the time of Karen Price's disappearance.

Note 2. Following a referral by the CCRC, the 1988 convictions of Michael O'Brien, Ellis Sherwood and Darren Hall (the Cardiff Newsagent Three) for the murder of Philip Saunders were quashed by the Court of Appeal in January 2000. The 1990 convictions of Yusef Abdullahi, Stephen Miller and Tony Paris (the Cardiff Three) for the murder of Lynette White were quashed by the Court of Appeal in 1992. Jeffrey Gafoor was jailed for the murder of Lynette White in 2003. Source: CCRC13/03/15

Erol Incedal Trial: Silence In Court - Guardian Editorial

The description Kafkaesque gets overused. But it seems apt when applied to events in the Old Bailey over the last year. There are echoes – some faint, some stronger – of Kafka's Trial, in which the accused, Josef K, finds himself in a legal nightmare. One of the most disturbing aspects of K's dilemma is that the proceedings are held in secret. A fundamental principle of English law since at least the 17th century is that cases should be held in public. Media Law, a standard work for journalists and lawyers, written by Geoffrey Robertson and Andrew Nicol, offers up a clear explanation of the rationale for this. "The most fundamental principle of justice is that it must be seen to be done," they say. But the case of Erol Incedal, a London law student, and his friend Mounir Rarmoul-Bouhadjar, completed on 1 April when the two were sentenced on terrorist-related charges, departs radically from English legal tradition. It has been one of the most secretive trials since the second world war, when cases against German spies were held in camera at the Old Bailey.

Initially, the crown sought to hear the present-day case in secret, but it was forced to back down after a media appeal. A messy compromise followed, with part of the case held in public, part before half-a-dozen journalists, and part in secret, although the jury was present throughout. Incedal was jailed for 42 months for possession of a five-page document on how to make a bomb, while Bouhadjar was sentenced to three years for possession of the same document. Incedal was acquitted of the more serious charge of plotting a terrorist attack in London.

Why was Incedal acquitted? We are not allowed to know. The evidence remains secret. Why does the evidence have to remain secret? We don't know that either. In a particularly Kafkaesque touch, journalists were permitted to hear some of the secret evidence but not report it. This evidence is deemed so sensitive that their notebooks have been removed from them and locked in secure storage at Thames House, the headquarters of MI5. It is hard to see the logic behind this. Reporters may no longer have their notebooks, but they cannot erase their memories. The journalists involved are banned from talking about the secret parts of the trial – to do so could mean putting themselves in contempt of court. Why all this secrecy? Is it to protect the lives of individuals involved in the case? In such circumstances, a partial gag would be understandable, though not this sweeping ban. Or is the secrecy to protect some operational details involving security? That too might be understandable. The court of appeal has referred to "the tensions between the principles of open justice and the needs of national security". What would be unacceptable would be if secrecy was in place to cover up something that is embarrassing to government.

It is not just the media that is being censored here. MPs have no access to the material either. Parliamentarians cannot reach any considered view about this trial when the heart of the case is being concealed from them. There is an open-justice system so that politicians and the public have a chance to scrutinise the behaviour of the courts. That requires journalists, acting as their eyes and ears, to be present and to be allowed to report. The open-justice principle is a part of our democracy. If prosecutors and courts are prepared to abandon it, then it is left to the media to restate its importance. The Guardian, the Times and the Mail, supported by Sky and the Press Association, are launching a legal challenge to the judge's refusal to lift reporting restrictions. It is important this succeeds, not just for this case but to avoid a precedent where secret trials become the norm. The open-justice system must not be dispensed with. In an ironic twist, the judge who presided over the trial and ruled that the restrictions should remain in place is Andrew Nicol, the co-author of Media Law. That book notes: "Trials derive their legitimacy from being conducted in public: the judge presides as a surrogate for the people, who are entitled to see and approve the power exercised on their behalf … No matter how fair, justice must still be seen before it can be said to have been done." We agree."

Lady Justice Rafferty, a very experienced criminal judge. In my view, at least, the most important educational function of the College is to teach what many people call judgecraft – i.e. educating judges and would-be judges not so much about substantive law or procedural law, but about the multifarious techniques which help make someone a good judge, and appear to be a good judge. The courses are targeted so as to focus on different areas of judging, and the criminal courses, which are run by another very experienced criminal judge, Mr Justice Openshaw, include topics which are very much within the scope of the concerns covered by the Lagratta and Bowen briefing.

20. More specifically, what should judges be doing? To answer that I shall revert to the four categories identified by Lagratta and Bowen. First, perceived neutrality. When it comes to issues which they have to decide, some judges do appear to have made up their minds early on – even at the beginning of the case. But in almost all (I would like to say all) cases, they have not done so: they are simply testing arguments put before them. And it is inevitable that, once a judge understands the issue, he or she will often have a preliminary view, but any judge worthy of the post who has formed a view can still be persuaded to change his or her mind. But judges should remember how it looks if they appear to have made up their minds and don't change.

21. More broadly, judges may not appear to be neutral because they will almost always be seen, normally rightly, to come from a more privileged sector of society, in both economic and educational terms, compared with the many of the parties, witnesses, jurors in court. It would be absurd to suggest that judges should be poorly educated or should pretend to be not what they are, but they should be sensitive about this aspect. And that is also true when it comes to gender and ethnic differences. Thus, a white male public school judge presiding in a trial of an unemployed traveller from Eastern Europe accused of assaulting or robbing a white female public school woman will, I hope, always been unbiased. However, he should always think to himself what his subconscious may be thinking or how it may be causing him to act; and he should always remember how things may look to the defendant, and indeed to the jury and to the public generally.

22. This is where neutrality shades into the second requirement, respect. Judges have to show, and have to be seen to show, respect to everybody equally, and that requires an understanding of different cultural and social habits. It is necessary to have some understanding as to how people from different cultural, social, religious or other backgrounds think and behave and how they expect others to behave. Well known examples include how some religions consider it inappropriate to take the oath, how some people consider it rude to look other people in the eye, how some women find it inappropriate to appear in public with their face uncovered, and how some people deem it inappropriate to confront others or to be confronted – for instance with an outright denial. More broadly, judges should be courteous and, generally, good-humoured; and, while they should be firm, they should never, however great the temptation, lose their temper.

23. Respect extends to ensuring that those with what in law is an indirect interest in the proceedings, most notably victims of crime, are properly recognised. And that, of course, is where respect extends to ensuring that those who wish to be heard are indeed heard. It is important that victims are not simply treated as witnesses, or members of the public, who just happen to be victims. It is essential that their plight and their concerns are understood.

24. And it is here that respect and the right to be heard shade into understanding. Because, more generally, a judge must ensure, as far as can be done, that those involved in a trial understand what is going on and why, and, perhaps even more, what is expected of them and why. It may be difficult for a judge to help a witness, whether a party or not, to understand

bad. And, as Emily Gold Lagratta and Phil Bowen say in their excellent report for the Criminal Justice Alliance, it is in the interest of the court system itself that all parties to proceedings really understand what is required of them before, during and after the trial: otherwise a lot of court time (and indeed lawyer time) is wasted, and that means an inefficient justice system which undermines the rule of law and increases the demands on the public purse

15. It is relatively easy to say that we must make all aspects of the courts and trial systems more accessible, more understandable, more user-friendly, and why we should do so. It is much more challenging to identify precisely what should be done. In that connection Lagratta and Bowen suggest that research has established that there are four essential ingredients to public confidence in the courts. First, that decisions are seen to be taken in a genuinely unbiased and neutral way; secondly, that everyone involved in the trial is treated with genuine respect; thirdly, that non-lawyers can understand how decisions are made, and understand what is required of them – whether as a defendant, a victim, a party, a witness or a juror; fourthly, that anyone with a legitimate wish to do so has had the opportunity to be heard. All these factors are important, and together they go make up the ingredients of court system which will command respect because it will be seen to be administering justice in a way which enjoys the confidence of citizens, of the British public.

16. This requires the documentation which tells people what they have to do, whether before or after a trial, to be as clear, as simple, and as untechnically expressed as possible. It requires the court staff, who will inevitably be heavily relied on for assistance, such as people manning the desks ahead of the trial, or the associates, clerks and ushers at the trial, to be pleasant, helpful, informed, informative and patient (although they cannot of course be expected to give legal advice). And it requires the lawyers acting for the parties to help people by explaining things clearly and informatively. And, of course, it requires the judges to play their part too – and a very important part it is. So, as a judge, let me turn to the role of judges.

