small. The applications process was not working. Prisoners were generally negative about the food but many told us that it had improved recently, and we found it to be adequate. Some basic canteen items were in short supply which caused prisoners considerable frustration.

Equality and diversity work had collapsed and the governor had recently put a structure in place to address the needs of the protected characteristics groups. Support for all groups was underdeveloped. No monitoring of outcomes had taken place for some time and we could not be confident that outcomes were equitable. Faith provision was good. The management of complaints had been weak but had improved recently. The health care provider had very recently taken over and, despite some teething problems, was already delivering good support to prisoners.

Time out of cell was good and there was very little slippage in the regime. The recently introduced free flow process was working effectively, although some staff and prisoners were finding the transition from a more restricted regime challenging. There was a shortfall of about 15% in the availability of activity places. Not even all the available places were fully used and about a quarter of prisoners were completely unemployed and were usually on the wings with little to do. This added to the instability of the prison. The range of learning and skills provision was good, but attendance and punctuality were poor and achievements in some areas of basic skills needed improvement. The allocation of activities was not equitable. Good opportunities were provided by the library and gym.

Resettlement provision varied. A needs analysis of the new prison and its population had not yet been carried out. The community rehabilitation company arrangements for resettlement services provided by Purple Futures were still bedding in, and it was unclear what support could be delivered. Arrangements for release on temporary licence were robust and a few prisoners were working in the community and developing family links. The quality of offender management work varied; some assessments were overdue and too much casework required improvement. There was irregular contact between offender supervisors and prisoners. Reintegration planning was good, as was the support provided in most of the resettlement pathways.

Overall, Humber was a prison undergoing major change. The merger had been traumatic and prolonged, and some aspects of the management of the process could have been better. Managing the introduction of new providers in health, substance misuse and resettlement added considerably to an already complex picture. Change on so many fronts was a significant factor in many of the poor outcomes we have reported. However, the good relationships between staff and prisoners provided a solid foundation on which to build. The work the new governor had started was having a positive impact on outcomes for prisoners, but it was too early to see the benefit of many very recent initiatives. We had some confidence that progress would continue to be made but the challenges were significant and the prison would need significant support from the Prison Service if outcomes were to improve.

Hostages: Mark Alexander, Anis Sardar, 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 Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 558 (03/12/2015) - Cost £1

'I Would Rather Die Than Admit to Something I Haven't Done' *Marika Henneberg, Justice Gap*

4,837: That is the number of days that Omar Benguit has so far spent in prison for the murder of Oki Shin. The crime itself is utterly tragic. A young Korean female died after being stabbed on her way home from a nightclub in Bournemouth in 2002. However, what followed can only be described as an equally tragic series of events that has made a mockery of justice. Dorset police initially focused their interest on men in Oki Shin's circle of friends, but this changed six weeks into the investigation after the police arrested a crack addict prostitute for shoplifting. Her name was Beverley Brown and she claimed that three men had flagged her down when she was driving her car that night, asking for a lift to a crack house a few miles away. According to Brown, several car journeys took place that night, including a slight detour to murder Oki Shin; stop-offs at various locations in Bournemouth with the assailant covered in blood inside the car; a quick visit to the crack house; and the disposing of the murder weapon (a knife) and bloody clothes in the river Stour.

No forensic evidence: Brown described in graphic detail how two of the men later that night subjected her to a particularly vicious rape inside the car featuring a variety of tools from the car's tool box. In a series of statements to the police it appears that Brown, with the help of the interviewing officers and a good amount of guess work, eventually managed to identify the three men by name. 'Darius' was identified as Delroy Woolry; 'Mike Big' as Nick Gbadamosi; and 'Omar Hussain' as Omar Benguit. These three men were local drug addicts and already known to the police. There was no physical evidence that could link Benguit or the other men to the crime scene, the victim, the car, the tool box or to Brown. When no evidence was found inside her Volvo, Brown claimed she had in fact been driving a Renault. No evidence was found in this car either. The alleged murder weapon and the blood stained clothes were never found even though extensive searches were carried out. It is curious to note that Woolry was never put on trial for his alleged involvement in the crime. It has been suggested that he was in police custody on the night of the murder, which would have given him the perfect alibi. Woolry was deported to Jamaica, allegedly because his visa had expired. Gbadamosi and Benguit, on the other hand, were put on trial in 2003.

In the first trial the jury failed to reach a verdict on Benguit's one count of murder and one count of rape. Gbadamosi was acquitted on two counts of rape, but the jury failed to agree on one count of assisting an offender. Given that one of the three men originally implicated by Brown had been allowed to leave the country, Gbadamosi had been acquitted of the rapes, and the jury had been unable to reach a verdict in relation to Benguit, it would be easy to assume that the story would end here. It did not. A retrial took place in 2004 and this time the jury acquitted Benguit of rape and Gbadamosi of assisting an offender. However, this jury also failed to reach a verdict on the murder charge. With two juries finding such problems with the rape charges that they acquitted the defendants, and two juries being unable to convict Benguit of murder, one could assume that this case would end here. It did not. At this point it had emerged that Gbadamosi had been caught on a speed camera, driving his own car miles away at the time of the murder. Although this should have been considered as conclusive proof that Brown was lying and had in fact committed perjury, as well as made false allegations of rape against both Benguit and Gbadamosi, this farce still did not end.

