West Midlands Police - Cover up of Child Abuse/Rape *House of Lords [HL1026]*

Lord Blencathra to ask Her Majesty's Government, following the admission by West Midlands Police that in 2010 they withheld a report on child rape, abuse and exploitation, what steps they plan to take to ensure that every police officer and official involved is investigated and criminal charges brought where appropriate. [HL1026]

Lord Bates: On 3 March 2015, the previous government published a report on Tackling Child Sexual Exploitation which set out the government's national policy response to the failures we have seen in towns, such as Rotherham, Manchester, Oxford and elsewhere, where children were let down by the very people who were responsible for protecting them. The report set out a comprehensive set of reforms to tackle child sexual exploitation. The Government is also making improvements to the police complaints and disciplinary systems to ensure that officers are held to account for their behaviour in a manner that is fair and transparent for the public. The withholding of a report on child rape, abuse and exploitation is a matter for the Chief Officer of West Midlands Police and the local Police & Crime Commissioner.

Babar Ahmad Back in the UK Fought Extradition to the US for 8 Years

A British man jailed in the US over a website considered to be a key moment in the birth of the internet jihad has returned home. Babar Ahmad left prison last month and is now back in London with family. He fought a record eight-year-long campaign against extradition for offences committed in the UK. British authorities never charged him - but he later pleaded guilty in the US to providing material support to terrorism through his site. His July 2014 sentence of just over 12 years took into account his time spent in jail in the UK prior to extradition. US prosecutors had sought a far longer term, but the sentencing judge said she could not ignore glowing references in Ahmad's favour, including one written by an influential former CIA officer.

Doris Shafi Claimant - V - Her Majesty's Senior Coroner For East London

1) This is an application by Doris Shafi, brought with the fiat of the Solicitor General under section 13 of the Coroners Act 1988 (as amended), to quash the inquest into the death of her son Lee Bradley Brown ('Lee') and to order a fresh investigation and inquest. 2) Lee died in custody at a police station prison in Dubai, United Arab Emirates, on 12 April 2011. At the inquest held on 10 October 2013 the coroner, the then senior coroner for the coroner area of East London, recorded an open conclusion with the medical cause of death described as 'unascertained'.

79) In conclusion we are satisfied that as a result of the insufficiency of inquiry in relation to the Dubai evidence it is necessary and desirable in the interests of justice that another investigation and inquest should be held.

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 539 (23/07/2015) - Cost £1

High Court Backs Secret Hearings as Government Faces IRA and Iran Cases

John Aston, Indpendent: The Court of Appeal has cleared the way for the Government to apply for controversial secret court hearings as it faces being sued for damages by an IRA informant and Iranians subjected to asset freezing orders. The court rejected challenges to the legality of new powers that enable Government ministers to defend themselves against damages claims while using secret hearings to prevent "sensitive material" said to relate to national security being revealed in evidence in open court. What are known as closed material procedures (CMPs) - in which evidence is given with claimants and the public barred from court - were introduced by the 2013 Justice and Security Act.

Critics have condemned the closed hearings as "a serious aberration from the tradition of open justice". But a total of five judges have unanimously agreed the secret hearings are lawful, provided they are "scrutinised with care" and discontinued if they become "no longer in the interests of the fair and effective administration of justice". Leading appeal judge Lord Justice Richards declared: "A closed material procedure is a serious departure from the fundamental principles of open justice and natural justice, but it is a departure that Parliament has authorised by the 2013 Act in defined circumstances for the protection of national security."

The two cases in the landmark ruling include a damages claim being brought against Home Secretary Theresa May by IRA mole Martin McGartland. A former agent of the Royal Ulster Constabulary Special Branch, the informant claims the security services failed to provide him with care for post-traumatic stress disorder and access to disability benefits after he was shot by the IRA and left unable to work. Mr McGartland, 43, and his partner and carer Joanne Asher are suing MI5 for breach of contract and negligence over the "mishandling" of his case. His lawyers contend Mr McGartland's claim for damages for personal injury does not pose a risk to national security and will not expose any aspect of his undercover work as an informant against the IRA. Government lawyers told the court that an assurance of "secrecy forever" lies at the heart of the relationship between the British Security Service and its agents. The west Belfast man's best-selling book about his experiences as an informant, 50 Dead Men Walking, has been made into a film.

In the second case, Ahmad Sarkandi and four other Iranians are suing Foreign Secretary Philip Hammond for damages under the 1998 Human Rights Act. They say in 2010 they were "unlawfully" included, at the UK Government's request, in the European Union's restrictive measures regime. The measures included freezing the assets of the designated individuals and restricting their travel on the basis that each of them was a "senior member" of the Islamic Republic of Iran Shipping Line (IRISL). The measures were introduced under EU legislation directed at preventing nuclear proliferation activities in Iran. IRISL and the five, among others, won their applications to the General Court of the European Union to annul their designations. The five are now challenging the Foreign Office decision to propose their designation and claiming High Court damages for losses suffered as a result of the listing proposal.

In both cases, the Government obtained declarations from High Court judges under section 6 of the Justice & Security Act 2013 that it would be lawful during trial of the damages actions to consider sensitive material at closed hearings excluding the claimants, with special advo-

cates present to protect their interests. In the McGartland case, Mr Justice Mitting ruled secret hearings were justified because the case involved sensitive material relating to the training and the protection of security service "handlers" placed in charge of agents. Mr Justice Mitting declared that closed procedures were "in the interests of the fair and effective administration of justice" and therefore permitted under section 6.

In Sarkandi, the Government said it would not be able to disclose its grounds of defence without causing serious harm to national security and intended to apply for closed hearings when sensitive material was under discussion. Mr Justice Bean granted a section 6 declaration allowing closed hearing applications to be made. In the appeal court, Lord Justice Richards said the court had been called upon to consider "at a relatively early stage" what was "the correct approach" to the new laws introducing closed hearings.

Upholding the High Court rulings in favour of closed hearings, he said "appropriate safeguards against inappropriate or excessive use of a closed material procedure are built into the provisions themselves". The judge stressed in the McGartland case that he had read the High Court decision as going no further than "opening the gateway" to closed material proceedings being a "possibility", and he expected any application to use them to be "scrutinised with care".

At the full trial, the court would have to consider serving a summary of the evidence heard in private, and throughout the hearing there had to be compliance with the Article 6 right to a fair trial under the European Convention on Human Rights. If the court considered at any time that a closed hearing was "no longer in the interests of the fair and effective administration of justice" it must revoke the section 6 declaration.

In the Sarkandi case, the judge said a judge in a previous case had made observations that "do not acknowledge as fully as they might the difficulties faced by special advocates in testing evidence that emerges in the closed material procedure, in circumstances where they cannot seek the instructions of the claimants on that evidence". But the judge said the "general thrust" of the observations that a just result could be achieved "does not strike me as unduly sanguine", and Mr Justice Bean had not fallen into error in adopting a similar approach.

Just How Much Justice Can You Afford? *Phil Locke, Wrongful Conviction Blog*

The words chiseled in stone above the entrance to the U.S. Supreme Court building say, “Equal Justice Under Law.” A truly noble philosophy – in theory. But in actual fact, there’s nothing “equal” about justice in this country, and we’re not talking about racial, ethnic, religious, or gender issues here; although they certainly are a factor. It’s a matter of just plain old “dollars and cents,” coupled with the statistical distribution of human capabilities. That is, the better the lawyer, the more money he/she can, and will, charge. This should not be surprising. It’s Economics 101 – supply and demand – the very bedrock foundation of capitalism. The better lawyers will be in higher demand – for those that can pay for them – and will consequently charge more money for their services. Lawyers are just like any other profession – doctor, mechanic, engineer, carpenter, tailor, chef, etc. – there’s a range of individual capabilities from “good” to “bad,” and the “good” one’s cost more money. There’s an old saying in the legal business: “How much justice can you afford?” There’s no secret – the more you can pay for an attorney, the more effective your defense will be; and – if you’re actually innocent – the better your chances of a just outcome.

The law has become so incredibly vast, intricate, and complex, it’s no wonder that there have to be legal “specialties” – tax law, corporate law, patent law, estate law, non-profit law, contract law,

The point here is not to compare levels of police violence in the UK and US or numbers of deaths, but to compare the perennial defence: the policeman involved in a controversial black shooting used proportionate force because he was of the view (perhaps based on intelligence that could be right or wrong) that the deceased was definitely armed, was about to shoot, posed a danger to him and to others. Of 509 cases of suspicious BAME deaths in custody in the last twenty-three years, 137 involving the police and force of some sort used in thirty-nine, there has been precisely one prosecution for murder – the case of Azelle Rodney.

And despite the fact that an inquiry under a high court judge (in lieu of an inquest) had found no lawful justification for Rodney’s death, the policeman was cleared by a jury last Friday on the basis that he fired in self defence. He did not see a gun but intelligence had convinced him that he and other officers were about to be sprayed with ‘up to a thousand rounds’. The armed officer who shot Duggan dead (following a police hard stop) claimed he fired in self defence and described a gun that he saw raised to shoot him. Though a gun was found later on waste ground next to place of the killing, witnesses say Duggan had his hands in the air when shot. And no one other than the armed officer saw Duggan holding a gun.