17. Here, I must be careful not to be too prescriptive. That is for two reasons. The first reason is that it I have not been a trial judge for eleven years. Since 2004, I have only been hearing appeals, not listening to any oral evidence, just legal argument. So that means that my antennae are probably not as sensitive as they were to the concern of witnesses or other lay people involved in trials such as juries or victims, let alone magistrates, and I may be somewhat out of date with the latest thinking. Indeed, even when I was a trial judge, I only tried a limited number of criminal cases. But provided that you bear that caveat in mind when considering what I have to say, I may have something to offer – although I doubt that it is very original. The second reason for caution is that it is dangerous to be too prescriptive: what is appropriate in one case may not be appropriate in another, not least because we are talking about how to deal with particular people in particular circumstances.

18. I think half the battle is won once a judge genuinely and fully appreciates the problems faced by non-lawyers when they have a part to play in court. Once genuine awareness of the need to explain, to show respect, to listen, and to appear fair is part of the conscious judicial toolkit, most judges should be intelligent and savvy enough to make things a lot better than they otherwise would be. The big problem, as it is everywhere, is with unconscious bias. I dare say that we all suffer from a degree of unconscious bias, and it can occur in all sorts of manifestations. It is almost by definition an unknown unknown, and therefore extraordinarily difficult to get rid of, or even to allow for. But we must, as I have said, do our best in that connection as in every other.

19. In that connection, for some thirty years, England and Wales have had an impressive institution which prepares people to be judges, and provides continuing judicial education. It used to be called the Judicial Studies Board and it is now the Judicial College, currently and ably chaired by

Wealthy Judges Must Prevent Subconscious Bias Against Poor People

Britain's white and wealthy judges must be wary of their own subconscious bias against poor and foreign defendants in their courtrooms, the UK's most senior judge has said. Lord Neuberger, the president of the Supreme Court, also suggested that the UK's traditional trial process may not be the best way of getting to the truth as it can be so "artificial and intimidating" for witnesses, defendants and jurors. Warning that there was "a risk of the law being left behind in the very fast changing world of the early 21st century", he said the country's venerable trial system still led to potential "unfairnesses, misunderstandings and injustices". Addressing the role of British judges, Lord Neuberger said most were "normally rightly" perceived as being wealthier and better educated than many of the people whose cases they hear – an imbalance which carries dangers.

"A white male public school judge presiding in a trial of an unemployed traveller from Eastern Europe accused of assaulting or robbing a white female public school woman will, I hope, always be unbiased," he said. "However, he should always think to himself what his subconscious may be thinking or how it may be causing him to act." He added that judges must understand how people from different cultural, social and religious backgrounds "think and behave" so they do not appear disrespectful, giving the example of women who would be uncomfortable to be seen in public without wearing a veil. "More broadly, judges should be courteous and, generally, good-humoured; and, while they should be firm, they should never, however great the temptation, lose their temper," said Lord Neuberger, who made the remarks in a speech at the Criminal Justice Alliance last week entitled "Fairness in the Courts: the Best We Can Do".

Discussing the British trial system, the head of the country's highest court said lawyers must always remember how "terrifying and intimidating" the process seems to members of the public. A lawyer standing up in court was like a "professional footballer playing at home on familiar turf", whereas witnesses and jury members were "playing football for the first time", he said. Questioning whether the system could be improved, he said: "I sometimes wonder whether our trial procedures really are the best way of getting at the truth. Would you feel that you had given of your best if you had been forced to give evidence in unfamiliar surroundings, with lots of strangers watching in an intimidating court, with lawyers in funny clothes asking questions, often aggressively and trying to catch you out, and with no ability to tell the story as you remember it?"

IPCC Findings Into Death in Custody of Nicholas Rowley

[G4S Staff who were in charge of NR, refused to be interviewed by IPCC]

An IPCC investigation into the events leading up to the death of Nicholas Rowley in a Staffordshire police station on 2 October 2011 has found failings in the custody processes that were in place at the time of Nicholas' death. Nicholas Rowley, 34 and from Stoke-on-Trent, was taken into custody due to outstanding arrest warrants and during his time in detention was seen by four different medical practitioners, on six separate occasions, to address symptoms arising from his alcohol and drug dependencies. Nicholas was found not to be breathing when he was checked at 8.50pm on 2 October 2011. Despite extensive efforts by ambulance and medical staff, Nicholas died at 9.40pm. The IPCC were informed and despatched an investigator to undertake a scene assessment that same evening. An independent investigation was declared on 3 October 2011.

The investigation found: • Failures in the way risks assessments, rousing and visits, custody entries and observations were conducted. • A lack of awareness about the requirements of observation levels and poor quality hand overs between staff. • Communication between doctors and custody staff was poor and that the systems in place within the custody suite made

it difficult for staff to be aware of relevant prior health-related incidents involving detainees that influence risk assessments. The investigation highlighted specific failings in the way that cell visits were completed, that were not in keeping with the observation regime in place at the time. However, the failings identified were found to have no direct causal link with Nicholas' death. As a result of the issues identified by the investigation, Staffordshire Police have undertaken an extensive review of their Custody processes to alleviate the failings identified.

At the time of the investigation civilian staff did not fall within the remit of the IPCC for formal investigation. The detention officers declined to be interviewed as part of our investigation. Our findings were passed to their employer, G4S, as well as Staffordshire Police for internal review. At a HM Coroner inquest this week, a jury returned a narrative verdict where the cause of Nicholas' death was found to be 'methadone intoxication and alcohol withdrawal'.

Death Of Mark Groombridge in HMP Dovegate - Jury Return Critical Findings

Mark Groombridge died from multiple head injuries by jumping headfirst from his bed in his cell at Dovegate Prison on 27 December 2013. The jury concluded that on the balance of probabilities it was felt that the execution of the recall process contributed to his death. Mark had been released from prison on licence in January 2013 but his wife, Jackie became concerned about his mental health and signs of paranoia and informed the probation service about this. Mark took a life threatening overdose and after remaining in hospital for several days in a coma, was admitted as a voluntary patient to Brockton Acute Admission Ward in St George's Hospital in Stafford.

Despite Mark's psychiatric needs, and clear instruction from his consultant that he should be detained under the Mental Health Act if he asked to leave, the local Probation office dispatched recall papers, claiming that this was precautionary only, but setting in motion a process that they took no steps to halt. Police attended Brocton Ward. Junior staff covering duties that Saturday failed to seek advice or a medical assessment of Mark and allowed him to be taken away The jury further commented that in being allowed to be moved from St George's Hospital, Stafford, to Dovegate, Mark was placed in an environment that was less conducive to his wellbeing, and less able to undertake psychiatric assessment and continue the treatments that had been in place for him at St George's Hospital.

Ruth Bundey, the family solicitor said: "From the moment Jackie realised Mark was unwell, she told the relevant authorities, and did all she could to ensure Mark got help. Whilst the NHS trust have apologised, from the beginning, for their failings when armed police attended their psychiatric unit, this is in stark contrast to the local probation service who have provided contradictory accounts in self justification"

Jackie Groombridge, Mark's wife said: " I believe the last straw was the failure of the 'constant supervision' carried out at Dovegate prison by an untrained inexperienced security officer, separated from Mark by a locked door, viewing him through a hatch, unable to prevent his final act."

Deborah Coles, co-director of INQUEST said: "It is a scandal that someone like Mark who was clearly vulnerable with serious mental health problems was put in prison in the first place. If someone with physical health problems was dragged from the hospital and taken to prison half way through his treatment there, there would have been a public outcry. Why should the situation be different for someone who was having a severe mental health crisis? The findings of this inquest should send a strong message to the authorities that prisons are no place for people with mental health problems"

INQUEST has been working with the family Mark Groombridge since July 2014. The family is represented by INQUEST lawyers Group member Ruth Bundey.

worse for them. Advocates are trained and prepared before they go into court; they understand the rules, they will have been involved in mock trials and they will have been pupils or trainees working with experienced trial lawyers and seeing them in court. In footballing terms, the lawyer standing up and speaking for the first time in court is very much like a professional footballer playing at home on familiar turf where he has been trained, whereas witnesses and jury members are not merely like footballers playing away – they are playing football for the first time.

11. Indeed, I sometimes wonder whether our trial procedures really are the best way of getting at the truth. It is hard enough for a witness to remember what happened – often years after the event, after talking to many other people, and after reconstructing in his mind what must have happened. But, more to the point, would you feel that you had given of your best if you had been forced to give evidence in unfamiliar surroundings, with lots of strangers watching, in an intimidating court, with lawyers in funny clothes asking questions, often aggressively and trying to catch you out, and with no ability to tell the story as you remember it? But I am far from suggesting wholesale change. Sweeping reforms almost always leads to uncertainty and unanticipated problems. And there is much to be said for a system which has been developed over centuries, and which is understood and adopted by judges and lawyers. Further, it is always easy to criticise the status quo – and the grass is always greener on the other side of the fence. But, if we are to make the present system work as well and fairly as it can, we must bear in mind the intimidating and artificial nature of our procedures, and we must work to minimise the potential for consequential unfairnesses, misunderstandings and injustices.