Three becomes one: With Woolry in Jamaica and Gbadamosi out of the picture, three men had become one, and it would appear that there was no longer any reliable evidence against Benguit. Nevertheless, the Director of Public Prosecutions (DPP) gave his permission to put Benguit through a third trial on the murder charge. The fact that this was allowed is unusual and very disturbing, especially as the star witness had already been caught lying. This third jury found Benguit guilty of murder in January 2005. The prosecution had lined up a group of drug addicts who alongside Brown also testified against Benguit. Although their perfect memory recall must be questioned, these witnesses provided nothing but circumstantial evidence. One of the witnesses later gave a statement saying that the police had put words in her mouth. The failure to detect any physical evidence to link Benguit to the murder is extraordinary in itself as this was a crime where such evidence could arguably be expected. The lack of such evidence is also significant as it further contradicts the circumstantial evidence from the witness testimonies that formed the basis of Benguit's conviction.

In Benguit's first appeal in July 2005, the court recognised that the case for the prosecution was 'not supported by any forensic evidence', but they did not find a problem with the fact that this was Benguit's third trial on the same charge, or with the reliability of Beverley's story. A second unsuccessful appeal took place in 2014. The appeal court again stated that 'searches and science did not link Benguit to the murder' but emphasised that 'the Crown could point to significant circumstantial support' for Brown's story. By now, Brown had appeared on the Jeremy Kyle show and given an account of the murder which was different to that given at trial, and she had sold her story to a magazine. Nevertheless, the appeal court was satisfied that Brown's credibility had been fully explored before the jury.

Two experts had scrutinised CCTV footage and failed to identify either the Volvo or the Renault at the relevant times. The appeal court's response to this was that neither expert had excluded the cars. There was also an attempt to suggest that the murder could have been committed by a man who had been found guilty of two other murders, and who lived within a five-minute walk from the crime scene. The appeal court disposed of these arguments altogether. It is appalling that the criminal justice system allowed Benguit to go through three trials before being convicted of such a serious crime based on nothing but circumstantial evidence. It is a mystery to me how the Court of Appeal can still consider this a safe conviction.

The above is only a very brief outline of the case. It does not even begin to explore how Benguit's family tirelessly tried to find justice for their son/brother/uncle and in doing so have trusted some cowboy lawyers and those interested in achieving fame and glory through being involved in a case sensationalised by the Italian media. Two legal advisors who have worked on the case at some stage have since been imprisoned for deception and fraud – one of them currently serving a 14-year sentence. The money the family has spent on legal defence would easily buy a three-bedroom house in a reasonable area of Bournemouth. What did it get them? Three trials and two appeals later Benguit is still in a category A prison where he will remain past his 20 year tariff as admitting guilt and undertaking appropriate offending behaviour courses are part of the system's requirements for being re-categorised and eventually eligible for release. This means that people like Benguit, who maintain their innocence, end up serving sentences that are much longer than those who admit guilt for crimes they have committed. Maintaining innocence becomes a double punishment. Not only will the sentence served inevitably be longer, but the knowledge that admitting to a crime that one has not committed would have substantial benefits must add a torturous layer of disbelief. As Omar Benguit says, 'I would rather die than admit to something I haven't done.'

Unannounced Inspection of HMP Humber by HMCIP

HMP Humber is a large category C resettlement prison near Hull, formed by the merger of HMPs Wolds and Everthorpe. At the time of this inspection, the prison held 1,002 adult men. The prison is operated by the public sector following market testing. Wolds, which had previously been run by G4S, moved to the public sector in April 2013, and the formal merger of the two prisons took place in April 2014. A secure corridor, which creates a physical link between the two sites, was opened in April 2015. This is our first inspection of HMP Humber.

Inspectors made 79 recommendations: Market testing and the merger had been a protracted process which was described by some staff as a 'collision' rather than a coming together of the two prisons. The opening of the secure corridor had been significantly delayed, and during this period of uncertainty many aspects of the running of the two sites had deteriorated. Cultural differences between the two establishments were still evident during the inspection, as were some divisions among the staff group. Pay differentials remained and there was dissatisfaction with the management of the merger. The merger had delayed the introduction of changes to staffing structures and the core day, which were now established in most other prisons but were still causing concern in HMP Humber. Relationships between staff and prisoners were good at both sites but better at the old Wolds site, where 92% of prisoners said staff treated them with respect, compared with 81% at the Everthorpe site. Conversely, only 27% of prisoners said they had ever felt unsafe on the Everthorpe site, compared with 36% on the Wolds site. Overall outcomes had deteriorated during the merger. The new governor and his senior management team had started to recover lost ground but the prison was still failing to provide good enough outcomes for prisoners in three of our four healthy prison tests.

The prison was not sufficiently safe and many procedures designed to underpin prisoners' safety were underdeveloped or very recent. Incidents of poor behaviour by prisoners were common, and some of these were serious. Some poor behaviour went unchallenged by staff and the number of assaults on staff was high. The availability and use of illegal drugs were too high, and there were major challenges with the use of new psychoactive substances. Responses to these challenges were not well coordinated and a more cohesive approach was being developed. The management of disciplinary procedures needed improvement. Too many incidents could have been dealt with by the incentives and earned privileges scheme rather than adjudications. The use of force was too high: we were concerned about some incidents we reviewed and its oversight needed urgent attention. The number of prisoners segregated was not high but the regime in the segregation unit was poor, and some prisoners who felt threatened were self-isolating on the wings with little attention to their needs. Despite this, in our survey fewer prisoners than the comparator said they had felt unsafe, which we felt reflected the strong and supportive relationships between staff and prisoners.