Police shootings in the UK are, thankfully, rare. But the defence by our agents of law and order, that their recourse to force is prompted by a genuinely held fear that their lives are in danger from black people who are disproportionately strong, large, out of control, angry and/or likely to be armed, is, far from being rare, a stock one. Joy Gardner (who died through asphyxiation during a physically vigorous deportation attempt in 1993) was supposedly ‘violent’, ‘raging’ and a potential killer. Roger Sylvester (who died in 1999 after being restrained by police) had ‘exceptional strength’.

And such stereotypes of black and other ethnic minority people are being used right across Europe to justify fears. The officer in Germany who shot dead Christy Schwundeck, of Nigerian descent, in 2012 at Frankfurt-am-Maine said he fired because ‘she had a completely crazy look, full of aggression, hate and rage an expression that was frightening for me …’ She was in fact suffering from depression and had just had her social benefit withheld. And just six years earlier the German police in Dortmund had justified their shooting dead of Congolese Dominique Koumadio on the same basis: he had acted with extreme rage. And, in the Netherlands, the police prosecutor told the press after the death in custody of Aruban tourist Mitch Henriquez on 28 June (which provoked days of public unrest in the Hague) that violence was used ‘because he resisted’ and Henriquez said he had a weapon – a version of events contested by those who witnessed the arrest.

Stereotypes about foreigners, particularly dark-skinned ones – that they are unpredictable, capable of extraordinary strength, exhibit bizarre behaviour, may be involved in drugs, guns and other violent crimes – run very deep. They perhaps explain why psychologically disturbed or distressed BAME people who need medical and psychiatric help or simply to be incapacitated in some way, end up instead on mortuary slabs. As criminologist Eddie Bruce-Jones has pointed out, the fact that prosecutions of officers are so rare (and convictions nigh impossible) rests on the fact that fear is a subjective response. How can one refute that someone is afraid, how can authorities assess the credibility of an alleged threat, especially when the deceased cannot testify? The failure to prosecute legitimises the police’s assessments of the proportionality of their actions, based mainly on their own account of events.YousseffKhaifMantes

It is a closed circuit then – of racial stereotype, perceived fear, death, exoneration, return to duty. It is in effect ‘a licence to kill’. The words (permis de tuer) are those of the mother of Youssef Khaïf outside a French court in 2001, when, following a ten-year legal fight, the officer who had shot dead Khaïf, her 23-year-old activist son, during a chase in Mantes-la-Jolie, was acquitted.

Mr Webster has since campaigned through the courts, saying he should be compensated for his wrongful conviction and loss of liberty. However, his case suffered a blow this week when three top judges described his arguments as "hopeless" and "doomed to fail". Mr Webster complained that, in her speech to the jury, Judge Kershaw – who has since died – "emasculated" crucial parts of his defence. He always insisted that his accuser had lied and argued Judge Kershaw's "unbalanced" words amounted to "a reprise of the prosecution case" against him.

His lawyers sued the Lord Chancellor, claiming Mr Webster's trial and wrongful conviction amounted to a violation of his human rights. However, rejecting his case, Sir Brian Leveson said Judge Kershaw had "done her best" to give Mr Webster a fair trial. Sir Brian said there was no suggestion that Judge Kershaw had an "ulterior motive" and Mr Webster had come nowhere near proving she acted in bad faith. Although there was a "lack of balance" in her summing up, her general directions to the jury on the law were "without fault", he said. Mr Webster's lawyers claimed the difficulties he faced in winning compensation were "incompatible" with his human rights. But Sir Brian described that argument as "hopeless" and said that Mr Webster's claim was "always doomed to fail". The Master of the Rolls, Lord Dyson, and Lord Justice Tomlinson agreed Mr Webster's appeal should be dismissed. His compensation claim has now been struck out and he has been refused permission to appeal further to the Supreme Court.

Police Payout for Tasered Pair After Wrongful Conviction *BT.com*

Two men who were tasered by police while on a stag do have won compensation. Lawyers for Darren Corbridge and John Naylor said police had agreed to pay the pair five figure sums in compensation and meet legal costs in the region of £90,000. The payouts follow an incident in Weymouth town centre in August 2010 when the two men were pepper sprayed and tasered by officers.

The pair were arrested and later convicted of attacking police despite claiming they had done nothing wrong and had only been trying to help bridegroom-to-be Stewart Roberts get home in a bizarre costume. In 2012 Mr Corbridge and Mr Naylor had their convictions overturned by a judge who was shown CCTV of the incident which proved their innocence. Officers used pepper spray and a Taser on Mr Naylor while Mr Corbridge was restrained, also tasered and pepper sprayed, and detained. Mr Corbridge and Mr Naylor were later both charged with assaulting a police officer and Mr Naylor was also charged with resisting arrest. They were subsequently convicted by magistrates and given curfew orders but appealed at the crown court.

Lawyer Sophie Khan, of Sophie Khan & Co who represented the two men, said: "The claim by Mr Corbridge and Mr Naylor followed a serious incident in Weymouth town centre where the use of force on them was so excessive it had to be challenged. Dorset police have accepted their officers were wrong as they have settled the claims. I hope Dorset Police can learn from this and that it doesn't happen to anyone else." A Dorset Police spokeswoman said: "We can confirm an out of court settlement has been reached with no admittance of liability. It is not our practice to comment on the settlement amount."

Self Defence or a Licence to Kill? *Jenny Bourne IRR*

When we look at the figures of young African Americans shot dead, some might comfort themselves with the mantra 'thank goodness our police forces, unlike those of the US, are not routinely armed'. But look at our record of BAME killings when they are armed. In just the last few years, Azelle Rodney was shot eight times on sight by a veteran police marksman in 2005; Mark Duggan was shot dead in a Tottenham street in 2011 and Jean Charles de Menezes was mistaken for a terrorist and shot at point blank range in an underground carriage in 2005.

political law, insurance law, criminal law, and on and on and on. It's so complicated, even the lawyers can get it wrong — but the better lawyers are better at getting it right and in presenting an effective case. If you are faced with having to defend yourself against criminal charges — to give yourself even a slim chance of success, you need to have an attorney to help you navigate the legal labyrinth; but attorneys cost money. In fact, attorneys can cost a lot of money, and as noted above, the better the attorney, the more it will cost. For just a misdemeanor charge to which you do not accept a plea deal (because you're innocent), it's not uncommon for the legal fees to be $2,000 – $3,000, and most attorneys will want a substantial portion, if not all, of their fees paid up front. If you're charged with multiple counts of felony crimes, the legal expenses go up exponentially. And the expenses don't stop with just the attorney's fees. They can, and do, also include things like: Cost of a private investigator - Expert witness fees - Costs of forensic laboratory testing - Costs of copying documents and subpoenaing witnesses - Fees for co-counsels

Where I live, the "standard" fee for a criminal defense lawyer is $250/hour. If you do the math, you'll quickly realize that if your lawyer puts in 40 hours on your case, you're in for $10,000. And just because you pay the "standard" fee, it doesn't necessarily mean you will get a competent defense. There is almost no way one can tell if the lawyer they are about to hire is any good, but the old saying, "You get what you pay for," generally holds true. If the charges are really serious, the legal costs can be astronomical. For instance: Example #1: the O.J. Simpson "dream team" that defended him in the criminal trial for the murder of Nicole Brown Simpson. The cost for his legal defense has been estimated at $3 million – $6 million, and that was in 1994. And it worked – he was acquitted in the face of daunting evidence of guilt. Example #2: the Duke University lacrosse team rape case. The three boys were wrongfully accused of raping a party dancer, and the prosecutor on the case, driven by a looming reelection bid, engaged in egregious prosecutorial misconduct. However the boys' families had the financial resources to field a powerful legal defense team, and charges were dismissed after a review by the North Carolina State Attorney General. The families' total legal expenses are estimated at $3 million. If not for that; had they been typical middle class families, their innocent sons would be in prison today.

But be aware – an "adequate" or "good" legal defense is no guarantee of acquittal. I've been involved in more than a few cases in which we truly believe, or downright know, the defendant is innocent, and the family has had to sell their home, and cash in their life savings to pay for legal counsel in what, more often than not, turns out to be a vain attempt to correct the wrong visited upon them by the justice system. These families have been financially ruined, and they are victims of a system that, by it's very nature, makes no attempt to level the financial playing field.

Because of the daunting expenses involved, it's not uncommon for people, especially inmates, to try to "represent" themselves by filing pro se motions with the court to avoid attorney's fees. But when people try to represent themselves, they invariably trip over the intricacies of the law, and they all too easily run afoul of the procedural and time bars built into the law, exposing themselves to great risk of shutting themselves out of any possible post-conviction relief should they eventually be convicted. Most commonly, people of meager means will wind up with a public defender, a court appointed attorney, or a lawyer who charges bargain rates but is less than competent. And my experience tells me that bad defense lawyers are responsible for as many wrongful convictions as anything else. The consequence of the fact that an adequate legal defense costs a lot of money, and a good legal defense costs a lot more money fall disproportionately on the lower socio-economic strata of society. [I need to interject at this point that I know many excellent and dedicated attorneys who have committed their

careers to working as full-time public defenders or staff attorneys for innocence projects. However, they are constantly handicapped by insufficient funding and huge case loads.]