12. This means that judges, lawyers, and indeed court staff, have to go out of their way to ensure that the non-lawyers who appear in court, or are in other ways involved in the trial process, are not alienated or frightened. Witnesses and jurors, and of course the accused in criminal proceedings and the parties in civil and family proceedings, should be able to understand what is going on, and what is required of them. They should be able to give of their best, to do themselves justice, and that means that they must feel as unintimidated and as natural as possible. And non-lawyers who are otherwise involved, including visiting members of the public, should be able to understand what is going on and why it is going on: otherwise confidence in the rule of law risks being undermined.

13. The requirement that people understand what is going on, how the justice system works, is particularly important now that legal aid is being cut, in some areas very substantially: people are having to choose between representing themselves or not getting justice at all. I am not today here to discuss the rights and wrongs of that. The point I am making is that it is therefore even more important than it ever was, that the workings and requirements of the court system are properly accessible and understandable to non-lawyers from the beginning to the end. From the time that a person is first told that she is to be prosecuted in a criminal case or, in a civil or family case, when she first wishes to start proceedings as a claimant or is first informed that she is being sued as a defendant. Until the time when sentence is pronounced in a criminal case or a court order is made in a civil or family case. People need to understand what is required of them in the lead-up to the trial, what paperwork is required and what has to be done with it and when it has to be done, what preliminary hearings have to be attended and when and where they have to be attended and what they are for. And, after the trial, people need to understand what the court has decided and what it involves them doing and when they have to do it.

14. Otherwise, justice is either denied, in that people do not get access to the courts or they do get access but the court gets the wrong answer; or justice is severely delayed, in that things go wrong, hearings are aborted and unnecessary costs are incurred which is almost as

is equally important that the citizens of this country perceive that our justice system is as effective and fair as it can be. That is, in the broad perspective, what we mean when we say that justice must not only be done, it must be seen to be done. In other words, in summary terms, the trial system in all our courts must be as fair as we can make it and it must be seen to be as fair as we can make it.

7. At first sight, at any rate, all this sounds pretty anodyne – at least to judges and practising lawyers: we take it for granted that we have to be fair and to be seen to be fair, and we strongly believe that we do our very best to be fair and to be seen to be fair. But, of course, one is always in dangerous territory once one takes things for granted. Complacency is a very dangerous state of mind. I do not intend to be too critical: in this country we have a remarkably dedicated, able and impartial judiciary, and we have a legal profession which is in the first rank. But society is changing very quickly in terms of perceptions, social mix, cultural values and communications; and, by contrast, the law is not noted for the speed with which it moves. Again, that is not a criticism of the law-making system or the legal system: it is to their credit that the people who make laws and the people who administer justice do not rush to adapt to every passing fad, but take their time to absorb developments and arguments, and assess trends, before making changes. But this inevitably means that there is a risk of the law being left behind in the very fast changing world of the early 21st century. While that is a general point about law, which does not just apply to our trial system, it is our trial system on which I am focussing today. And in that connection, we judges, lawyers and others must not use the bewilderingly fast changes in society as an excuse for not doing our best to ensure that the courts are as fair as they can be and are seen to be as fair as they can be.

8. And, as with any profession or other organisation, there is a danger of what might be termed group inwardness, epitomised by the notion that, for instance, politicians really only talk and listen to each other and not to the public, or that medicine is treated by doctors as existing for its own sake or only for their benefit, and that patients are just an incidental aspect. And the same is true of law and lawyers. And there is of course some truth in that. Most lawyers are interested in the law, and in practising law, because they enjoy it, because they are interested in it. But we lawyers, whether in practice or judges, should never forget that we are performing a public service, and a unique public service at that, because without lawyers, judges and courts, there is no access to justice and therefore no rule of law, and without the rule of law, society collapses. The public service aspect is fundamental: if we are a public service, we must, self-evidently, serve the public, above all those who use our services and our courts.

9. When one turns to consider how things might be improved, let me start by making a very basic point. I suspect that the most difficult message for judges and litigation lawyers to get is how artificial and intimidating the trial process seems to most non-lawyers. In particular to lay people who get involved with trials, the parties, their families, the victims, the witnesses and the jurors. Judges and litigation lawyers are so familiar with the court procedures and practices that we implicitly assume that there is nothing strange, unfamiliar or frightening about them. This is of course, perfectly natural: we all take for granted the world we have become used to and familiar with, and it requires a constant and conscious effort to remind ourselves how very different our world must appear to visitors and strangers.

10. Whether we are judges or trial lawyers, we would do well always to have in the forefront of our minds the recollection of our first professional outings in court as advocates on our feet. We should recall how artificial and unfamiliar the whole thing felt, how terrifying and intimidating the whole court set-up seemed. Those memories will help give us some inkling as to how court proceedings must appear to lay people, particularly if they have to give evidence. In fact, it must be significantly

HMP Glen Parva Criticised Over Greg Revell Death

A coroner has criticised a young offenders' institution for failing to identify the risk to an 18-year-old remand prisoner who hanged himself. Greg Revell from Long Eaton, Derbyshire, died on 11 June 2014 at HMP Glen Parva in Leicestershire. An inquest jury at Leicester Town Hall heard he was depressed and had tried to take his own life three months earlier. It concluded Mr Revell, who had a history of self-harm, committed suicide.

The jury found his needs were not properly assessed and prison staff failed to implement a procedure called an Assessment Care in Custody Teamwork (ACCT). The assistant coroner for Leicester and South Leicestershire, Lydia Brown, said injuries on Mr Revell's neck should have alerted staff. She said: "To have a young man, his first time in custody, walking around with a livid, obvious and distinguishing mark on his neck - and no-one puts him on an ACCT, cannot be right." The coroner also expressed concerns about a reliance on postal services to deliver Mr Revell's notes from his GP.

Speaking after the inquest, Greg's mother Karin said: "We are absolutely devastated by the lack of care and treatment for Greg. "He was a vulnerable young man, but not one member of staff took the time to assess his vulnerabilities fully. There was an over-reliance on what Greg was saying rather than a holistic view of his needs." The inquest also heard that another young man has killed himself at the prison in recent weeks. Mrs Revell added she and her family were "devastated" to hear about another death in custody. "Lessons don't seem to have been learned, either before, or after Greg's death," she said. Ten months down the line another 18-year-old boy is dead."

Glen Parva was labelled unsafe by HM Inspectorate of Prisons in August 2014 following an inspection in April. Concerns were raised about bullying, linked to self-harm and suicides. The prison has applied for funding in order to provide additional "safe cells" for vulnerable people. It currently only has two. Staff have also been given further training about when to open the ACCT process, logging details and sharing information. The coroner is writing to Glen Parva and HM Inspectorate of Prisons to express her concerns relating to Mr Revell's care at the prison.

My Friend Died in A Police Van that Could Have Been Me - If I Were Black

Hanuman and I both broke the law, but we didn't meet the same fate. That's because we live in a country whose criminal justice process is not color blind My friend Hanuman was cremated two weeks ago, his ashes now sit in a wooden box on his parent's alter. The cause of his death is still being investigated, but we know he died shackled to a bench in the back of a prison van. He was 21 years old. Hanuman's experience with the criminal justice system and ultimately his death, could easily have been my fate, were it not for the color of my skin.

Eight years ago, I was arrested for stealing prescription pills from houses in my neighborhood. I was charged with numerous felonies and subsequently plead guilty to four burglaries and two attempted burglaries. My total points, under Florida's Criminal Punishment Code, came to 203. That meant that the minimum amount of time I was supposed to serve was 10.9 years of prison. Incredibly, though, I was only sentenced to one year in county jail, two years probation and mandated drug treatment. Not a single day of prison time.

Hanuman also had issues with drugs and was charged with several burglaries. Under the Criminal Punishment Code, he accrued 115 points. Even if a previous charge, for which he had not yet been sentenced, had been factored into his score sheet, his points would total 129. That's still 88 less than I had. Hanuman was not shown the same judicial leniency I was; he was sentenced to six years in prison. ***He was black***. The judge also mandated a rarely enforced Florida statute, colloquially dubbed Pay to Stay. By this order, Hanuman was to be charged $50 for each day of his incar-

ceration. If Hanuman had survived prison, he would have owed the state $109,000. How was a young person with a high school education and a felony record ever expected to pay this?