Early days work was good and efforts to improve support for prisoners on assessment, care in custody and teamwork (ACCT) case management for prisoners at risk of suicide or self-harm were starting to have a real impact on the quality of care provided. Nevertheless, a more coordinated approach was required to manage prisoners with complex needs. A new substance misuse provider had taken over in recent weeks and was starting to develop a good range of support for prisoners, although at the time of the inspection some of it was not in place and this had a negative impact on outcomes.

The majority of prisoners told us that staff treated them with respect and that they had someone to help them with a problem. This provided an excellent base on which to improve outcomes for prisoners across all our healthy prison tests. Living conditions were reasonable, although cleanliness could have been improved and some single cells used to hold two prisoners were unacceptably

individual prisoners' sentence plans and was not central to the work of the prison. Nevertheless, important core processes such as public protection were delivered well. Stocken had not been designated a resettlement prison and few prisoners were released directly from it. Specific resettlement services had been dismantled and offender supervisors normally made adequate ad hoc arrangements for those who were, but these needed to be more systematic. The good range of offending behaviour courses available was important and it was pleasing to see good work to help prisoners maintain or develop healthy relationships with their families.

Some poor relationships between uniformed staff and prisoners created a significant weakness. Fewer prisoners than in comparable establishments and at the last inspection said staff treated them with respect or that they had a member of staff they could turn to with a problem. Forty per cent of prisoners told us they had been victimised by staff, which was also higher than at similar establishments (29%) and at the last inspection (34%).

We saw distant and dismissive behaviour that bore out prisoners' perceptions and staff spent too much time in their offices, out of contact with prisoners. Prisoners from black and minority ethnic backgrounds, Muslim prisoners and prisoners with disabilities reported more negatively than the rest of the population and some monitoring data suggested unequal outcomes. The prison's work on equality and diversity issues had deteriorated and too little had been done to investigate and address these findings. The quality of responses to complaints was too variable and the complaints system did not provide a reliable mechanism for resolving legitimate concerns.

Weaknesses in relationships undermined dynamic security. Almost half of the prisoners told us they had felt unsafe at some time in the prison and almost one in five told us they felt unsafe at the time of the inspection. Over a third told us they had been victimised by other prisoners. The number of violent incidents was high, although it had reduced over the last year. There had been a number of serious incidents before the inspection which had culminated in a serious disturbance that resulted in the closure of a wing.

Like too many other prisons we have been to recently, the availability of new psychoactive substances appeared to be a significant factor in these concerns. Half of the prisoners in our survey told us it was easy to get drugs in the prison. The prison had been too slow to get to grips with the problem, although by the time of the inspection an appropriate strategic response was in place. Other procedural safety and security measures were reasonable. The care for men at risk of suicide or self-harm was good despite high levels of need and there had been no self-inflicted deathsin the prison for a long time.

HMP Stocken's very good purposeful activity pulled the rest of the prison up and provided good outcomes for most prisoners by equipping them with the skills they needed to get and hold down a job after release. However, Stocken had significant weaknesses and determined efforts will need to be made to address them if they are not to threaten the prison as a whole. The prison is not safe enough and it has a significant drugs problem.

The systems and processes in place to tackle this are mostly appropriate but their effectiveness is undermined by some poor staff attitudes. Prisoners with protected characteristics report more negatively than the population as a whole and much of the prison's own monitoring data supports their concerns. Offender management is not sufficiently central to the work of the prison and so good work, learning and skills is not properly linked to clear plans to address attitudes and behaviour. The prison needs to respond effectively to these weaknesses if the good work it does is to be sustained.

Statement from Republican Prisoners Roe 4 HMP Maghaberry 17/11/15

For the past week, subsequent to the release of the HMIP/CJINI report which critically condemned Maghaberry Prison, much has been said by politicians and commentators in and out of the media. Central to this has been those involved in the running of the prison attempting to sanitise and gloss over a highly damning report through claims such as "It was a snapshot of a particular time". It must foremost be noted, that just as there are certain aspects of the report that have been significantly false and misleading, the lack of proportionate critique from 'Nationalism' i.e. Sinn Fein, the SDLP and the Catholic Church is equally noteworthy. This absence is somewhat surprising given that all three groups have had representatives inside the Jail on countless occasions; all of whom experienced the serious issues raised in the latest critical report.

Brendan McGuigan of the CJINI, although cautiously critical of the regime endured by prisoners has, nonetheless acquiesced in giving a 'soft landing' to Sue McAllister and David Ford. Whereas in reference to Republican Roe House, he ludicrously claims resources used there detrimentally affect the rest of the prison to cater for their "unrestricted regime". However, the regime to which he refers is a regime which is more restrictive than that on any landing in Maghaberry and even more restrictive than that the high security unit at Belmarsh Prison; a point specifically referenced in Anne Owers' Prison Review Team (PRT) report in 2011.

Indeed, this very theme has been repeatedly highlighted in his own reports. This unjustifiable regime has been imposed on Republican Prisoners by a politically motivated and security led jail administration. It is this administration which has diverted resources to bolster their own nefarious agenda to maintain a facade of practicability. As regards the controlled movement policy; a large proportion of the extra capital this absorbs does not improve the lives of Republican Prisoners, it goes straight into the pockets of POA jail staff through 'overtime'. Brendan McGuigan has once again failed to fundamentally address this core issue.