Now, here's the perversely ironic part. Money is no object for the prosecutor. The prosecutor is financed by your tax dollars. The prosecutor has a staff of attorneys, an office support staff, the police, and the crime labs – all paid for by the taxpayers. The defendant has to pay for his own attorneys, investigators, expert witnesses, lab examinations & tests, and all other case expenses. This does not make for a fair and level playing field. The prosecution has a monstrous financial advantage. To even come close to matching the financial resources that the prosecutor can bring to bear on any particular case, the defendants – and their families – must often spend to the extent of ruining themselves financially.

So, think about this. A wrongful conviction in which the family has exhausted their total financial assets produces an injustice many times worse than "just" sending an innocent person to prison, which in itself is abominable. Everyone is supposed to be guaranteed a "fair" trial with "equal justice under law;" but with a monstrous financial advantage for the prosecution and with the prevailing fee structures for defense attorneys, how can this possibly be the case? How can we call this either equal or fair?

GPS Tracking of Offenders Delayed by Further 12 Months *Alan Travis, Guardian*

The introduction of the next generation of GPS tracking of offenders, including convicted paedophiles, has been delayed for at least another 12 months, the Ministry of Justice has announced. The prisons minister, Andrew Selous, said there had been significant problems with the project which meant it was impossible to meet the deadline for the £265m six-year contract to begin. The previous justice secretary, Chris Grayling, promised parliament that the first satellite tracking tags, which allow for dangerous and repeat offenders to be monitored around the clock, would come into use by the end of last year. The delay means that G4S and Serco will continue to be paid a £1m a month for use of their more basic radio-frequency tagging equipment, used to monitor night-time house curfews imposed on more than 100,000 convicted offenders and released prisoners each year. This is despite the fact that both companies lost the main tagging contract and had to repay nearly £180m over allegations of overcharging that triggered an investigation by the Serious Fraud Office. As reported by the Guardian last month, G4S and Serco were given a 15-month extension to their contract this year for the continued use of their equipment, with a further extension possible when that expires in 2016.

Selous said the government was committed to developing a new generation of tags. "But there have been significant problems with this programme. We have not developed the infrastructure for these new electronic monitoring tags to the timetable originally set out nor yet at the level of effectiveness required. Integrating legacy technology on the new system has caused particular delays. We are now in the process of testing the new tags. But the new fully integrated service will not be ready for another 12 months at the earliest. We continue to use existing tags for a variety of offenders."

Grayling announced in July 2014 that a small Redditch company, Steatite, would supply the new tags on an initial three-year contract valued at £23.2m. It is believed that Steatite subcontracted to a Taiwanese company, Sanav. It is understood that the first GPS tags were rushed into use last year in an attempt to meet Grayling's end-of-year deadline but had to be withdrawn amid a dispute over intellectual property rights and other issues. Although Steatite are responsible for developing the new tags, the overall tagging contract worth £265m is managed by Capita, with Airbus Defence and Space and Telefonica also involved.

Ministers and Parliament with the decisions they now have to make."

Jail Unrest Feared Over Smoking Ban Plans *Jamie Doward, Guardian*

The Ministry of Justice is drawing up plans for a smoking ban in several jails amid fears that legal actions forcing all to go smoke-free simultaneously would trigger unrest at a time when tensions in the prison estate are high. Successive prison ministers have prevaricated on introducing a ban, due to concerns about the reaction from the four out of five prisoners who smoke. However, two legal cases brought by prisoners have brought the matter to a head. In March, a high court case confirmed that prisons were not above the law when it came to restrictions on smoking and that prison staff, including the governor, were open to prosecution if they failed to enforce restrictions.

The judge said that extending the smoking ban to prison cells could cause unrest. He said "prisoners who feel the need to smoke … may be resistant to the criminalising of that conduct in places where in my view the Health Act does apply". This ruling is being contested by Ministry of Justice lawyers who argued that, because prisons operate under crown immunity, they are not subject to the ban. But last month, in response to a case brought by a prisoner who objected to being held in a cell with a smoker in Parc prison in Bridgend, Wales, run by G4S, lawyers for the justice secretary, Michael Gove, accepted that crown immunity did not cover private prisons and conceded that Parc would become smoke-free by February.

Sean Humber, solicitor with the law firm Leigh Day, who represented the prisoner who brought the case, said: "Having taken this step for one prison, it will be much harder for the government to argue against the whole of the prison estate following suit." Humber predicted that the Ministry of Justice would now have to draw up a timetable for other prisons to go smoke-free. "This is quite a big step forward because, while the prison service has been talking about its intention for prisons to go smoke-free for years in very general terms, it has repeatedly delayed identifying a timetable to actually do or even to trial it at certain prisons," he said.

Now the Observer understands that the ministry will soon pilot a smoking ban in about eight prisons in Wales and the south-west of England. It is known to have conducted an analysis on the health effects of smoking in prisons, but it has declined to release a 2007 assessment – requested under the Freedom of Information Act – on the ground that it "could lead to an inaccurate impression, causing damage to staff morale, which would be likely to prejudice the maintenance of security and good order in prisons".

A continued failure to implement a ban could leave the ministry open to legal action. "It may strengthen a personal injury or breach of human rights claim for someone claiming that they have suffered health problems as a result of their exposure to second-hand smoke," Humber explained. Last week, the chief inspector of prisons, Nick Hardwick, used his last report to warn that staff shortages, overcrowding and a rising level of violence had all contributed to a significant overall decline in safety in the country's jails. A spokesman for the ministry said it had already introduced a number of precautionary measures to reduce the risk of exposure to second-hand smoke.

Phil Webster Wrongly Jailed For Rape Refused Compensation *Hull Daily Mail*

A former Hull City finance director, who spent two years in prison after being wrongly convicted of rape, will not be compensated. Philip Webster, 64, was found guilty of raping and sexually molesting a 14-year-old girl following a trial at Leeds Crown Court in July 2009. Mr Webster, of Malton Road, Cherry Burton, was jailed for nine years. However, in March 2011, the Criminal Appeal Court ruled his conviction "unsafe", overturned it and ordered his release. The appeal court was critical of Judge Jennifer Kershaw QC's summing up of the case to the jury.

a rise of 10% on the previous year; and prisons had made uneven preparation for the introduction of the Care Act 2014 which would give local authorities new responsibility for meeting the social care needs of prisoners. Work, training, education and other activity outcomes were dismal and only good or reasonably good in 25% of the adult male prisons inspected, which is of profound concern, and the worst outcomes since 2005-06. One in five prisoners said they spent less than two hours a day out of their cells during the week. Resettlement outcomes also slumped to their lowest level since the inspectorate began to record them and in only 45% of men's prisons were outcomes reasonably good or good.

Other findings include: - women's prisons were more positive and other than in purposeful activity, outcomes were consistently good or reasonably good; - the population of children in custody continued to fall in 2014-15, to 1,144; - levels of violence in young offender institutions (YOIs) holding boys continued to be high; - most of the secure training centres inspected with Ofsted provided good outcomes for the more vulnerable children they held; - across the immigration estate, in general, safety, the environment and relationships with staff were reasonable, but welfare services were insufficient to prepare detainees for their return or release; - inspectors found examples of prolonged immigration detention without exceptional and clearly evidenced reasons to justify it; - detainees told inspectors that their greatest concern was the uncertainty about their detention and anxiety about their immigration case. These concerns were exacerbated for detainees who were vulnerable for some reason - and too often these vulnerabilities were not recognised or addressed; - overseas escorts removing large groups of detainees on charter flights were generally professional; - police custody has improved over the past five years, although too many vulnerable people continued to be held in police custody, including children and those in mental health crisis; - court custody contained some of the worst conditions inspectors have seen, with fragmented and ineffective leadership; and - military detention facilities were among the best inspectors found.

From April 2014 to March 2015, the Inspectorate published 94 individual inspection reports on prisons, police custody suites, immigration removal centres and other custodial establishments. Thematic reports were published, jointly with HM Inspectorate of Probation, on resettlement provision for adult offenders, girls in the criminal justice system, and offenders with learning disabilities. The inspectorate continued to develop its role in coordinating the UK response to its international obligations arising from the United Nations Optional Protocol to the Convention Against Torture and began work on a major joint project looking at isolation and practices that amount to solitary confinement. A number of positive reports about the work of the inspectorate itself were published shortly before the election and in 2015-16 the inspectorate will respond to the recommendations in those reports to further develop and strengthen its work.

Nick Hardwick said: "Three broad themes emerge from this report and review - not just of the last year but of the five years since I was appointed. First, the increased vulnerability of those held across the range of establishments we inspect and the challenge establishments have in meeting these individuals' needs. Too often locking someone up out of sight provides a short-term solution, but fails to provide the long-term answers more effective multi-agency community solutions would provide. Second, there is a real need to match the demand for custodial services to the resources available. Detention is one of the public services where demand can be managed. Alternatives to the use of custody may be unpalatable but so, no doubt, are the other public expenditure choices that government has to make. Third, the case for the independent inspection of custody remains as strong as ever and that independence needs to be preserved. I hope this report will assist

If you Encourage Someone to Kill, are you Guilty of Murder?