I have known Hanuman since he was adopted as a one year old baby. We lived next door to each other and he was like a little brother to me. Our families did everything together: camping trips, hockey games, singing Christmas carols for the elderly in nursing homes. One of my favorite memories was watching Hanuman run up and hug the "grandmas and grandpas" as he called them, and seeing their faces light up as he embraced them. We came from the same socioeconomic background, lived in the same neighborhood and were educated in the same private school. Our families both hired private defense attorneys. In fact, one would be hard pressed to find a case in which two defendants, with such differing sentencing outcomes, shared as much in common.

There are, however, some important differences between us. Hanuman was 20 years old when he was sentenced and eligible for youthful offender status. At 24, I was not eligible for this. Hanuman had a long documented history of cognitive disabilities. I had no cognitive impairment. Hanuman also had lupus, a disease that if not properly managed, can result in death. I was completely healthy. Hanuman had teachers, doctors and psychologists testify or write on his behalf; all urged the judge to consider the mitigating circumstances. The Department of Corrections, in its presentencing investigation, gave the court an alternative recommendation of two years of community control, probation and drug/mental health treatment. Yet, the court was not swayed.

We live in a country whose prevalent narrative is that the criminal justice process is color blind, that we are all equal under the law. The creation of the point system in Florida was touted as a way to enforce that narrative. Yet the truth is, regardless of what we have been told, the color of our skin affects almost every aspect of how we experience citizenship. Hanuman's story is not an anecdotal aberration. Numerous reports have shown that, at every stage of the criminal justice process - from stops and searches to plea bargaining and sentencing - African Americans are treated far more harshly than whites. In 2013, the US Sentencing Commission found that black men receive prison sentences that are almost 20% longer than white males with similar offenses. As white Americans, we often look the other way, simply because we benefit from this system. It can be easy to forget that at the heart of all of the studies, reports and statistical data about bias in our justice system, are human beings. Hanuman was a compassionate, gentle and incredibly funny young man. He made mistakes, just as I did. In two months, I will walk across the stage to receive my graduate degree, an opportunity Hanuman will never have. Why was I given a second chance at life and he was not? The answer is simple. ***I am white***. *Chun Rosenkranz, Guardian*

White Guilt Won't Fix America's Race Problem Only Justice and Equality Will

Gary Younge, Guardian: On 26 November 2007 Brandon Moore, an unarmed 16-year-old, was shot in the back while running away from a security guard in Detroit. The guard made it look like sport. "[He] put one arm on top of the other arm and started aiming at us," Brandon's brother John Henry, who was with him at the time, told me. "Brandon wasn't involved in anything. He was the last one to take off running, I guess." The shooter was an off-duty policeman with a history of brutality. Sacked from the force after he was involved in a fatal hit-and-run accident while drunk-driving, he was reinstated a few years later on appeal. He went on to shoot dead an armed man in a neighbourhood dispute, and shot and injured his wife in a domestic fracas. The story got a paragraph in Detroit's two daily newspapers. Neither even bothered to print Brandon Moore's name. The policeman was reassigned to a traffic unit until he was cleared by an "invesigation".

ting down every last detail, and has even made him promise to choose lethal injection over electrocution an option he still holds due to the length of time he s served in prison. Johnson, who she says has come to terms with his eventual death, agreed her request. The window of opportunity could close in five minutes or five years, Vaughn says. The rollercoaster that the state puts everybody through is exhausting & If you re going to execute him, execute him. If you re not, don t execute him. Stop messing with the families of both the inmates and the victims.

L**ord Neuberger: Fairness in the Courts: the Best We Can Do**

1. On 18 March 1957, Dr John Bodkin Adams, a medical practitioner in Eastbourne, was charged at the Old Bailey with murdering one of his patients, an 81-year old widow called Edith Morrell. She had originally named him in her will, although she had subsequently revoked the gift. The clear implication of the prosecution's case was that Bodkin Adams had in fact murdered over 150 of his elderly patients, many of whom had named him as a beneficiary in their wills. After what was a sensational, and at the time the longest ever, murder trial Dr Bodkin Adams was acquitted by the jury on 9 April 1957. He lived on in struck-off disgrace but great comfort in his seventeen-room house for another quarter of a century.

2. The Bodkin Adams case has, of course, a certain resonance in the light of the activities of Dr Harold Shipman, some forty years later, but that is not the reason for raising it. Nor am I raising it because, most unusually and rather controversially, the Bodkin Adams trial was the subject of a book written some thirty years later by the trial judge himself, Mr Justice Devlin, later a Law Lord. I mention it because the Bodkin Adams trial was covered by a fine novelist and journalist, Sybille Bedford. She attended every day of the trial and later wrote an excellent book about it with the title, "The Best We Can Do" Like all the best titles, it is capable of conveying different things to different people. (This is one of the ways in which good journalists and good fiction-writers differ from good legal draftsmen; journalism and fiction often thrive on ambiguity and uncertainty, but clarity of meaning is the number one requirement of legal drafting). The message which I have always taken from the title "The Best We Can Do" is that it was intended to be a comment on the way in which criminal trials are conducted, or at least how they were conducted over fifty years ago.

3. And it is a very well judged message. It reminds us that it is "we" humans, mostly judges developing the common law and legislators laying down statutory principles, who have made and developed the rules and principles by which trials are conducted. And it is "we" humans who manage and run the trials themselves - judges, barristers, solicitors, jurors, parties and witnesses. The human input at both stages, making the rules and conducting the trial, is fundamental and wide-ranging. And, because humans are fallible the trial process cannot be perfect: it will inevitably have its defects.

4. The description "the Best We Can Do" therefore reminds us that determining guilt or innocence in a criminal case, or, equally, in deciding who is in the right in a civil or family case, is a human endeavour, and that it is therefore never going to be perfect. It is important that everyone who is responsible for making the rules or for conducting trials bears this in mind, because, if we are properly aware of our frailties and the problems they can lead to, we can watch out for them and correct or compensate for their consequences.

5. But, at least equally importantly, the title of Sybille Bedford's book also reminds us that we, whether judges, lawyers or non-lawyers, involved in a criminal, family or civil trial, owe a duty to society to ensure that the justice system, and in particular the trial process, is as effective, as fair, and as compliant with the rule of law as it possibly can be – it must be the best we can do.

6. And it is not merely a case of making our justice system as effective and fair as it can be: it

tric chair as a backup execution method in case its dwindling supply of lethal injection drugs runs out. Those legal fights, largely taking place over the past two years, occurred as former Democratic attorney general Robert Cooper embarked on an unprecedented effort to schedule executions in a state that has only killed six inmates since the turn of the century.

Thirty four Tennessee death row inmates are now challenging whether the state s procedures for both execution methods are unnecessarily cruel. Kelly Henry, a capital habeas unit supervisor with the Tennessee federal public defender s office, on Friday presented oral arguments contesting the state s use of lethal injection in Davidson County chancery court ahead of a trial scheduled later this summer. A separate lawsuit related to the electric chair will be taken up in the Tennessee supreme court in May, Henry says.

Citing the ongoing lawsuits, Tennessee department of correction spokeswoman Alison Randgaard declined to discuss the department s ability to perform executions, the status of lethal injection drugs currently in its possession, and other death penalty protocols. The state s supreme court last month overturned a pair of lower court rulings that would have forced DoC officials to hand over the identities of executioners and pharmacists to death row inmate attorneys to determine their qualifications. Henry says it s still unclear whether the state can keep secret other details about the process of obtaining lethal injection drugs. Tennessee attorney general s office spokesman Harlow Sumerford said he was unable to respond to multiple requests comment about its stance toward the death penalty, citing time constraints. The Department of Correction stands ready to carry out the will of the court, Randgaard wrote in a statement.

As those executioners remain on call, Henry questions the broader use of the death penalty in Tennessee. She says the process, particularly when execution dates are delayed, can trigger post traumatic stress disorder due to the psychological torture involved. Case in point: one of her past clients had four stays of execution before which he washed down his cell for the next inmate, packed up his belongings and divided them up for his family members. Three days before an execution, Henry says, inmates are moved to an 8ft by 10ft cell, placed under 24 hour observation, and strip searched before all visitations. It s surreal, Henry says. All this complete dehumanization of themselves to make sure they don t kill themselves before they kill them. Despite the state s continued push to carry out executions, traditionally progressive death penalty opponents have forged an unlikely partnership with some conservative residents on the issue. State representative Jeremy Faison recently co sponsored a bill with a longtime death penalty opponent, state representative Johnnie Turner which could gain traction inside the Tennessee statehouse in 2016.