It is by no accident that after a couple of disastrous media interviews by David Ford upon the reports immediate release and a disappearing act by Sue McAllister, that both those people came out later in the day and alternately, in a choreographed manner, began to drop his name and title as someone who would give both of them political cover. Brendan McGuigan, although fully aware of this, remained circumspect but refused to criticise either. When Republican Prisoners met with Brendan McGuigan and Nick Hardwick jointly during their inspection it was clear that he not only lacked interest in Republican Prisoner conditions but that he was not comfortable with Nick Hardwick speaking to Republican Prisoners alone. Within three or four minutes of their meeting, Brendan McGuigan stated that "we need to go" and abruptly left the Republican landings, taking Nick Hardwick with him.

It is blatantly obvious to Republican Prisoners and others, that had it not been for the presence of Nick Hardwick and his team, the report would have been a lot less damning; a matter that became more obvious when watching Brendan McGuigan looking every part the politically appointed civil servant he is when giving cover to his masters, by design or via admission, during later interviews without Nick Hardwick by his side.

Republican Prisoners have also noted with some curiosity, the recent statements of the new number one governor, Phil Wragg, regarding a new regime for Republican Prisoners. These statements come against the backdrop of increasing restrictions and vindictiveness within the jail, including the mistreatment of families while visiting, by jail staff. An example of such petty vindictiveness was recently observed with the denial of music to a Republican Prisoner during his wedding in the prison chapel by security governor, Brian Armour.

Undoubtedly Wragg, the Englishman, fancies himself as a maestro on prison security; having dealt with Muslim prisoners in Belmarsh high security unit. It seems he believes that he will apply his previous experience against Republican Prisoners. However, Republican Prisoners take this opportunity to remind him that the resistance of Irish Men in British captivity is a centuries old tradition and English men with delusions of grandeur and misguided notions of breaking the back of Political Prisoners should look to that as a guide. Our position remains unchanged: Republican Prisoners are a threat to no one and we will not be found wanting when it comes to assisting and establishing a conflict free environment.

HMP Maghaberry Administration Ignore International Red Cross Committee

For the past six months Republican Political Prisoners have been engaging in an intense process with the International Red Cross Committee (ICRC) aimed at resolving the core issues of conflict within the jail. This process has now concluded with the Jail Administration refusing to accept basic proposals from the ICRC Independent Chair. These proposals were minimalist in their outlook and merely an interim measure to assist in moving the process forward. The proposals, which were to have been implemented on the 1st October 2015, were accepted by Republican prisoners as a means of moving the situation from its current stalled position.

During the course of this process we have been pragmatic in all our dealings with the ICRC and appreciate its position of neutrality and impartiality. Despite all of the criticism of the treatment of Republican Prisoners, from a myriad of reports and observers for over a decade, the Brits and the reactionary Jail Administration have refused to move. It is clear that they are not interested in resolving issues that have been seen by all to be draconian, degrading and unnecessary. Their only interest, it would seem, are security led and political. They seek only to control, punish and criminalise.

During this process we have identified that opposition to progress in Roe House comes not only from inside the walls of Maghaberry, this opposition has come from securocrats, Jonathan Stephens and Ben Wallace under the direction of the NIO and MI5. David Ford, Sue McAllister, Phil Wragg along with the loyalist Prison Officers Association (POA) and their allies in the DUP are all mere puppets in this particular show. Unfortunately, those with the power to resolve all issues of contention have once again scuppered a process that had every opportunity to finally remove all causes of conflict within Maghaberry.

All through the latest engagement Republican Prisoners exposed every contrived event, half truths and attempts of subterfuge from a devious Administration. We told the ICRC Independent Chair from the first day of this process that the Administration and those controlling them had no serious intention to resolve matters. In stating this we explained that Republican Prisoners have engaged, from the conception of Roe House, in process after process with genuine intent. The individuals, groups and organisations assisting these processes have also engaged in a sincere way with the belief that all those 'around the table' were 'up for a deal'.

Republican Prisoners stated unambiguously to the ICRC Independent Chair that, regardless of their international standing and credibility, those pulling the strings in relation to this process see them only as an 'unwanted distraction' that unfortunately had to be dealt with. This Administration would only ever give the impression of movement while all the time remaining static. Republican Prisoners are the key stakeholders in that process and therefore take no pleasure in being proved right. Political Prisoners, Roe 4, Maghaberry, 19/11/2015

and a better mix with vocational training. • Inspectors made 62 recommendations

Inspectors were pleased to find that: • progress was being made on the introduction of new restraint processes that emphasised de-escalation; • managers responded to the challenges of violence in a positive and thoughtful way, and there was a clear strategy to provide greater incentives for good behaviour as well as sanctions for bad; • some staff acted very courageously to protect boys from assaults and placed themselves at risk in doing so; • there were well developed plans to open an enhanced support unit for boys with greater needs; • the use of body-worn cameras by staff appeared to be having a positive effect; • substance misuse services had improved and were excellent; • support for boys at risk of self-harm was generally good; • education staff had made good plans to meet the new requirement to offer 30 hours' education a week, • relationships between staff and boys were the best they have been for many years; • the environment was generally good and work on equality and diversity issues was effective; and • a team of committed caseworkers worked hard to provide good resettlement support and social workers ensured local authorities met their obligations to looked after boys.

Nick Hardwick said: "There is much to be learnt from the history of Feltham and some of the impressive staff and managers who work there. The review the government has recently started into youth justice should look, listen and learn. Feltham A has a long way to go at present and there are very serious concerns about the safety of the boys held there. However, it is making real progress and it has the right strategy to make more. It has impressive, committed leadership and staff are responding to that. Sustained, consistent effort will be needed to make the further improvements required, there may well be setbacks, and it will be important that managers and staff receive equivalent sustained and consistent support from both the Youth Justice Board and National Offender Management Service."