Joshua Rozenberg, Guardian: Does the law of joint enterprise cause injustice? That's the question the supreme court will confront in October. If its answer is yes, the UK's most senior judges will have the chance to put things right. The court has agreed to hear an appeal by Ameen Hassan Jogee, 26, who is serving a sentence of life imprisonment with a minimum of 18 years. Jogee was convicted of murder even though it was his friend Mohammed Adnam Hirsi, 28, who killed their victim, Paul Fyfe, 47. The jury heard that Jogee and Hirsi went to Fyfe's girlfriend's home in Leicester in the early hours of 10 June 2011. While Jogee remained near the front door, Hirsi went in, took a knife from the kitchen block and stabbed Fyfe in the chest.

It was what happened earlier that led to Jogee's conviction under the principles of joint enterprise. He and Hirsi had spent the evening together, getting drunk and taking cocaine. Shortly after midnight, they visited Fyfe's girlfriend's home. While there, Jogee picked up a knife and waved it around, threatening to "shank" (stab) another man. Fyfe's girlfriend said they should leave before Fyfe got home. Jogee made it clear that seeing Fyfe didn't worry him. Then Jogee and Hirsi began to wind each other up, saying they could "take Fyfe out". The two men left, only to return after Fyfe had got back. Jogee was outside, shouting and damaging Fyfe's car. At one stage, Jogee threatened to smash a brandy bottle over Fyfe's head. Jogee was "egging" Hirsi to "do something" to Fyfe, according to Fyfe's girlfriend. Hirsi then stabbed Fyfe.

Needless to say, the jury heard a lot more evidence than that. Hirsi was convicted of murder and ordered to serve a minimum of 22 years in prison. Jogee was convicted on the basis that he had encouraged Hirsi to stab Fyfe. Neither defendant gave evidence at their trial. At his appeal, Jogee's counsel argued that he could be convicted only if he knew Hirsi had picked up a weapon and had encouraged him to stab Fyfe. The trial judge, Mrs Justice Dobbs, who noted that both men knew there was a knife in the kitchen, told the jury it was for them to decide whether Jogee realised Hirsi might use it. Three appeal judges, headed by Lord Justice Laws, said that Dobbs had directed the jury correctly and dismissed Jogee's appeal against conviction.

Joint enterprise is part of English common law, which means it has been developed by the judges over the centuries. It is constantly changing. But the basic principle is simple enough. If you help or encourage someone to commit an offence, you can be just as guilty as the person who did it. Somebody who carries out a criminal act with the required intent – the person who deliberately fires the gun, for instance– is known as a principal. The person who assists or encourages the principal – in old language, aiding, abetting, counselling or procuring the offence – is known as an accessory or secondary party. Legislation passed in 1861 says that an accessory may be punished in the same way as a principal.

A handy summary of the law has been published by the crown prosecution service. This makes it clear that the accessory must intend to assist or encourage the principal. In addition, they must have knowledge of the essential elements of the principal's intended offence. Exactly what level of foresight is needed has been the subject of much discussion by the courts. A traditional gangland shooting might involve two people: one to fire the gun and another to drive the getaway car. The shooter will not pull the trigger unless he has a means of escape. The driver knows there will be no shooting without him. So both are guilty of murder. The same principle should apply if one person encourages another to pull the trigger.

But killings can be utterly mindless. A group of youths hang around together. Some carry knives. There is a fight and somebody is stabbed. Should someone at the back of the crowd – or someone who had merely been in touch with the group by phone – be convicted of

murder? The campaign group known as JENGbA claims that the law has gone too far. It recently launched a crowdfunding campaign to support legal submissions in the Jogee appeal.

It must be bad enough to find that your teenage son is involved with what the police regard as a gang. It must be appalling to find that the teenager is facing a mandatory life sentence – with a starting point of 15 years – because somebody he hardly knows has committed murder. And yet we are all responsible for the consequences of our acts. If you go out with people who are carrying knives, it's no excuse to say you were merely holding the victim down. And getting high on drink or drugs is no excuse.

There is cogent evidence to suggest that the law has gone too far, particularly on the question of foresight. At the end of 2014, the Commons justice committee, then chaired by Alan Beith, recommended an urgent review of whether the threshold for charging secondary participants with murder should be raised. The MPs also suggested allowing those on the periphery to be charged with an offence that does not attract a mandatory life sentence, such as manslaughter.

Allowing secondary participants to be charged with lesser offences would require legislation. So would abolishing the mandatory sentence for murder, which is to blame for so many anomalies in the law. But it should still be possible for the supreme court to limit the use of murder by joint enterprise to cases where the secondary participant clearly foresaw – or certainly should have foreseen – that the person he was assisting or encouraging would commit murder. If the law gets too far out of line with public perceptions of fairness and justice, it's time for the judges to put it right.

Yarl's Wood IRC Serco Must Give Inmates Access to Guide on Avoiding Deportation

Owen Bowcott, Indpendent: Serco staff at Yarl's Wood immigration removal centre who confiscated a legal, 'Self-Help Guide against detention & deportation' have been ordered by the Home Office to return copies to inmates. The booklet, which has circulated around immigration centres for more than a decade, was removed by security officials employed by Serco, the private contractor which runs the centre in Bedfordshire. The company said staff began seizing copies last week "given the nature of the content". Inmates said they were told the reading material was banned. The seizures were made at a time when legal aid for immigration, as opposed to asylum, cases is no longer available and few lawyers can afford to take up such cases. As many as 90 copies of the book were confiscated, according to organisations that support detainees. However, Serco said it only removed a dozen.

Alice Wanja-Maina, who has been held in Yarl's Wood since April, had arranged for new copies of the guide to be sent in. She told the Guardian: "I signed for them but then they took them away. The guides help us fight deportation and detention. The guards said you are not going to have them, that they were banned and that I was going to be deported back to Kenya. The book is really good. It helps us prepare our cases. We don't have lawyers to help us. This gives us the confidence to carry on. To be enclosed in a detention centre like this is really bad. They treat us like animals. I can't sleep. I suffered rape and torture in Kenya at the hands of a traditional African organisation which is opposed to western culture. I can't go back." Wanja-Maina is waiting for a tribunal hearing.

Cristel Amiss, of the Black Women's Rape Action Project which supports inmates at Yarl's Wood, said: "People inside are really dependent on the guide. It looks like the guards or managers have taken the law into their own hands. This book has gone into detention centres across the country. If people stop getting support like this it will be easier to deport them. It's particularly useful for women who have survived rape. People are traumatised by what

lethal drugs to him with his consent. The ECtHR declared his application inadmissible for non¬exhaustion of domestic remedies. The case Nicklinson and Lamb concerns the compatibility of the ban on assisted suicide and voluntary euthanasia with Article 8 (right to respect for private and family life) of the European Convention on Human Rights and not with the stopping of treatment of a tetraplegic in a state of complete dependency under Article 2 (right to life) of the Convention, as was recently examined by the Court's Grand Chamber in the case Lambert v. France.

Prisons in Decline Across All Areas, Warns Chief Inspector

Outcomes in prisons reported on by the inspectorate declined across all areas in 2014-15 and were the worst for ten years, said Nick Hardwick, Chief Inspector of Prisons. As today tuesday 14th July 2015, he published his last annual report before his term of office ends in January next year. However, the small number of women's prisons and establishments holding children had not declined in the same way as adult men's prisons, he added. All of the prisons inspectors were most concerned about in 2013-14 which had been inspected in 2014-15 had made significant improvements thanks to effective leadership, very hard work by staff and some investment in the environment.

Safety had deteriorated across the prison estate, affecting adult men's prisons of all types and prisons in both the public and private sectors. Some long-term trends are a factor in the decline. More prisoners are serving long sentences for serious offences. The rapid increase in the availability of new psychoactive substances (NPS), such as 'Spice' or 'Black Mamba', has had a severe impact and has led to debt and associated violence. Local prisons in particular have struggled to cope with the introduction of young adults, who are over-represented in violent incidents and the use of force by staff. However, these factors do not sufficiently explain the overall decline in safety. Staff shortages, overcrowding and the wider policy changes described in the report have had a significant impact on prison safety.

National Offender Management Service (NOMS) data showed that: - in 2014-15, 239 men and women died in prison, 29% higher than in 2010-11 and 6% higher than last year; - there was a welcome fall in the number of apparent self-inflicted deaths, from 88 in the year to March 2014 to 76 in the year to March 2015, but it was 40% higher than five years ago; - the number of self-harm incidents involving male prisoners has risen steadily over the past five years and the 18,995 incidents in the year ending December 2014 was almost a third higher than the year to December 2010; - there were 10% more assault incidents in 2014 than in 2013 alone; and - assaults on staff have risen sharply: there were 3,637 in 2014, an increase of 28% on 2010.

Nick Hardwick said: "Our own assessments about safety were consistent with data that the National Offender Management Service (NOMS) itself produced. You were more likely to die in prison than five years ago. More prisoners were murdered, killed themselves, self-harmed and were victims of assaults than five years ago. There were more serious assaults and the number of assaults and serious assaults against staff also rose." There was more that individual prisons could have done to address the decline in safety outcomes. Reception and early days processes were inconsistent. In some cases prisons had not responded effectively enough to Prisons and Probation Ombudsman recommendations following a death in custody, or quickly enough to the threat of NPS.