Knoxville resident Kenny Collins, who helped launch Tennessee Conservatives Concerned About the Death Penalty, says his stance toward the death penalty changed when he learned about the higher costs of incarceration for death row inmates, the potential risk of killing a wrongfully convicted person, and the amount of power given to the government over a person s life. I can t say if [a wider shift in opinion] is going to happen overnight, says Collins, whose own opinions on the issue shifted just three years ago after doing some research. I can t say if it s going to happen next week. The conversation around the death penalty has changed so much within a year. More conservatives are voicing their opposition to the death penalty.

Vaughn was once also a staunch supporter of the death penalty, actively posting on online forums and demanding that convicts like her stepfather be held accountable for their actions. But her views have slowly changed. Without an all but unlikely moratorium, she realizes the inevitability of Johnson s death and is asking him every last question about her mom, jot-

The cold-blooded killing of Walter Scott, who was shot eight times in the back as he ran away from a policeman in North Charleston, South Carolina, is not news in the conventional sense. Such shootings are neither rare nor, to those who have been paying attention, suprising. Sadly, they are all too common. It is news because, thanks to the video footage, we have incontrovertible evidence at a moment when public consciousness has been heightened and focused on this very issue. While in this case the policeman involved has been fired and charged, such a degree of proof is no guarantee of justice. There was video evidence of police choking Eric Garner to death in Staten Island while he protested “I can’t breathe”, and his killers were acquitted; there was video of evidence of Rodney King’s beating in Los Angeles, and his assailants walked free. But in an era of 24-hour news and social media, video guarantees attention.

Black people have been dying for this kind of attention for years. Michael Brown died for it; Kajieme Powell died for it; Tamir Rice died for it; Justus Howell died for it. The roll call could go on – and until something fundamental changes, not just with American policing but in the American psyche, it will get longer. The fact that Scott was killed on the 47th anniversary of Martin Luther King’s assassination makes stark the distinction between the reality of the post-civil rights era and pretensions to a post-racial era. The slogan of the day, born from a Twitter hashtag, is Blacklivesmatter. That says a lot.

You wouldn’t have a hashtag that said #blackmencanplaybasketball or #blackmusicmatters, because only the most deluded would ever deny that. But the reason #blacklivesmatter has resonated is because it succinctly summarises the current contradictions. We can celebrate a black president, black professors, black astrophysicists and black tennis players all we want. But the issue of the sanctity of black life has still not been settled.

And so Scott’s murder stands not simply as an outrageous and horrific incident in its own right but as an emblem for all the Brandon Moores who have gone down in a hail of bullets to deafening silence; a proxy for a reign of racial terror that has not been removed since the civil rights era but merely refined; a harsh illustration of a system that both systemically criminalises working-class black communities and, on occasion, cavalierly condemns those who live in them to summary execution. It lends a name and a moving image to those who have perished unnamed and unseen, and whose deaths could not move the nation’s conscience.

“I have witnessed and endured the brutality of the police many more times than once – but, of course, I cannot prove it,” wrote James Baldwin in 1966, in A Report from Occupied Territory. “I cannot prove it because the Police Department investigates itself, quite as though it were answerable only to itself. But it cannot be allowed to be answerable only to itself. It must be made to answer to the community which pays it, and which it is legally sworn to protect, and if American Negroes are not a part of the American community, then all of the American professions are a fraud.”

The fact that the country is at least recognising this issue is heartening. But what it took to get it there is sickening. For this is the standard of proof necessary to force a reckoning with contemporary racism. This is what it takes to thwart a conversation about the ostensible shortcomings in black culture, from parenting to rap music, which – some claim – make such policing inevitable and instead concentrate on the pathology of state violence. If all young black men bought a belt and pulled their trousers up tomorrow, they still wouldn’t be able to outrun a trigger-happy cop’s bullet. The bar is so high, and the capacity for empathy so low, that apparently no amount of statistics and personal testimony can convince a critical mass of white Americans that the problem is not African-Americans claiming victimhood but their being victimised. In the absence of such evidence, black people have to make the case for not being killed – no criminal record, no questionable acquaintances, no

drugs or alcohol in your lifeless body, A-grade students and devoted fathers. If you want the nation to be outraged at your murder, be sure to have led an impeccable life. Nothing less will do.

In The Audacity of Hope, Barack Obama recalls sitting in the Illinois senate with a white legislator watching a black colleague (whom he refers to as John Doe) explain why eliminating a certain programme was racist. “You know what the problem is with John,” the white senator asked him. “Whenever I hear him, he makes me feel more white.” “[His] comment was instructive,” Obama reflected. “Rightly or wrongly, white guilt has largely exhausted itself in America.” Guilt, of any racial variety, never achieved much anyhow (even if it did, there are therapists for that). It won’t close the pay gap, the unemployment gap, the wealth gap or the discrepancy between black and white incarceration. It won’t bring back Walter Scott, Trayvon Martin or Brandon Moore. It’s not guilt that people are demanding but justice and equality. Only then will a tragic incident such as this be news for the right reason – because it is both rare and unexpected, not because someone was in the right place at the right time with a Samsung and a conscience.

FBI Admits all its Forensic Experts Exaggerated Evidence *Wills Robinson, Dailymail*

The FBI and Justice Department have admitted forensic examiners from a DNA unit gave flawed evidence at nearly all United States criminal trials spanning 20 years. It has been reported that 26 employees in the agency's microscopic hair comparison laboratory overstated forensic matches so they favored prosecutors in the 1980s and 1990s. Research involving the National Association of Criminal Defense Lawyers (NACDL) and the Innocence Project say that 95 per cent of 268 trials reviewed had been impacted.

The Washington Post reported that of the 200 convictions affected, 32 defendants were sentenced to death - 14 of which have since been executed or died behind bars. Those who are still alive have been sent letters explaining the errors and how they can used further DNA testing to prove the evidence. The mistakes do not automatically prove the convict's innocence.

Peter Neufeld, co-founder of the Innocence Project, told the Post: 'The FBI’s three-decade use of microscopic hair analysis to incriminate defendants was a complete disaster. We need an exhaustive investigation that looks at how the FBI, state governments that relied on examiners trained by the FBI and the courts allowed this to happen and why it wasn’t stopped much sooner.'

In a statement the FBI said they were committed to notifying defendants of past discrepancies and make sure 'justice is done in every instance'. They added: '[We] are also committed to ensuring the accuracy of future hair analysis, as well as the application of all disciplines of forensic science.' The FBI stopped its review of convictions in August 2013 after the initial troubling findings but resumed this month after at the Justice Department's orders. A report from the department's inspector general found that the FBI and Justice Department didn't move quickly enough to identify the cases handled by 13 FBI crime lab examiners whose work was found to be flawed, meaning defendants sometimes were never notified that their convictions may have been based on bad science. It took almost five years for the FBI to identify the more than 60 death-row defendents whose cases required further examination, and during that time at least three were executed.

The admissions mark a watershed in one of the country’s largest forensic scandals, highlighting the failure of the nation’s courts for decades to keep bogus scientific information from juries, legal analysts said. The question now, they said, is how state authorities and the courts will respond to findings that confirm long-suspected problems with subjective, pattern-based forensic techniques — like hair and bite-mark comparisons — that have contributed to wrongful convictions in more than one-quarter of 329 DNA-exoneration cases since 1989.

corrected and if the price of achieving that is that on occasions there will be continuing disagreement about the safety of a conviction that is a small price to pay for ultimately getting it right.

Dr Dennis Eady from Cardiff University was right when he told the MPs that the problem here lies with the Court of Appeal. It does. As others have already pointed out there is little point in changing the terms on which the CCRC refers cases back to the Court of Appeal if that body simply continues to dismiss cases which are referred. I have no doubt that the CCRC could do with another million pounds in order to do its work properly and they should be given the money. But what is urgently needed is a change of culture on the part of the judges who make up the Court of Appeal. They need to stop seeing appeals as being a dreadful waste of time, effort and public money but rather as an essential part of the process of ensuring, as far as possible, that verdicts are correct. If that is to be achieved the judges in the Court of Appeal need to be far more receptive to appeals where a serious argument can be presented that justice has failed. They should welcome the opportunity to correct a miscarriage of justice, that after all is what they are supposed to be there for.

Living on Death Row in Tennessee: 'The Roller Coaster is Exhausting'

Max Blau, Guardian: Donnie Johnson has spent nearly half of his life waiting to die. In 1985, the Memphis camping equipment center staffer was found guilty of suffocating his wife, Connie, with a plastic garbage bag. Since his conviction, he s maintained his innocence; insisting that a work release inmate murdered his wife, and that he only helped dispose of the body at a nearby shopping center out of fear for his life. The 64 year old death row inmate, who stays at Riverbend Maximum Security Institution on the western outskirts of Nashville, has twice been scheduled to die. Johnson received his first stay of execution in 2006, which later led to an unexpected meeting in 2012 with his stepdaughter, Cynthia Vaughn. The meeting gave the Southaven, Mississippi, resident, who was seven years old when her mother was killed, a chance to forgive her stepfather. The two have since met another four times, exchanged letters and chat on the phone every Saturday.