Unannounced Inspection of HMP Stocken

20 recommendations from the last report had not been achieved and 14 only partly achieved. At the time of this inspection, held 672 adult men. The prison performed its central training function well but other outcomes were more fragile and needed to be strengthened in a number of important areas. Most prisoners had good time out of their cells and, other than on the induction wing, we found few locked up during the working day. The prison had an effective partnership with Milton Keynes College and together they provided a generally good range of purposeful activity with sufficient fulltime places to meet the needs of the population. There were good relationships between teachers and their students, prisoners behaved well in classes and workshops, and effective use was made of prisoner peer mentors. Together they helped prisoners to achieve.

Most prisoners therefore spent their days busy in purposeful activity. Most communal areas and cells were clean and in good condition. Health care was good. Prisoners were also more positive about the food than in similar prisons. These were considerable strengths and made the prison a reasonable place for most prisoners, most of the time. Nevertheless, weaknesses in other areas risked undermining these strengths.

The good quality activities supported the rehabilitation of prisoners but were not linked to offender management processes or sentence plans. There was a large OASys (the main risk assessment and sentence planning tool) backlog and although offender supervisors were diligent and enthusiastic they received inadequate supervision, their work was too reactive and they had too little contact with individual prisoners. Offender management did not sufficiently drive

Radical Reform of Prisons to Rehabilitate Offenders *Michael Gove, Secretary of State for Justice*

Social Reform is at the heart of this government's programme, and nowhere is that more true than in criminal justice. We are embarking on a radical reform of our prisons to rehabilitate offenders, cut crime and enhance public safety. Investment for nine new prisons which will have better facilities for work and education has already been announced. Today I can also announce a new beginning for female offenders with women prisoners serving their sentences in more humane surroundings better designed to keep them out of crime. We will close the inadequate and antiquated Holloway prison and invest in 21st century solutions to the problems of criminality.

For women offenders in London, we are now in a position to hold them on remand in the more modern facilities at HMP Bronzefield. We will also re-open newly refurbished facilities at HMP Downview as a women's prison later next year. This will allow sentenced women to be held in an environment that is more appropriate for many of those currently sent to Holloway. Both provide a better setting for children visiting their mothers. Both are well located with good transport links to London. I am very grateful to the hardworking staff in the prison who have deservedly won praise for their work. Despite their inspirational efforts, Holloway's design and physical state do not provide the best environment for the rehabilitation of women offenders. Her Majesty's Chief Inspector of Prisons' last published inspection of Holloway noted that the "size and poor design make it a very difficult establishment to run". I am extremely mindful that Holloway holds many vulnerable women. For that reason, no one will be moved immediately and we will not close the prison until services similar to those currently provided for women offenders are in place elsewhere. We expect the prison to close by summer next year. The closure of Holloway underlines our determination to invest in a high-quality, modern prison estate with better facilities to help prisoners turn away from crime.

HMYOI Feltham A – Making Real Progress – But Continuing Serious Concerns

HMYOI Feltham's work with boys under 18 (the 'A' side) had made real improvements, despite some continuing serious safety concerns, said Nick Hardwick, Chief Inspector of Prisons. Today he published the report of an unannounced inspection of the young offender institution in West London. Staff and managers at Feltham have one of the most difficult jobs in the prison system. Feltham A held 180 boys, most aged 16 or 17, with very complex and challenging behaviour, some of whom were a danger to themselves and to other boys and staff. Often the boys held at Feltham have been written off by community agencies and the resources and staff Feltham has to meet the needs of those held there are insufficient for the task. Nevertheless, despite continuing serious concerns, this inspection found Feltham A making real progress with credible and positive plans for the future.

Inspectors were concerned to find that: • 20 recommendations from the last inspection had not been achieved and 16 only partly achieved • the number of violent incidents remained very high, although it had reduced since the last inspection; • a small number of boys were too frightened to leave their cells and spent about 23 hours a day locked away; • in the seven months from January to July 2015, 49 officers had been injured and 40 assaults on staff had been referred to the police; • the use of segregation in the bleak care and separation unit shared with young adults was high, though there were plans to open a separate new unit, designed to meet the needs of 15 to 18-year-olds; • the levels of violence and poor behaviour were impacting on Feltham's ability to get boys out of their cells and into purposeful activity; and • more needed to be done to motivate boys who struggled in the classroom by improving the quality of teaching

Cognitive Bias in Forensics - The Forensic Science regulator has concluded a year-long consultation on 'Cognitive bias effects relevant to forensic science examinations: draft guidance'. The draft overview states: "Cognition is the mental process of knowing, including awareness, perception, reasoning and judgement. Cognitive bias may be defined as a pattern of deviation in judgement whereby inferences about other people and situations may be drawn in an illogical fashion.

"We all tend to display bias in judgements that we make in everyday life, indeed this is a natural element of the human psyche: Jumping to a conclusion, tunnel vision, only seeing what we want to see, being influenced by the views of others, are all behaviours we recognise in ourselves and others. However whilst such biases may be commonplace and part of human nature, it is essential to guard against these in forensic science, where many processes require subjective evaluations and interpretations. The consequences of cognitive bias may be far-reaching: decisions by the investigator to follow a particular line of enquiry, the CPS to prosecute or not, and decisions in the CJS as to guilt or innocence of an individual upon which may rest their liberty or even their life in some jurisdictions, frequently depends on the reliability of the forensic evidence and the conclusions drawn from its interpretation."