Overcrowding remained a significant problem although population pressures had reduced slightly overall. Despite the pressure of numbers, respect outcomes - daily living conditions, the relationships between staff and prisoners and health care - had only declined slightly from previous years. In surveys, 76% of prisoners said that staff treated them with respect, which was an impressive figure.

The number of older prisoners continued to rise sharply, with over-60s reaching 3,786,

Nick Hardwick said: "I have not found evidence of a widespread, deliberate attempt to monitor communications with MPs and I believe that the majority of calls were downloaded for listening in error. In a small number of calls, however, I have found evidence that suggests the rules were deliberately broken. I have asked the National Offender Management Service (NOMS) to conduct a formal investigation into these cases to establish whether any disciplinary offences have been committed. I have made a number of recommendations to address the shortcomings I have identified. They include improving levels of understanding confidential access privileges among prisoners and staff, and conducting formal investigations for the cases where we have identified significant concern. There is a need to ensure consistency in policy and practice across the prison estate both in terms of ensuring calls to MPs and other confidential access organisations are not recorded and for data retention. NOMS also needs to implement governance systems to ensure that any further problems with confidential access communications are identified much more quickly. Finally, NOMS must implement more robust systems for ensuring that prisoners' privileged mail is not opened."

Arrest: No Satisfactory or Convincing Explanation Received For Injuries Later Noted

European Court of Human Right Chamber judgment! in the case of Ghedir and Others v. France(application no. 20579/12). This case concerned allegations of ill-treatment during an arrest carried out at a station by security officers of the SNCF (the French national railway company) and police officers. The Court held, unanimously, that there had been: a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights on account of the lack of a satisfactory explanation by the authorities for Abdelkader Ghedir's injuries; and no violation of Article 3 as regards the conduct of the investigations. The Court, observing that the investigations had yielded conflicting and disturbing evidence, found that the French authorities had not provided a satisfactory and convincing explanation for Abdelkader Ghedir's injuries, the symptoms of which had become apparent while he was in police custody, and concluded that there were sufficient inferences to support a finding of a violation of Article 3.

ECtHR UK Case on Assisted Suicide & Voluntary Euthanasia Declared Inadmissible

In its decision in the case of Nicklinson and Lamb v. the United Kingdom(application nos. 2478/15 and 1787/15) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final. The case concerned the ban under UK law on assisted suicide and voluntary euthanasia. Assisted suicide is prohibited by section 2(1) of the Suicide Act 1961 and voluntary euthanasia is considered to be murder under UK law.

Mrs Nicklinson, the wife of Tony Nicklinson (now deceased) who was suffering from locked-in syndrome and wished to end his life, complained that the domestic courts had failed to determine the compatibility of the law in the UK on assisted suicide with her and her husband's right to respect for private and family life. The ECtHR declared this application inadmissible as manifestly ill-founded, finding that Article 8 did not impose procedural obligations which required the domestic courts to examine the merits of a challenge brought in respect of primary legislation as in the present case. In any event, it was of the view that the majority of the Supreme Court had examined the substance of Mrs Nicklinson's complaint.

Mr Lamb, who is paralysed and also wishes to end his life, brought a complaint about the failure to provide him with the opportunity to obtain court permission to allow a volunteer to administer

they have gone through. The guide makes it clear that even at a late stage if you speak about it, it can be important for reopening your claim." Earlier this month, the Home Office suspended the fast-track sytem for detaining those facing deportation before their cases had been finally decided. Dozens of women were released from Yarl's Wood. Niki Adams of Legal Action for Women, who coordinated the original publication, said: "This book is a lifesaving tool. There's very little other help for people who are in detention and feel very isolated. These are basic rights which say that you can claim asylum if you have suffered persecution."

A Serco spokesman said: "A dozen of the books ... were received at Yarl's Wood on Friday. Given the nature of some of the content, as is normal procedure, we sought advice from the Home Office on whether the books should be allowed in the centre. We have ... received advice from the Home Office that they should be allowed so the books will now be available to residents." The Home Office confirmed that the books were being returned.

Homosexuality: Convictions Difference Between a "Pardon" and a "Disregard"

Lord Sharkey, in the light of the Conservative Party manifesto pledges to introduce legislation to pardon those men, now deceased, who were historically convicted of gross indecency even though they would be innocent of any crime today, whether they intend such legislation to extend a pardon to those men similarly convicted but still living who may apply for a "disregard" under the Protection of Freedoms Act 2012, and if not, why not; and whether they accept that there is a difference between a "pardon" and a "disregard", and if so, what it is.

Lord Faulks: The Government was elected with a manifesto commitment to introduce a new law to pardon those who suffered from convictions similar to Alan Turing's, and who cannot correct the injustice themselves through the "disregard" process. Details of the policy have not yet been formulated and Ministers will be discussing their plans and making announcements in due course There is a clear difference between a pardon and a disregard. A pardon is legally neutral in effect and does not affect any conviction, caution or sentence, though it may remove the "pains and penalties" which resulted from these. The effect of a disregard is that all successful applicants will be treated "for all purposes in law" as though the conviction had never occurred and need not disclose it for any purpose. Official records relating to the conviction held by prescribed organisations will be deleted or, where appropriate, annotated to this effect as soon as possible after the grant of a disregard. *House of Lords, [HL1037] , 15/07/2015*

Raging Prison Guards Forced To Call Inmate Mighty Almighty

*John Ferguson, Scottish Daily Record***:** Andrew Burns, 24, first changed his name to Obi Wan Kenobi, then God Almighty, then Mighty Almighty. And prison service rules say warders must address him by whatever name he chooses. One fed-up officer at Glenochil jail near Alloa said Burns was a menace. He explained: "In his time at Glenochil he's raised hundreds of complaints which have to be answered by a manager. And when he's not satisfied with the response, he sends the complaint to the governor. "Burns's whole aim is to clog up the system. His complaints take up hours and hours of staff time. I'm disgusted by the amount of public money being wasted on him. Now he has thought up this ridiculous scheme to change his name. He's changed his name recently to Obi Wan Kenobi and then God Almighty and now Mighty Almighty. And yes, we do have to call him that."

The Scottish Prison Service cannot comment on individual prisoners but a spokeswoman confirmed all inmates have the right to change their names. She said: "Our policy entitles

those in our care to change their name, and reflects the same rights that a person has out of custody the policy is currently under review."

Burns has been in and out of jail since his teens. He has a string of convictions for vandalism, assaults and resisting arrest and is now serving time for assault. He escaped from a hospital in Cheshire in 2010, assaulting a nurse in the process, and spent eight hours on the roof, pelting patients' cars with slates. Burns was once described in court as a "troubled young man" who had difficulty controlling his rages. His family live in Kinglassie, Fife. Brother Sam, 18, said: "I've not heard about the name-changing. I think he's just mucking about and causing mischief."

Exceptional Case Funding Scheme Unlawful *Public Law Project*

The High Court Tuesday 15th July 2015, handed down a judgment in a test case which will have profound implications for access to justice. In a further judgment in the case of "I.S." Mr Justice Collins has found that the Legal Aid Agency's current operation of the Exceptional Case Funding ("ECF") scheme is unlawful. ECF was established to act as a "safety net" to mitigate the significant cuts to legal aid otherwise contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ("LASPO"). It was meant to protect those whose fundamental rights would be breached in the absence of legal assistance. The scheme is administered by the Legal Aid Agency ("LAA"), an executive agency of the Ministry of Justice.

The case was brought by the Official Solicitor of England and Wales (1) on behalf of a claimant known as "I.S." I.S. is blind, has profound cognitive impairments, lacks litigation capacity and is unable to care for himself. I.S., like many others, had been refused ECF. An earlier judgment had already established that I.S. was properly entitled to ECF and that the restrictive ECF guidance published by the then Lord Chancellor was incorrect and unlawful. The Official Solicitor then pursued a wider public interest claim out of general concern for other vulnerable litigants. In hearing this further challenge the Court weighed considerable evidence as to the current operation of the ECF scheme. It found that it is deficient in various respects, including the complexity of the application procedure and the nature of LAA decision-making, and that it is failing to provide the safety net that was promised by Ministers. Mr Justice Collins made it clear that there will need to be significant changes to the operation of the scheme [105].

The Claimant was represented by the Public Law Project ("PLP") (1), and Richard Hermer QC, Phillippa Kaufmann QC, Chris Buttler and Ben Silverstone of Matrix Chambers. Jo Hickman, Director at PLP said: "PLP has long been concerned about the practical operation of the ECF scheme.This welcome judgment will help to protect the interests of the many children, patients, and other vulnerable adults who would otherwise be unable to achieve justice." (1) The Official Solicitor is an independent statutory office holder who acts as last resort litigation friend for parties who lack the mental capacity to conduct their own cases. (2) The Public Law Project (PLP) is an independent, national legal charity which aims to improve access to justice for those whose access is restricted by poverty, discrimination or other similar barriers.