It changed my life totally, Vaughn says. After spending most of her life hating her stepfather, she says she s learned more about the mother she hardly knew and has commemorated each visit with a tattoo of a bird. I can t even think of a word to say how much it changed my life. Their fragile relationship, slowly on the mend, hinges on the uncertain future of Tennessee s death penalty. Johnson, whose latest execution date on 24 March was indefinitely postponed, is one of 69 inmates currently locked up on Tennessee s death row. The inmates lives now hang in the balance of a pair of lawsuits contesting whether the state s two execution methods, lethal injection and the electric chair, illegally subject them to cruel and unusual punishment in violation of their constitutional rights. A court last week halted all executions until the current legal challenges are resolved.

Tennessee s courtrooms have become one of the latest battlegrounds over how prisoners sentenced to death are executed. Those challenges which gained national attention last year after several botched executions ahead of the US supreme court s landmark lethal injection case later this month come at a time when some residents of the conservative southern state are showing signs of shifting their views on the death penalty. Since Tennessee s last execution in 2009, lawyers have argued over numerous parts of the capital punishment process. Following a series of court rulings, the state has switched up the deadly drug used in its executions, concealed the identities of people administering lethal injection drugs to inmates, and brought back the elec-

In the vast majority of cases where the verdict is seriously in question the issues that arise do not involve the honestly of the jury's verdict. Few cases raise a doubt about that. Lord Judge also claimed that there are many cases in which juries had to decide which of two people were telling the truth and that it was impossible for the Court of Appeal to tell from reading transcripts of their evidence who was telling the truth. Such cases however rarely lead to appeals. If the question of whether a conviction is safe or not depends on which of two people are telling the truth, since that is quintessentially an issue for the jury it is hard to see how such a case would give rise to any point of appeal, at least on that issue.

An appalling vista: What cases involving potential miscarriages of justice do raise are issues about the conduct of the police investigating the case, the lawyers handling the case before and at trial and the competence of the judges trying the case. These are issues the Court of Appeal has always had difficulty in facing up to. Many will recall Lord Denning's famous line in relation to the Birmingham 6 when he described as 'an appalling vista' the idea that the six men has confessed because they had been threatened and beaten up by police and prison officers. To Denning the very idea was an affront so awful that he refused to contemplate the possibility the men had been maltreated and dismissed their attempt to bring a case against the prison officers involved.

If you think of any of the major miscarriage of justice cases in the last 40 years or so they almost always involved issues relating to confessions obtained by the police through threats and the actual use of violence, police officers cheating by burying inconvenient evidence so as to deprive an innocent person of the evidence that would have proved their innocence, bent scientists who considered their loyalty to their paymaster rather than the ends of justice, scientists who were simply incompetent to analyse properly the result of their tests, police officers who started with a theory about the offence and then sought the evidence to prove their theory. They also include cases where prosecution lawyers have either as a result of incompetence, complacency or occasionally something more sinister failed to make proper disclosure of material in the possession of the prosecution, which should have been revealed to the defence because it might have assisted the defence to show the police case was false.

Nor can the role of defence lawyers be overlooked: It is perhaps not fashionable to dwell on this and certainly defence lawyers labour under huge constraints especially in an age of increasing cuts in legal aid when compared to the resources available to the state in prosecuting but anyone who has done much work on such cases knows of instances in which the defence lawyers did a very poor job and have to bear some responsibility, even if limited for the fact these miscarriages have occurred. But the problem most assuredly does not lie with juries who can only deal with the evidence put before them. If the evidence is hidden or distorted by prosecutors no one should be surprised if occasionally the jury gets it wrong but it is clear that the responsibility for this lies elsewhere. The Court of Appeal is simply avoiding their responsibility when claiming that they cannot be expected to intervene.

In a further reported claim the former Lord Chief Justice was said to be worried that if the Court of Appeal disagreed with the CCRC and dismissed a case referred back this would again undermine public confidence. It was said that public confidence in the original verdict could never be restored. Quite apart from the fact that this ignores the reality that in the 30% of the cases referred back in which the Court of Appeal dismisses the appeal it is already the case that the two bodies do disagree about the safety of a conviction, the logic of this argument would appear to be that it would be better if no one challenged a verdict for fear of undermining public confidence. As I said earlier what we all want is a system in which errors are

Access to Justice A Greater Concern Than Free Healthcare *Owen Bowcott, Indpendent*

The public is more concerned about access to justice than free healthcare, according to a poll commissioned by lawyers campaigning to reverse cuts to legal aid. The findings from a YouGov poll have been released as the Conservatives, Labour and Liberal Democrats vie to pledge more and more funding for the NHS. The figures, which challenge the consensus over the public's priorities, coincide with the introduction on Monday of punitive charges of up to £1,200 for anyone convicted in magistrates and crown courts. According to the online poll, 84% of those replying rated access to justice as a fundamental right, compared with 82% for healthcare that is free at the point of use and 79% for the state pension. The survey also found that when told the definition of legal aid, 89% of the sample believed that its availability is important for ensuring access to justice for all income groups.

The polling was commissioned by the Criminal Law Solicitors' Association (CLSA), which is to stage a "vote for justice" rally on 23 April at Central Hall in Westminster to focus electoral attention on cuts to legal aid. The online poll of 2,022 adults was conducted on 1-2 April. Robin Murray, vice-chair of the CLSA, said: "The findings are a definitive statement to all political parties that the public believe access to justice, underpinned by legal aid, is a fundamental right. Despite five years of unrelenting cuts and dishonest rhetoric that 'we cannot afford the system as it currently stands', the public have signalled their support for legal aid is unwavering. "[It] is particularly heartening to a battered and bruised profession and has given us all a real shot in the arm ahead of our vote for justice rally. At the rally on 23 April we will add our collective voice to the general election campaign and make sure that politicians start taking seriously the absolute crisis our once world-renowned legal system finds itself in."

The new criminal courts charge, which is not means-tested, will have to be paid on top of other financial penalties, such as fines, compensation, prosecution costs or the victims' surcharge. The charge is eventually expected to raise up to £185m a year towards the expense of administering justice and the courts. The savings introduced by the Ministry of Justice over the past five years – such as cuts to legal aid, professional fees and increases in civil court fees – have been felt most acutely by lawyers, and the charge may extend resentment about austerity in the justice system to a new section of the public. More than 1.1 million defendants were convicted at crown and magistrate courts in the 12 months ending September 2014.

Critics say the charges will only add to the growing debt burden owed to HM Courts and Tribunal Service and that much of it will prove to be uncollectable. The Ministry of Justice's own impact assessment concedes that without cancelling some charges, total debt to HMCTS could rise to £1.2bn by 2020. Some also fear it could create a perverse incentive for defendants to plead guilty even if they are not, because they may not be confident of avoiding a subsequent conviction that would cost more.

The new criminal court charges vary from £150 for a guilty plea for a summary offence in a magistrates court, through to £500 following conviction after a magistrates court trial and up to £1,200 for conviction after a trial in the crown court. Those under the age of 18 will be exempt from the charge. Defendants who are acquitted will not have to pay. The charges apply to offences committed from Monday. The only means-testing element is that those judged not able to pay immediately will be allowed to pay the bill in instalments.

When the plans were revealed last year, the justice secretary, Chris Grayling, said: "Why should the law-abiding, hard-working majority pay for a court service for the minority who break the law? Those who live outside the law should pay the consequences both through

being punished and bearing more of the costs they impose on society." Commenting on the charges, Richard Monkhouse, national chairman of the Magistrates Association, said at the weekend: "Now that this is in force, our members are interested to see how it will pan out because of previous concerns regarding the potential impact on defendants' pleas, general concerns about criminal fine collection rates and also the area-by-area varying effectiveness of agencies getting cash out of offenders. We'd like to see a review to examine the changes in say six months, and if it doesn't appear to be working we would like the introduction of judicial discretion to be strongly considered in applying charges."

Criminal Courts Charge: A Return to the Days of Debtor's Prison? *Verity Quaite*

From Monday 13th April 2015, anyone convicted of a criminal offence in England and Wales will be required to pay a charge of between £150 and £1200 in addition to their own legal costs and any fines or compensation that make up part, or all, of their sentence. The charges are non-means tested, with rates set according to the type of case being tried, rather than the defendant's ability to pay. Magistrates and judges will have no discretion as to whether to apply the charges. The introduction of the charges has been said to be 'one of the most significant changes to be made to the sentencing process in recent years'. Critics accuse the government of bringing the measure in by 'the back door', having tabled the regulations for the final week before the dissolution of Parliament. The Law Society has called introduction of the fees – not only were they not debated but there was no consultation – 'disturbing'.