Misbehaviour of Police Officers May Well Have Created a Distraction, so Fucking What

On 26 July 2010 the appellants, Gavin Grant and Gareth Downie, were convicted of murder and the appellant Damian Williams of conspiracy to murder following retrial. They were each sentenced to imprisonment for life, with 25 years specified as the minimum term under s269 (2) Criminal Justice Act 2003. They all appeal against conviction by leave of the Full Court on the basis of non-disclosure of material potentially going to the credibility of the main prosecution witness, known as Susan Norwich.

• On 23 July 2010 the appellants were convicted as indicated above by a majority. No appeal arises from the summing up or trial process. They were sentenced on 26 July 2010. There is no appeal against sentence in the event that these convictions are upheld.

• On 29 July 2010, Susan Norwich changed her plea to guilty. She received a suspended sentence of imprisonment, which was entirely unusual in the circumstances of the case she faced. Unsurprisingly, it was suspected that she entered into a deal with the police involved in the prosecution of the appellants. What is clear is that she was provided with "a text" as a direct result of the assistance she had provided in giving evidence in the appellants' trial. Further disclosure was made by the Prosecution, including Susan Norwich's solicitor's file – she having waived privilege, and police message "M 719" which referred to a "text". Prosecuting and defence counsel in Susan Norwich's own case have provided their recollection of events during the drug offences proceedings. The appellants now contend that there is clear evidence that two police officers acted in bad faith in withholding information and that taking all the other circumstances of the trial into account there is a real possibility that the jury would have arrived at a different verdict if the necessary disclosure had been made. The full court gave permission to appeal on the renewed application of leading counsel for the appellants Grant and Williams, and junior counsel for the appellant Downie.

• Witness statements have been recently prepared by Peter Hine, Acting Detective Inspector responsible for dealing with "Trident" appeal cases, in relation to the enquiries made "both covertly and overtly" with regards to the events of police contact with Susan Norwich at the time of her appearance as a witness in the re-trial and as defendant in the drugs case in Bristol. They have not been subject to cross examination, nor have the officers who are

accused of malpractice. We consider that the appellants leading counsel, Mr Rumfitt QC's, stance on this is entirely realistic; he has no wish to delay the appeal. We have had regard to the information they contain but have drawn our own conclusions on the facts.

• The respondents acknowledge a failure to disclose relevant documentation which did meet the test for disclosure but argue this did not render the conviction unsafe on the basis that there was no real possibility that the jury would have arrived at a different verdict had the message referring to a text and the circumstances in which it had been drafted been disclosed. The papers in Norwich's case were disclosed to the defence as unused material prior to the retrial. The defence cross examined her on the facts arising from this material which in turn enabled the jury to consider the credibility of the stance she was maintaining in the face of those proceedings. During cross-examination she was warned by the judge regarding self-incrimination and predominantly refused to answer specific questions relating to the facts underlying her prosecution. It was open to the defence to cross-examine Norwich on whether (i) she had been offered any inducements in respect of those proceedings to give evidence against the appellants in the retrial or (ii) she expected any assistance given that she had already been a prosecution witness in the original trial and would have been entitled to assistance on that basis. The defence did not do so. The receipt of a "text" was something to which Norwich was entitled and this would have been known to the defence. The police did not give evidence on her behalf during the appellants' case.

• The recollections of the advocates in Susan Norwich's own criminal case are obviously provided in good faith. We proceed on the basis that her defence counsel correctly assessed the case against her as strong and awaited his chance to advise her on the likely outcome of a trial. He may have given an indication of this to the prosecution advocate at the beginning of July, and prior to his application for a 'Goodyear indication' to account for the endorsement on the prosecution file on 2 July 2010, three days prior to the start of the appellants' retrial on the 5th. It is apparent that he did expect an officer in these appellants' criminal trial to attend at the hearing of Susan Norwich's case.

• We have come to the clear view that the documentation now made available entitles Mr Rumfitt QC correctly to describe the conduct of two police officers, ex DI Horsley and DS Wright in terms of 'impropriety'. The nature of the contact between DS Wright and those who represented Susan Norwich in early July quite clearly contemplated the provision of a text regardless that he explained in his note prepared in the course of the post trial investigations that his use of the word "text" in the internal police message dated 2 July 2010 (M719) was shorthand for a letter to be given to her legal representatives in Bristol describing her assistance and to which she was entitled. The letter subsequently produced for the purpose of her sentencing dated 28 July 2010 is demonstrably inaccurate and misleading. The text was unauthorised. DI Horsley attended and gave evidence before the sentencing judge in chambers, contrary to the practice enunciated in R v X [1999] 2 Cr. App. R 125. Fortunately, in order that the appellants should be under no illusion, we have a transcript of the proceedings. There is some rectification of the picture of Susan Norwich's willing and unwavering assistance in the trial of the appellants but it is not a candid account. For the avoidance of doubt, we note that the contact log is not a complete record of the contacts between police and Susan Norwich, but are satisfied that material contacts were, at least in the main, noted.

• Mr Rumfitt QC recognises that this impropriety in itself is not sufficient to overturn the convictions. He exonerates trial prosecution counsel from any professional misconduct and is certain that they too were unaware of events. This, he argues, highlights the point. The police's concealment of the matter from prosecution counsel was a tacit acknowledgement of the

the judgment below, concluding that "it is not to be equated with article 3 ill-treatment"

9. In terms of challenges under Article 5 the decision leaves a window for claims in individual cases, albeit the threshold for establishing a breach is a high one. The Court accepted that past offending was relevant to whether prison was an appropriate place for detention. It was also legitimate to have regard to the practical problems on which the state relied to justify its position. The vulnerability of the detainee and nature of the prison conditions are highly relevant.