Convictions of 83 Political Campaigners in Doubt Over Undercover Police Failings

Rob Evans, Guardian: Report finds officers deployed to infiltrate groups appeared in trials using fake personas and allowed false evidence to be presented in court: The criminal convictions of another 83 political campaigners could be overturned because the involvement of undercover police was hidden from their trials, an official review has revealed. The home secretary, Theresa May, said the safety of the convictions was causing concern and described the withholding of crucial evidence

sections (a) and (e) of Article 5 § 1. It had thus constituted lawful detention "after conviction by a competent court" and of a person "of unsound mind". Subsequently he had not asked for a review of the lawfulness of his detention in general. Instead he had maintained that the reasons for his detention under Article 5 § 1 (e) had ceased to exist and had asked for the measure of detention in the institution to be lifted even if at that time this could not have led to his release but only to his transfer to an ordinary prison.

The Court considered that it would be contrary to the object and purpose of Article 5 to interpret paragraph 4 of that Article as making confinement in a mental institution immune from review of its lawfulness merely because the initial decision ordering detention had been taken by a court under Article 5 § 1 (a) of the Convention. It underlined that the reason for guaranteeing a review under Article 5 § 4 was equally valid in respect of a person detained in a mental institution regardless of whether he or she was serving, in parallel, a prison sentence. Accordingly Article 5 § 4 was applicable in Mr Kuttner's case.

Merits: As regards the substance of Mr Kuttner's complaint, the Court found that under the circumstances of his case the period of 16 months between the final decisions in the first and the second set of proceedings concerning his request to be released from the institution for mentally-ill offenders (in May 2006 and September 2007 respectively) did not fulfil the requirement, under Article 5 § 4, of a speedy review.

The Court noted in particular that Mr Kuttner himself had not caused any delays in the examination of his request. On the contrary, he had applied for the setting of a time-limit for the decision under the applicable procedural law. The Court considered, as had been pointed out by the appeal court in his case, that there had been significant delays in the proceedings before the regional court. Furthermore, a delay in obtaining the relevant expert opinion had been attributable to the regional court. There had accordingly been a violation of Article 5 § 4. Just satisfaction (Article 41) The Court held that Austria was to pay Mr Kuttner 3,000 euros (EUR) in respect of non-pecuniary damage.

Prison Communications Inquiry: Calls To MPs Rules Were Deliberately Broken

There is no evidence of a widespread, deliberate attempt to monitor communications between prisoners and MPs and the majority of calls were downloaded for listening in error, said Nick Hardwick, Chief Inspector of Prisons. As today Thursday 16th July 2015, he published a report of the second stage of an inquiry into prison communications.

On 11 November 2014, former Secretary of State for Justice Chris Grayling asked HM Chief Inspector of Prisons to investigate the circumstances surrounding the interception of telephone calls from prisoners in England and Wales to the offices of Members of Parliament and to make recommendations to ensure that there are sufficient safeguards in place to minimise the risk of such calls being recorded inappropriately in the future.

The first stage of the inquiry was to undertake a review of urgent, practical steps which NOMS took to minimise the risk of recording or listening to calls inappropriately in the future. This report of this inquiry was published on 16 December 2014. The second stage of the inquiry looks at the circumstances of how these telephone calls came to be recorded in the past. Since 2006, in prisons using the BT system, prisoners have made around 5,600 calls to MPs, and around 3,150 (56%) of them were recorded. Of the recordings 280 (8.8%) were downloaded to a playback system and probably listened to on 358 occasions. Sixty-eight calls were listened to live or exported to disc. Most calls were short. Thirty-five prisoners, 37 MPs and 38 prisons were involved.

moral standards while the richest still feed off the poorest! The power is still in the hands of The Normans, Nobility & their underlings & we are still be expected to serve them!

'Hwæt' 'Listen! we have heard of the might of the kings' The natural Kings of this land were not chosen by right of birth but for the good of all. If their reign failed the people they were sacrificed in one last act of service! Unfortunately sacrificing Mr Gove isn't the answer, the Gods are not smiling on us there! When our Kings stop calling us thieves & scroungers, stop killing our people, stop thinking the Jeremy Kyle Show is how our society really is, stop feeding off the poor & starving, stop pointing out differences, stop gathering power to keep in power, stopping our right of audience amongst our people, when you begin to serve our "tribe" again, only then will we get the answers we need! When the people are allowed to speak again, when they are valued for what they contribute, when each & every one of our 'tribe' is equal in law! Maybe then, a poem, a fable, will again become a fact & the belief of our "moral deprivation" become the myth that it is!

Courts Obliged to Review Lawfulness of Convict's Confinement In Mental Institution

In Chamber judgment case of Kuttner v. Austria(application no. 7997/08) the European Court of Human Rights held, unanimously, that there had been: a violation of Article 5 § 4 (right to liberty and security / right to have lawfulness of detention decided speedily by a court), of the European Convention on Human Rights. The case essentially concerned a convicted offender's complaint about the delay in dealing with his application for release from a psychiatric institution. As regards the admissibility of the complaint, the Court underlined that Article 5 § 4 was applicable in the case although Mr Kuttner's request for review of his detention in the institution could not have led to his release at the time but only to his transfer to an ordinary prison. As regards the merits of the complaint, the Court found in particular that the period of 16 months between the final decisions in the first and the second set of proceedings concerning Mr Kuttner's request to be released from the institution did not fulfil the requirement of a speedy review and that the delay in examining his request was attributable to the courts.

Principal facts: The applicant, Franz Kuttner, is an Austrian national who was born in 1950 and lives in Traun (Austria). Mr Kuttner was convicted of having deliberately caused severe bodily harm to his 80-year-old mother and sentenced to six years' imprisonment by a regional court in January 2005. Since the court found - relying on a report by a psychiatric expert - that he suffered from a grave mental disorder and represented a danger to the public, he was subsequently placed in an institution for mentally-ill offenders. A request by Mr Kuttner to be conditionally released from the institution was dismissed in May 2006. In a second set of proceedings concerning his request to be released from the institution, the regional court relied on a fresh expert opinion, which found that there was still a risk he would commit acts of violence, and ordered his continued detention in the institution. His appeal against that decision was dismissed in September 2007. In a third set of proceedings, the regional court, in September 2009, eventually ordered the termination of his detention in the institution, suspended the remaining months of his prison sentence and released him subject to a number of conditions.

Admissibility: The Court first had to address the Austrian Government's argument that Article 5 § 4 was not applicable in Mr Kuttner's case because he had not been asking for release but merely for a transfer from one type of detention facility - the institution for mentally-ill offenders - to another. They pointed out that where a prison sentence was imposed by a convicting court, the review of lawfulness required by Article 5 § 4 was incorporated in the initial conviction. The Court noted that Mr Kuttner's detention had initially been covered by both sub-

by undercover police as an "appalling practice". The report by Mark Ellison QC showed that the undercover officers had operated in such tight secrecy that they routinely concealed their activities from prosecutors and other police officers. Ellison found that undercover officers deployed to infiltrate political groups had appeared in trials using their false personas, deceived lawyers about their true identities and allowed evidence they knew to be false to be presented in court by prosecutors.

In recent years, 57 environmental protesters have had their convictions quashed or prosecutions against them dropped because key evidence gathered by undercover officers was concealed from their trials. The new cases of potentially unjust convictions came to light on Thursday as May announced details of the remit of a public inquiry into undercover infiltration of political groups since 1968. She said the inquiry into the failings of the undercover police – to be headed by Lord Justice Pitchford – is expected to be completed within three years.

May set up the inquiry following a series of revelations which included how undercover officers had spied on the family of murdered teenager Stephen Lawrence and other grieving families, and formed long-term relationships with female campaigners. The inquiry will scrutinise how the undercover officers "targeted individuals and groups such as political and social justice campaigners" during deployments that typically lasted five years, she said. Pitchford will "examine the motivation for, and the scope of, undercover police operations in practice and their effect upon individuals in particular and the public in general", she added.

The inquiry will also look at the oversight and regulation of the undercover operations, and how much ministers and Whitehall officials knew about the covert missions. May said the inquiry will also scrutinise the convictions of campaigners to see if they should be quashed, as the independent report she had commissioned from Ellison was released. Ellison said that sometimes the undercover officers had been working in their secret role when activists they were infiltrating had been arrested and later prosecuted. However, the undercover police knew that parts of the prosecution case against the activists were false but did not alert the court.

On other occasions, the undercover spies were arrested and prosecuted but appeared in court using their fake identities. Ellison said that inevitably the spies deceived other police officers who had made the arrests, prosecutors as well as the lawyers representing the campaigners who were being prosecuted. He added that the undercover officers gathered evidence in prosecutions of campaigners but failed to disclose it to prosecutors as the legal rules governing fair trials required. The QC said that at least 26 officers had been arrested in their undercover roles on 53 occasions, but gave no details. May, who said Ellison's report had "shone a spotlight on this police tactic", has set up a panel, consisting of senior prosecutors and police, that can be called upon by the inquiry to look at possible miscarriages of justice. No details of the 83 new cases were published by Ellison, who said they were being examined by the Crown Prosecution Service and the Criminal Cases Review Commission, the official agency that looks at potential wrongful convictions. No decisions have been made by the CCRC or the CPS as to whether they should be referred to the courts. Nevertheless the cases provide some further insight as to the types of issues being raised, and the spectrum of behaviour of concern to the safety of convictions."

Ellison made it clear that there were a large number of convictions where he could not identify if they were unjust, because the records of the undercover operations were no longer available. He quotes one senior undercover officer who said: "We did our best to make it difficult for anyone to understand/reveal our work", and another saying : "We were part of a 'black operation' that absolutely no one knew about and only the police had actually agreed that this was all OK." Some individuals and groups who were spied on by the undercover police welcomed the scope of the inquiry, but warned that it must not be a whitewash.