Meanwhile. more than eight out of 10 members of the public agreed that 'legal aid and a fair trial' were a British fundamental right (84%), according to a new You Gov poll commissioned by the Criminal Law Solicitors Association and published today. This was a higher figure that those who agreed that 'healthcare at the point of use' was such a right (82%). Almost nine out of 10 people polled (89%) described legal aid as 'important'. 'These facts nail the lie that people do not care about legal aid as a political issue,'said . It is an important and fundamental issue for politicians to note. Legal aid campaigners speak for the people. There MUST be proper funding for legal aid. It is a right not a benefit' Robin Murray, CLSA's vice chair

Chris Grayling has said that the new charge is to make convicts 'pay their way' as part of a 'tough package of sentencing measures to make sure offenders are punished properly'. The justice secretary claimed to be motivated by reducing the 'burden [of the running costs of the criminal justice system] on hardworking taxpayers' and suggested that the system could raise £135 million annually after costs. It remains to be seen whether the measures will result in offenders subsidising the justice system. For Frances Crook, chief executive of the Howard League for Penal Reform, the measures are nonsensical given that current levels of outstanding court debts are already 'so high because people do not have the means to pay'.

One assessment reckons the figure owed to the court service by 2020 could be as high as £1bn in unpaid fees. Speaking on Radio5 Live, Richard Monkhouse of the Magistrates Association said: 'We see an awful lot of people who are offending because they have no money, so just slapping another fine on them isn't actually going to make a big difference if they are unable to pay.' 'It is surely a waste of taxpayers' money to pursue payment of these charges from people who are unlikely to ever have the means to pay,' noted the Law Society. Despite calls from the Magistrates Association to review the new regulations in six months, the government plans to conduct a review after three years. Given that the charge will apply to all convictions, breaches and failed appeals, convicts are likely to be faced with 'multiple unpayable fines' if

hopeless and a good chance of success which is probably obvious from the phrase itself.

Various suggestions have been made that changing the terms on which the CCRC operates might improve the number of referrals. I have even done so myself, a few years ago when I suggested that the situation might be improved if the CCRC was able to refer a case in which it thought there was 'a real doubt about the safety of the conviction'. But any such suggestion presupposes that the problem here is with the CCRC, when it actual fact it may well be that the problem lies with the Court of Appeal rather than the CCRC.

An unholy agreement: Since its inception in 1907 the Court of Criminal Appeals or the Court of Appeal Criminal Division as it is known these days has been a conservative institution. Whether it is out of a concern that the supremacy of the jury in finding the facts on which a conviction is based should not seem to be undermined or more probably simply because the majority of the judges work on the basis that juries usually get it right and they don't want to have the system clogged up with endless appeals, the fact remains that the Court of Appeal has never been keen to encourage more appeals than are entirely necessary to maintain public confidence in the criminal justice system.

You might have thought that given the litany of appalling miscarriage of justice cases which hardly reflected well on the English courts that the Court of Appeal would have welcomed this new institution, charged with helping the Court to right obviously wrong convictions, with open arms. The reality is however rather different and an unholy agreement has been thrashed out between the two institutions in which there is no doubt who is boss. In return for agreeing to uphold decisions of the CCRC when it declines to refer a case, the Court of Appeal has made it quite clear that it is not the role of the CCRC to refer any old case in which it thinks there might have been some error on the part of the judge but only those where something has obviously gone badly wrong. As a barrister who has tried and failed to judicially review a decision of the CCRC not to refer a case I can vouch for the fact that the High Court when considering any such challenge is very keen to emphasise the role of the CCRC as the sole arbiter of which cases should be referred back and if the CCRC declines to do so the High Court has been resolute in supporting the decision of the CCRC.

What has been noticeable by its absence in this debate has been any contribution from the judges. The House of Commons justice committee was recently reported to be annoyed by the lack of engagement from those whose job it is to handle cases referred back to them by the CCRC (see here). However there was apparently a late written submission by the recently retired former Chief Justice, Lord Judge. He is quoted as recycling that old chestnut that neither the CCRC nor the Court of Appeal 'had the advantage of seeing witnesses and observing their body language in the way the jury had'. This is a well-worn excuse by the Court of Appeal not to interfere with an apparent miscarriage of justice for fear of undermining the authority of jury verdicts. With respect, that is nonsense.

What we all want from our justice system is one that in the words of the criminal procedure rules, 'convicts the guilty and acquits the innocent'. No one in his or her right mind wants the wrong person to be convicted. Not only is that unjust but it also means the real culprit remains free to offend again. But any justice system is subject to human frailty and as a result we cannot guarantee that all jury verdicts are free from bias and prejudice and perhaps more importantly are correct. That is why we need a system of review of verdicts so that if there is a real doubt about the verdict that can at least be considered. But to suggest that this somehow undermines jury verdicts is little more than a smokescreen and a sorry attempt by the Court of Appeal to duck its responsibilities.

an investigation now admitted to be flawed. But an inquest jury found police actions contributed to Rigg's death and officers failed to uphold the detained man's basic rights. His sister said: "While the police and two other state bodies received automatic funding out of the public purse, we had to go through an extremely intrusive legal aid process which included the incomes of all of Sean's siblings, their partners, and our mother. "This is unacceptable as it can mean families, who simply want to find out what has happened to their loved one, are not on a level playing field with state bodies."

The home secretary wrote that the issue was "an important and longstanding concern to families who want answers". In February, the high court said government funding was too limited after a legal challenge brought by another bereaved family. In her letter, May said: "We will look sympathetically at the implications of this ruling, and my officials will be holding discussions with the Ministry of Justice to see if we can make real progress on this issue."

There has been no inquest in the Lewis case. The IPCC investigation initially cleared officers over his death in 2010, but has scrapped its conclusions and started a fresh inquiry. In her letter May wrote: "It is clearly unsatisfactory that families should have to go to court to quash an IPCC report in order to secure a second investigation into the death of a loved one." Ajibola Lewis, the mother of Olaseni , said: "We have been victimised rather than supported by the system. After all this time, we are still waiting for the IPCC investigation to be conducted properly, despite the high court quashing their first investigation nearly two years ago. As a consequence of this, more than four years later we are still waiting for an inquest into my son's death."

Deborah Coles, co-director of Inquest, a charity that supports families who have been affected by bereavement after deaths in custody, welcomed May's letter. "After decades of indifference from successive governments this letter represents important recognition of Inquest's significant concerns about the treatment of bereaved families," said Coles. "These include the inequality of access to justice, in particular funding, delays in the investigation and inquest process, and the repeated failure to hold the police to account for criminality or wrongdoing." The Ministry of Justice said: "Legal aid is available for inquests in some circumstances. Applications are considered on their individual merits by the Legal Aid Agency and are handled sensitively."

Why Blame the CCRC? It's the Court Of Appeal That Needs to Change

Mark George QC, Justice Gap: The row over the efficacy of the Criminal Cases Review Commission (CCRC) continues to rumble on. The body set up after the Runciman report into the dreadful catalogue of miscarriage of justice cases in the 1970s and 80s is accused of failing in its task because, it is said, too few cases are being referred back to the Court of Appeal. The CCRC is variously accused of being too timid in its dealings with the Court of Appeal, of being too cautious in its approach and being keener on preserving its much-fabled 70% success rate to the detriment of cases that deserve to be referred back to the Court of Appeal.

In recent years there has been a lot of debate over whether the test that the CCRC uses to determine whether to refer a case back to the Court of Appeal should be amended in the hope of encouraging more referrals. The present test applied by the CCRC to all cases it considers is whether there is a real possibility that the conviction would not be upheld by the Court of Appeal. That phrase 'reasonable possibility' has been interpreted by the Court of Appeal to mean that there is 'more than an outside chance or bare possibility but which might be less than a probability, or a likelihood, or a racing certainty'. I am sure that was intended to help but I am not sure I am much clearer after reading it than I was before. I guess it means it has to be somewhere between

they cannot afford to pay in the first instance. Crook described plans to imprison those who could not pay the charge as a return to the days of debtor's prison. If individuals were imprisoned for non-payment of the charge, any money earned through the scheme is likely to be outweighed by the expense of imprisoning those who cannot pay – estimated to be at least £5 million.