10. In our view, there may be viable claims in specific circumstances where the wellbeing of a particularly vulnerable detainee (for example, a victim of torture) is being impacted adversely by the detention regime in prison, and/ or where prison conditions are particularly harsh (e.g. lengthy segregation) and there is nothing in the circumstances of the case justifying those harsh conditions. It is important to note, however, that in many cases involving particularly vulnerable detainees there may well be a viable challenge to the legality of detention per se, not just to the place of detention.

11. The Court did not engage in detail with evidence about the problems caused to detainees by being in prison, including access to legal advice.

12. The appellant has applied to the Court of Appeal for permission to appeal to the Supreme Court. [For the defendant: Graham Denholm, Landmark Chambers & Jane Ryan, Bhatt Murphy]

Shankill Butchers - Police Misconduct Probe 'In Doubt' *BBC News*

An independent investigation into alleged police misconduct surrounding the Shankill Butchers murder gang is under threat due to a lack of funding. The Police Ombudsman has said the future of 160 probes into alleged police criminality or misconduct in Northern Ireland are now in question. Politicians reached a deal on a number of contentious issues last week. However, they failed to break the deadlock over legacy issues arising from Northern Ireland's Troubles. As a result the proposed Historical Investigation Unit (HIU) will not now go ahead as planned next year. Ombudsman Dr Michael Maguire said there was now "a question mark over more than 160 historical investigations on our books". He added: "Cases potentially affected include allegations of police criminality and serious misconduct in relation to murders committed by the Shankill Butchers, as well as others committed by republican organisations the IRA and INLA."

The Shankill Butchers were a group of loyalist killers who carried out a number of sectarian murders in Belfast between 1976 and 1978. They were convicted in 1979 of 19 murders. The gang operated out of a number of Ulster Volunteer Force (UVF) drinking dens in the Shankill area of west Belfast. They were arrested in May 1977. Last month, Dr Maguire wrote to many families involved in historical cases saying he planned to transfer them to the new HIU. Following Stormont's failure to reach agreement on the past he said he was now worried about when his office would have the funding to begin this work. He warned proposed cuts to his budget may put a question mark over a further 20 historical investigations due to begin in the new year. "That's a total of more than 180 cases over which, at present, I can provide no level of certainty to families about when an investigation will begin," he said. Dr Maguire said his office would continue to investigate historical cases, but any reductions in funding would undermine its capacity to deal with the volume and complexity of such cases. "A fluctuating financial position has also led to an increased turnover of experienced staff in important investigative roles," he said. "Further cuts would, in my opinion, place us under unreasonable pressure, given that for the foreseeable future my office will be the body required to undertake this work. Now is the time for some certainty about the resources which will be made available for this work in the years ahead."

R on the Application of Idira v Secretary of State for the Home Department

1. On 20 November 2015 the Court of Appeal handed down judgment in Idira v Secretary of State for the Home Department [2015] EWCA Civ 1187. The claim raised important issues regarding the compatibility with Article 5(1)(f) ECHR of holding immigration detainees (specifically, post-sentence ex-offenders) in the prison estate.

2. The appellant was an Algerian national who was detained under immigration powers in prison from July 2013 to 21 March 2014 despite being assessed as suitable for transfer to an IRe. He was held in prison for this prolonged period as a result of two combined factors:

(a) First, a change in the Secretary of State's published detention policy in Chapter 55 of her Enforcement Instructions and Guidance (EIG 55) in January of 2012 meant that post-sentence foreign national ex-offenders would be held in the prison estate until all of the prison beds allocated to the Home Office were full, after which appropriately risk-assessed detainees would be transferred to IRCs; and (b) Second, an increase in the number of such beds from 600 (as specified in the Service Level Agreement between NOMS and UKBA) to 1,000 (referred to within the Home Office as "Operation 1000") in late 2012 which resulted in all transfers from prisons to IRCs stopping. (Prior to the increase in available beds, the impact of the January 2012 change to EIG 55 had been limited).

3. In the High Court (R (Idira) v SSHD [2014] EWHC 4299 (Admin)) Jay J had found that the policy was a blanket policy which was irrational and eschewed any consideration of individual circumstances. He declined to grant relief on the point as it was of only historic concern to the Claimant, and the number of prison beds had been reduced again by the time of the hearing. The judge did, however, conclude that, but for the decision of the Court of Appeal in Krasniqi v SSHD [2011] EWCA Civ 1549, he would have allowed the claim by reference to Article 5 ECHR, on the grounds that Article 5(1) required a link of appropriateness between the place and conditions of detention on the one hand, and the reason for detention on the other.

4. Mr Idira appealed, arguing that the judge had not in fact been bound by Krasniqi to dismiss the claim, and that his analysis of Article 5 was correct. The Secretary of State argued that he had been right to dismiss the claim by reference to Krasniqi, and in any event, his analysis of Article 5 was wrong.

5. The appellant argued that Jay J was correct to find that immigration detention in prison was generally contrary to Article 5 ECHR as there was not a relationship of appropriateness between the reason for the deprivation of liberty and the place and conditions of detention.

6. The Court of Appeal (Lord Dyson, Lord Justice Leveson, and Lord Justice McCombe) held that there was no principle that immigration detention in prison per se breaches Article 5: [16] & [36], albeit (a) "detention in an IRC is generally more appropriate for immigrant detainees than detention in prison", and (b) "[f]or some vulnerable detainees, detention in prison may be seriously inappropriate and on that account arbitrary". Any claim on this basis would turn on its own facts, in particular "the vulnerability of the detainee and the nature of the prison conditions" .