The Treasure In The Heart Of Man - Making Prisons Work

Speech given at Prisoners Learning Alliance by Michael Gove Minister for Justice

A coouple of Fridays ago, a journalist was anxiously trying to confirm a story with the Ministry of Justice. The reporter, a dogged fellow, wanted absolute confirmation from my own lips. I'm sorry, my departmental colleagues replied, the minister can't speak, he's in prison. Well, the journalist pleaded, I hope he gets out before my deadline for filing. Fortunately, I was out in time, but the multiple ironies of the situation were not lost on me. Not least that it was a distinguished alumnus of the tabloid press who was pleading most passionately for early release from prison.

For anyone given ministerial responsibility for prisons, it doesn't take long to appreciate there are many ironies, paradoxes and curiosities, in our approach towards incarceration. Or so it seems to me. I have only been in this post for two months, and I am still learning. So any judgements I make are inevitably tentative and provisional. I want to make sure that any firm policy proposals for reform I make are rooted in solid evidence, respectful of academic research and only developed after rigorous testing and study. But there are some observations I have made which I want to share today because they will form a guide to the kind of questions I am asking and the shape of policy I want to develop.

The good that we find in prisons: The first remarkable thing I've found about our approach towards incarceration in England and Wales is how many good people there are in prison. We are fortunate that we have so many good prison Governors and Directors who work extraordinary hours under great pressure to keep offenders securely and safely in custody while also preparing them for a new life outside. We are also lucky that we have so many dedicated prison officers who work in difficult and dangerous conditions, in an environment which by its nature is always potentially violent, and who nevertheless strive to help offenders lead better, safer and more fulfilling lives. The death earlier this month of the dedicated custody officer Lorraine Barwell was a tragic and poignant reminder of how much we owe those who undertake the necessary but difficult work of managing offenders, work on which our entire justice system depends.

I want to underline today - as I tried to when I appeared before the House of Commons Justice Committee on Wednesday - my admiration and gratitude for those who serve in our courts and prisons. Indeed, in the prisons I have visited so far I have been struck, again and again, by the seriousness with which Governors take their responsibility for the souls in their care, and the combination of strict professionalism and humanity which marks the work of most prison officers. Few of us get to observe this work, fewer still would volunteer to do it, but all of us benefit from the dedicated service of those who work in our prisons, public and private. I should say at this stage that the quality of our Governors and the professionalism of so many staff is not an accident, but a consequence of the leadership shown by Michael Spurr, the quite outstanding public servant who runs the National Offender Management Service. There are few people in public service as dedicated, knowledgeable, hard-working, principled and decent as Michael, and few people who would blush so much to hear it said.

And alongside those who are Governors and officers there are psychologists and chaplains, teachers and careers advisers, trained chefs and FE lecturers, volunteers from the arts and workers from charitable organisations who devote long hours, often for very little material reward, to help rehabilitate offenders. All of us owe them a debt, because their work is, by definition, hidden from public view, often hard and frustrating and challenging to the spirit.

That so many people, from so many different professions, contribute to the work of rehabilitation in our prisons for so little reward or recognition is both humbling and inspiring. And

and one of the areas ripest for innovation must be prison education.

At the moment, Governors don't determine who provides education in their prisons, they have little control over quality and few effective measures which allow them to hold education providers to account. If we gave Governors more control over educational provision they could be much more imaginative, and demanding, in what they expect of both teachers and prisoners. A more rigorous monitoring of offenders' level of educational achievements on entry, and on release, would mean Governors could be held more accountable for outcomes and the best could be rewarded for their success. Giving Governors more autonomy overall would enable us to establish, and capture, good practice in a variety of areas and spread it more easily. Allowing Governors greater space for research into, and discussion of, practical penal policy reform would reinforce a culture of innovation and excellence which would benefit us all.

As would welcoming more providers into the care and education of offenders. Just as visionary organisations like Harris and ARK have widened the range of organisations running great state schools in this country, and thanks to my predecessor Chris Grayling new organisations are helping to improve probation, so new providers have a role to play in helping us manage young offenders, improve educational outcomes in prison and indeed possibly manage some of the new prison provision we need to build. These are technical - and complex - policy questions. As I ask them I do so in a spirit of genuine inquiry - I am open to good ideas - from wherever they come - which will help us improve our prisons.

But while I am open to all ideas, and keen to engage with the widest range of voices, there is a drive to change things, an urgent need to improve how we care for offenders, which will shape my response. We must be more demanding of our prisons, and more demanding of offenders, making those who run our prisons both more autonomous and more accountable while also giving prisoners new opportunities by expecting them to engage seriously and purposefully in education and work. Our streets will not be safer, our children will not be properly protected and our future will not be more secure unless we change the way we treat offenders and offenders then change their lives for the better. There is a treasure, if only you can find it, in the heart of every man, said Churchill. It is in that spirit we will work.

'The Inclination to Serve Rather than Seize' *Paul Blackburn <h50278@outlook.com>*

An interesting supposition, or is it a juxtaposition?, quoted by Mr Gove in his ramblings! (The Treasure In The Heart Of Man - Making Prisons Work) & yet there was little or no elaboration or substance! 'Blood stained walls' were highlighted by the Chief Inspector of Prisons, enough for a Minister of State to even remember but again there's no 'Why' Maybe it was a suicide? attempted or not? an assault? maybe it's that 'special' place where prisoners are 're-educated' by Gaolers' a method unchanged in centuries, working in & for a system that serves itself & not society!

That's 'Moral Corruption' & abject cowardice to accuse the children of the victims of the 'Tory' destruction of society & moral standards since 66 (that's 1066!) shows that nothing has or will change! William of Normandy seized power, William V (Prince William will be King in 2066) will still be expecting us to serve! 'Subjects', subjugated, servants, slaves!

'Hwæt' The meaning of the first words of Beowulf's epic poem may be disputed, I prefer "Listen', but the concept that any free man has the right to an audience, to free speech, to be heard, to be taken account of, valued as a member of our society! A concept that died alongside the Anglo Saxons! We became slaves, we're expected to serve our conquerors, to respect the rule of law enforced by the Jackboot while they murder & rape us, to have high

democracy.

Why there must be a new approach to prison: Then, however, after an offender is caught, convicted and sentenced, when they are placed in custody they are placed in our care. Prison is a place where people are sent as a punishment, not for further punishments. And if we ensure that prisons are calm, orderly, purposeful places where offenders can learn the self-discipline, the skills and the habits which will prepare them for outside life then we can all benefit. Human beings whose lives have been reckoned so far in costs - to society, to the criminal justice system, to victims and to themselves - can become assets - citizens who can contribute and demonstrate the human capacity for redemption. And offenders whose irresponsibility has caused pain and grief can learn the importance of taking responsibility for their lives, becoming moral actors and better citizens. As Winston Churchill argued, there should be "a constant heart-searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry all those who have paid their dues in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerating processes and an unfaltering faith that there is a treasure, if you can only find it, in the heart of every man." Which is why in the reform programme our prisons need we must put a far greater emphasis on inculcating the virtues which are, in Churchill's words, "curative and regenerating", and which rehabilitate prisoners, as he argued for, "in the world of industry".

Liberating prisoners through learning: That means an end to the idleness and futility of so many prisoners' days. A fifth of prisoners are scarcely out of their cells for more than a couple of hours each day. As the Chief Inspector of Prisons argued so powerfully this week: Our judgement that purposeful activity outcomes were only good or reasonably good in 25% of the adult male prisons we inspected is of profound concern. It is hard to imagine anything less likely to rehabilitate prisoners than days spent lying on their bunks in squalid cells watching daytime TV. Ofsted inspection of prison education confirms that one in five prisons are inadequate for their standard of education and another two-fifths require improvement. Fewer than half are good, scarcely any outstanding. In prisons there is a - literally - captive population whose inability to read properly or master basic mathematics makes them prime candidates for re-offending. Ensuring those offenders become literate and numerate makes them employable and thus contributors to society, not a problem for our communities. Getting poorly-educated adults to a basic level of literacy and numeracy is straightforward, if tried and tested teaching models are followed, as the armed forces have demonstrated. So the failure to teach our prisoners a proper lesson is indefensible.

I fear the reason for that is, as things stand, we do not have the right incentives for prisoners to learn or for prison staff to prioritise education. And that's got to change. I am attracted to the idea of earned release for those offenders who make a commitment to serious educational activity, who show by their changed attitude that they wish to contribute to society and who work hard to acquire proper qualifications which are externally validated and respected by employers. I think more could be done to attach privileges in prison to attendance and achievement in education. But I believe the tools to drive that change need to be in the hands of Governors.

At the moment I fear that one of the biggest brakes on progress in our prisons is the lack of operational autonomy and genuine independence enjoyed by Governors. Whether in state or private prisons, there are very tight, centrally-set, criteria on how every aspect of prison life should be managed. Yet we know from other public services - from the success of foundation hospitals and academy schools - that operational freedom for good professionals drives innovation and improvement. So we should explore how to give Governors greater freedom -

while individuals of every background contribute in so many ways it is striking how many of those who do work in our prisons are people of faith, from a huge variety of backgrounds. The exhortation in St Matthew's Gospel to help the hungry, the sick and the imprisoned is taken seriously, and lived out, by thousands of our fellow citizens every week. We should celebrate their example, and the faith which sustains them. But while there are so many good people in our prisons, we are still, as a society, failing to make prisons work as they should.