Apart from economic concerns, some commentators made the point that an additional charges presented a 'real danger' that defendants would feel pressured into pleading guilty to crimes they have not committed. While ministers described the fines as 'quite modest', the sums were said to be 'daunting' for 'the vast majority of people coming through the courts each day'. 'Although this will not affect the robust advice that solicitors give to those who maintain their innocence, the differential…may well affect the decision made by individual defendants,' said the Law Society president, Andrew Caplen. The Bar Council has come in for criticism from its own members for its apparent support for the new scheme. The body is 'reviewing its policy on the criminal court fees' as, according to Alistair MacDonald QC, 'the government's recent decision to charge convicted defendants fees of £1200 is completely unrealistic.'

Prison Detention and Mental Health

The European Court of Human Rights has held on many occasions that the detention of a person who is ill may raise issues under Article 3 of the Convention, which prohibits inhuman or degrading treatment] .and that the lack of appropriate medical care may amount to treatment contrary to that provision. In particular, the assessment of whether the particular conditions of detention are incompatible with the standards of Article 3 has, in the case of mentally ill persons, to take into consideration their vulnerability and their inability, in some cases, to complain coherently or at all about how they are being affected by any particular treatment. [T]here are three particular elements to be considered in relation to the compatibility of an applicant's health with his stay in detention: (a) the medical condition of the prisoner, (b) the adequacy of the medical assistance and care provided in detention, and (c) the advisability of maintaining the detention measure in view of the state of health of an applicant ..."

Stephen Lawrence Inquiry was not Told of Corrupt Detective *Vikram Dodd, Guardian*

Scotland Yard privately concluded in October 1998 that a key detective in the Stephen Lawrence investigation was corrupt, but failed to pass its finding to a public inquiry into why its officers bungled the murder case, a whistleblower has told the Guardian. The conclusion about the detective, John Davidson, was reached by the Yard's elite anti-corruption unit, known as CIB3, which was overseen by then deputy commissioner John Stevens.

On Thursday the Independent Police Complaints Commission announced it was investigating Stevens over claims that documents were not passed to the 1998 Stephen Lawrence public inquiry. The failure by the Met to disclose the potentially relevant information came despite the chair of the inquiry, Sir William Macpherson, writing to Stevens asking that any information about Davidson be passed to him. Macpherson stressed how crucial such information could be to his public inquiry, where the murdered teenager's parents claimed corruption was a factor. A senior source serving inside the corruption command has told the Guardian an investigation into Davidson led to the conclusion he was corrupt, and involved in criminality, in October 1998, four months before the Macpherson inquiry reported and ruled out corruption as a factor in the investigation that left Lawrence's killers free to walk the streets.

The inquiry into Davidson was led by then detective chief superintendent John Yates and

began in 1998. In October 1998 Yates was leaving CIB3 and wrote a briefing document about the investigation into Davidson. The source said the contents were passed up the chain of command. The conclusions by Yates about the level of Davidson's criminality were unequivocal, said the source. "It said that Davidson was corrupt ... he was one of the biggest targets. The report was not shared with Macpherson." He added that the "top brass in the Met were told Davidson was corrupt". The Macpherson inquiry would not report until February 1999, four months after the Yard reached its conclusion about Davidson's corruption, which the officer vehemently denies Macpherson concluded that there was no evidence Davidson was corrupt.

The investigation into Davidson began in July 1998, when a colleague of his, Neil Putnam, was arrested for corruption. He confessed his own crimes and named other officers as corrupt, including Davidson. Davidson's home was raided in September 1998. At this stage Stevens wrote to Macpherson's aide on 11 September 1998 that Davidson was the subject of corruption allegations. Thedeputy commissioner said there was no known link to the Lawrence case. On 21 September 1998, Macpherson personally wrote to Stevens. The chair of the inquiry set up by the then Labour government told Stevens that Davidson was a "central witness" and facing allegations at the inquiry about his integrity. Macpherson added: "You will also appreciate that any wrongdoing would go to Mr Davidson's credit." Macpherson asked to be informed of any developments concerning Davidson and added: "Much may turn upon this as the inquiry proceeds," emphasising how potentially vital the issue was to the inquiry he was chairing. No further information was given to Macpherson by the Met about Davidson, who did not face charges.

The source said claims that a cover-up was the motivation to keep the material from Macpherson were untrue : "The last thing John Stevens would do is cover up. He might forget or rely on others to follow up [and tell Macpherson]." The supergrass, Putnam, would go on to claim in 2002 to the Guardian, and in 2006 to the BBC that he told the Met of a corrupt relationship between Davidson and Clifford Norris, the father of one of the prime suspects. The Met denies ever being told this.

Imran Khan, solicitor for Doreen Lawrence, Stephen's mother, said: "We should have been told about the Met's conclusion about John Davidson in 1998, when the inquiry was sitting. "That report by Sir William Macpherson could have been very different. We welcome any investigation into corruption and want to get to the bottom of it. Whether it is the officer on the beat or the commissioner, the inquiry needs to be conducted without fear or favours." The senior source agreed with part of the Lawrence lawyers' assessment about the material not given to the Macpherson inquiry: "I think there is a requirement to tell them. It would have changed Macpherson's verdict on Davidson."

Claims about corruption in the first Met investigation into Lawrence's murder have persisted since his death in 1993. A review ordered by Theresa May, the home secretary, into claims of corruption in the Lawrence case found "defects in the level of information that the MPS revealed to the inquiry". The review was carried out by Mark Ellison QC and reported last March, adding that there had been "a significant failure in the disclosure made by the MPS".

The IPCC's decision to independently investigate Stevens, who became Met commissioner in 2000 and who is now a peer, followed a complaint to the force on behalf of Neville Lawrence, Stephen's father, last October. Lawrence, then 18, was stabbed to death at a south London bus stop by a gang in April 1993. They hurled racist abuse at him before surrounding him. Doreen Lawrence has said for years that corruption explains why police bungled the first murder investigation. That had been officially denied until Ellison's report.

Davidson's conduct during the initial murder investigation was heavily criticised by the Macpherson inquiry. He controlled much of the flow of information as head of the "outside

team". Macpherson's 1999 report found no evidence the officer had acted corruptly and said: "We are not convinced DS Davidson positively tried to thwart the investigation." Davidson denies claims that he was paid by Norris. The former detective left the Met in 1998 for medical reasons and ran a bar in Spain called the Smugglers. In March 2014, Ellison said: "The prominent feature of DS Davidson's alleged corrupt activity in the Lawrence investigation revolved around his misuse of a relationship with an informant … It would also have been relevant to his 'failings' regarding the development of evidence from witnesses." The October 1998 report by Yates said the former detective had behaved improperly with informants. A spokesman for Lord Stevens said the distinguished police chief had been passed questions and request for comment. The former Met commissioner had not responded at the time of publication. On Thursday he said he had received a letter from Ellison saying he was not "culpable" in any way.

Theresa May Admits Justice System Fails Families Over Deaths in Police Custody

Vikram Dodd, Guardian: The criminal justice system makes is too hard for families whose loved ones have died in police custody to get answers, according to a candid letter written by the home secretary to two families affected by such deaths. Theresa May wrote that she wanted to solve significant problems for those fighting for justice following the deaths of relatives, and has ordered her officials to carry out a review. The letter was sent to the families of Sean Rigg and Olaseni Lewis, who died after restraint by officers in 2008 and 2010 respectively. The families, both of whom had met the home secretary, are yet to receive full answers and the final resolution they want despite years of legal action.

In both cases, the Independent Police Complaints Commission initially exonerated the police only to have to scrap that conclusion and restart their investigation, meaning the families are facing further years of delay. The home secretary indicated there may be further reforms to the police watchdog. She wrote: "I know there were very real concerns about the work of the IPCC and its perceived independence." She added that Home Office officials would review efforts made by the watchdog to improve its approach to investigating deaths.

Spelling that out, May said her officials would examine new reforms promised by the criticised police watchdog to see if they are good enough. These cover "a new model for family liaison, measures to improve communications with the wider public, and to increase the diversity of their staff". The home secretary met the families in January and her letter (published here addressed to the Rigg family's lawyer, Daniel Machover, and dated 27 March) updates them on progress made. May also wrote that her officials will "look sympathetically" at legal aid for families in cases where people have died in police custody.

Campaigners say the home secretary's comments are in contrast to "decades of indifference" from previous governments about the uphill battle faced by grieving families. May promised there would be progress after the general election, although it is not certain that she will retain her position following the vote next month. "As indicated in my previous letter I am keen that you should be consulted on any proposals that emerge from this process," she wrote.

In the Rigg case it took an inquest to expose flaws in the IPCC investigation, but the family was told it needed to contribute £21,000 to get funding for a lawyer from legal aid. Marcia Rigg, sister of Sean, said it was unfair that while the police and state bodies received public funds, they had to go through a humiliating process to gain access to a lawyer. Sean Rigg, 40, died in Brixton police station, south London, in 2008. The IPCC had initially cleared police after