And the failures which we lament: Prisons do work in isolating dangerous offenders from the rest of society, contributing to safer homes and streets. Prisons also work by punishing those who defy the law and prey on the weak, by depriving them of their liberty. Civilization depends on clear sanctions being imposed by the state on those who challenge the rules which guarantee liberty for the law-abiding. But our prisons are not working in other - crucial - ways. Prisons are not playing their part in rehabilitating offenders as they should.

While individuals are in custody the state is responsible for every aspect of their welfare. We can determine who prisoners see, how they eat, wash and sleep. We can decide how they spend their day, what influences they are exposed to, what expectations we will hold them to, what they can watch, read and hear, what behaviour is rewarded and what actions punished, who we expect them to admire and what we hope they will aspire to. And yet, despite this, 45% of adult prisoners re-offend within one year of release. For those prisoners serving shorter sentences - those of less than twelve months - the figure rises to 58%. And, saddest of all, more than two-thirds of offenders under the age of 18 re-offend within twelve months of release. The human cost of this propensity to re-offend is, of course, borne by those who are the most frequent victims of crime - the poorest in our society. It is those without high hedges and sophisticated alarms, those who live in communities blighted by drug dealing and gang culture, those who have little and aspire to only a little more, who are the principal victims of our collective failure to redeem and rehabilitate offenders.

No government serious about building one nation, no minister concerned with greater social justice, can be anything other than horrified by our persistent failure to reduce re-offending. As I have already acknowledged, there are many good people working in our prisons today but they are working in conditions which make their commitment to rehabilitation more and more difficult to achieve. Our current prison estate is out-of-date, overcrowded and in far too many cases, insanitary and inadequate.

The most conspicuous, most recent, example of the problem we face was outlined in the Chief Inspector of Prison's report into Pentonville. A Victorian institution opened in 1842 which is supposed to hold 900 offenders now houses 1300. The Chief Inspector's team found blood-stained walls, piles of rubbish and food waste, increasing levels of violence, an absence of purposeful activity and widespread drug-taking. Not only are measures to reduce drug-taking among prisoners admitted with an addiction unsuccessful overall, nearly one in ten previously clean prisoners reported that they acquired a drug habit while in Pentonville.

Of course, Pentonville is the most dramatic example of failure within the prison estate, but its problems, while more acute than anywhere else, are very far from unique. Overall, across the prison estate, the number of prisoners in overcrowded cells is increasing.

Violence towards prisoners and prison staff is increasing and incidences of self-harm and suicide are also increasing. In the last year serious assaults in prison have risen by a third. In 2014/15 there were 239 deaths in custody; around a third were self-inflicted.

There are a number of factors driving these trends. As crime overall has fallen, convictions for serious crime have not, so a higher proportion of offenders in our jails are guilty of sig-

nificant offences. And among younger offenders, many are involved in gangs, and especially difficult to manage because they are committed to a culture of violence and revenge whether on the streets or in custody. In addition, there has been a worrying increase in the availability of psycho-active substances, chemically-manufactured cannabinoids and other synthetic intoxicants, which are sometimes, misleadingly known as “legal highs”. As my colleague the Prisons Minister Andrew Selous has pointed out, they should, more accurately, be known as “lethal highs” because they can induce paranoia and psychotic episodes which lead to violent acts of self-harm and dreadful assaults on others.

Dealing with these problems in our jails has to be the first priority of those of us charged with prison policy. Unless offenders are kept safe and secure, in decent surroundings, free from violence, disorder and drugs, then we cannot begin to prepare them for a better, more moral, life. My predecessors in this role, Ken Clarke and Chris Grayling, and Andrew’s predecessors as Prisons Minister, Crispin Blunt and Jeremy Wright knew this. And they also knew the work of change would not be easy. Thanks to their efforts steps are being taken to improve safety and security in our jails. New operational and legislative responses are being introduced to strengthen the efforts to keep illegal drugs out of prison and to tackle the threat posed by new psychoactive substances.

We are trialling a new body scanner to prevent contraband from entering prison, strengthening our response to the threats posed by illicit mobile phones and taking measures to deal more effectively with those offenders who have links to organised crime networks outside prison. And as well as enhanced security measures there is an increased emphasis on educating prisoners, their visitors and prison staff on the dangers posed by these substances. But, as Ken and Chris knew, more needs to be done.

That’s why I think we have to consider closing down the ageing and ineffective Victorian prisons in our major cities, reducing the crowding and ending the inefficiencies which blight the lives of everyone in them and building new prisons which embody higher standards in every way they operate. The money which could be raised from selling off inner city sites for development would be significant. It could be re-invested in a modern prison estate where prisoners do not have to share overcrowded accommodation but also where the dark corners that facilitate bullying, drug-taking and violence could increasingly be designed out. By getting the law right, getting operational practice right and getting the right, new, buildings we can significantly improve the security and safety of our prisons. But the most important transformation I think we need to make is not in the structure of the estate, it’s in the soul of its inmates.

Who do we imprison? People go to prison because they have made bad choices. They have hurt others, wrecked their homes, deprived them of the things they cherish, violated innocence, broken lives and destroyed families. They have to be punished because no society can protect the weak and uphold virtue unless there is a clear bright line between civilised behaviour and criminality. But there is something curious about those who find themselves making bad choices, crossing that line, and ending up in prison.

They are - overwhelmingly - drawn from the ranks of those who have grown up in circumstances of the greatest deprivation of all - moral deprivation - without the resources to reinforce virtue. And recognising that is critical to making prisons work. The temptation to do the wrong but convenient thing and the willingness to follow the right, but hard course, the propensity to lie and the determination to be honest, the tendency to cut moral corners and the inclination to serve rather than seize must be mixed in all of us. And it must be equally spread across tribes and classes, faiths and families. None has a monopoly on virtue. And yet the

population in our prisons is drawn - overwhelmingly - from a particular set of backgrounds.

Prisoners come - disproportionately - from backgrounds where they were deprived of proper parenting, where the home they first grew up in was violent, where they spent time in care, where they experienced disrupted and difficult schooling, where they failed to get the qualifications necessary to succeed in life and where they got drawn into drug-taking. Three quarters of young offenders had an absent father, one third had an absent mother, two-fifths have been on the child protection register because they were at risk of abuse and neglect. 41% of prisoners observed domestic violence as a chil 24% of prisoners were taken into care as children. That compares with just 2% of the general population 42% of those leaving prison had been expelled from school when children compared to 2% of general population 47% have no school qualifications at all - not one single GCSE - this compares to 15% of the working age general population Between 20 and 30% of prisoners have learning difficulties or disabilities and 64% have used Class A drugs

Now, it must be said, that there are many young people who grow up in difficult circumstances, who experience poor parenting and who spend time in care who nevertheless lead successful and morally exemplary lives. But they deserve special praise because growing up in a home where love is absent or fleeting, violence is the norm and stability a dream is a poor preparation for adult life, for any life. Children who grow up in homes where there is no structure and stability, where parents are under pressure, mentally ill, in the grip of substance abuse or neglectful and abusive in other ways are less likely to succeed at school. Children who lack support when they’re learning, in particular boys who find difficulty in learning to read often mask their failure with shows of bravado and short-tempered aggression or just opt out of school life altogether. Boys start playing truant, become excluded and then find role models not in professional adults who achieve success through hard work but in gang leaders who operate without constraints in a world of violent, drug-fuelled, hedonism. It should not surprise us that young people who grow up in circumstances where the moral reinforcement the rest of us enjoy is absent are more likely to make bad choices.

Why there must be punishment: Now that should not lead us to weaken our attachment to the codes, rules and laws which keep our nation civilized, nor should we shy away from the punishment necessary to uphold those rules and protect the weak. The people who would, in any case, be hurt most by relaxing our laws against drugs, violence, abuse and cruelty would be those who have grown up in homes plagued by those evils, all too many of whom have themselves in turn been brutalised and coarsened into criminality. We must not, therefore, in the American phrase “define deviancy down”. We must not imagine that softening the laws on drugs, or shying away from exemplary penalties for violent conduct, will make life easier and safer for children growing up in disordered, abusive and neglectful surroundings.

We can, of course, intervene earlier in the lives of these children. And the work led by my colleagues Nicky Morgan and Edward Timpson to improve child protection, support children in care better, speed up adoption and strengthen social work will all make a difference. As will the changes to school behaviour policy pioneered by Charlie Taylor and Nick Gibb and now being built on by Nick and Tom Bennett. Tighter rules on truancy, more sanctions for bad behaviour and improved services for children at risk of exclusion will all help. As indeed will welfare changes which support more people into work and provide the right incentives for the right choices. But even as these reforms are implemented at pace, and even as we strive for greater social justice we must also remember the imperatives of criminal justice. When individuals transgress then punishment should be swift and certain. The courts should ensure victims do not have to wait long months before criminals face trial and the sentences passed down should be applied proportionally and reflect the moral sentiments of the public in a