7. Importantly, the Court rejected the Secretary of State's submission that Article 5 was not directly concerned with the appropriateness of place and conditions of detention [40], and reiterated the three criteria identified in Saadi at paragraph 74 regarding the prevention of arbitrary detention under Article 5 [40].

8. As to what must be demonstrated to establish a breach of Article 5, the Court concluded that question was whether the conditions of detention were" seriously inappropriate", which equates to "undue harshness". The Court departed from Jay J's analysis of this term in

devastating effect of the information on the defence cross examination of Susan Norwich.

• Mr Heywood QC, who did not appear in the trial below but appears on behalf of the respondent in the appeal, assisted by trial prosecution junior counsel, confirms that trial counsel were not aware of the information that has subsequently come to light. If we correctly perceived that he suggested that the prosecution duty of disclosure was rendered redundant by the absence of information available to counsel, or the policing authority in London or else that different rules apply in cases in which it is difficult for the prosecution to obtain the assistance of witnesses to gang related offences we firmly squash the notion. We accept unequivocally Mr Rumfitt QC's argument that there is a corporate knowledge implied by the possession of the relevant information that falls to be disclosed by any arm of the prosecution. We note that whilst Mr Heywood QC attempts to "airbrush" the behaviour of the officers, he nevertheless concedes that the misconduct described above in terms of the text may well have led to disciplinary procedure if DI Horsley remained in office.

• The issue for us, therefore, is whether the disclosure of this information prior to the trial commencing, or as events evolved, prior to the cross examination of Susan Norwich would have likely made a difference to the verdict of the jury correctly directed. The impact that it would have had upon the conduct of the trial by those who represented the appellants and the additional potential for showmanship, in albeit proper, cross examination is, with respect, otherwise irrelevant.

• It was submitted that, had the defence known that counsel for Susan Norwich had it in mind before she gave evidence in the murder trial to seek a Goodyear direction thereafter with a view to a plea and sentencing help from the police for the drug offending by way of a text, it would have sought and obtained an adjournment of the murder trial until the drugs matter had been resolved. We consider that to be an unrealistic submission. On a murder retrial of this kind, there would have been no such possibility of an adjournment and the reality is that the defence, with such disclosure as had properly been given, would then have had some pieces of paper and material to use in cross-examination on the point of which they could not already have failed to be aware – namely that, whether Susan Norwich pleaded or not, she would be entitled to some credit against sentence for any assistance given to the police.

• Mr Rumfitt QC argues that a different verdict was a real possibility since he and other defence counsel would have had available to them the reason why Susan Norwich was "prepared to put herself through the trial process again". He concedes that her time in the witness box in the first trial would have been difficult in view of the ammunition available to be deployed against her. That is, she was questioned as to the veracity of her evidence against the appellants on the basis that she sought to protect the identity of the murderer with whom she had a child and thereby sought to protect him. With refreshing candour, counsel admits that the line of cross examination failed spectacularly in the retrial when DNA results established conclusively that he was not the father of Susan Norwich's son; whatismore, the absence from the retrial of the patently unreliable prosecution witness, M ("Spider") said to have been privy to confessions by the appellants, removed any further mileage from attempting to demonstrate her association with rival gang members.

• At the time of the retrial Susan Norwich was a witness in a precarious position as mother to two young children liable to be incarcerated. Whilst he asked her questions about the impact of her arrest for drug offences upon the welfare of those children, Mr Rumfitt QC said he did so to thwart any attempt that may be made to seek the sympathy of the jury by reference to the danger to her children she had created in giving evidence against the appellants. He argues that in light of her previously displayed antagonism towards the police there was reasonably no thought in the minds of the three experienced criminal leading counsel for the appellants that she would have 'struck a deal' with the police and

the prospect of uninformed cross examination on such a point was a risky option. Yet they could not fail to be aware that any assistance she had already given to the prosecution in the first trial and any further assistance in the retrial would inevitably lead to a request for a text on any later sentencing for the drug offences, whether she pleaded guilty or not. It was open to the defence to cross-examine on the basis of expectation of benefit in the drugs trial by virtue of giving evidence in the murder retrial but the force of such cross-examination would, as must have been realised, if attention had been directed to the point, have been diminished because she had already given evidence in the first trial, long before the drugs offending in similar vein to that which she gave at the retrial.

• We agree that this can properly be categorised as a 'one witness' case with scarce corroborative detail provided by independent witnesses. We have no doubt that the defence would have utilised the non disclosed material to dramatic effect; probably more so in relation to the challenge to the particular police officers' evidence than to that of Susan Norwich, having regard to the transcripts of her evidence in both trials and her undoubted spirited rejoinder to matters raised in cross examination of her in relation to her credibility. We recognise the force of the arguments made on behalf of the appellants and have little doubt that, but for the undisputed chronology relating to Susan Norwich's position as witness for the prosecution first and defendant in her own right later and the fact of the nature of the evidence she gave in the first trial, we would regard these convictions as unsafe.

• However, a careful appraisal of the relevant timeline in relation to her providing information and evidence to the police and a reading of the transcripts of her evidence during both trials convince us that these convictions are safe. That is, she first 'engaged' as a potential witness for the prosecution in 2008 at a time when it could not be suggested that there was a realistic contemplation that she would trade false evidence for the prospect of her own criminal conduct being overlooked; her 'significant witness interview' was taped in September 2008, she signed a witness statement in January 2009 and gave evidence in October 2009; between 2008 and 2009 she was subject to a degree of witness intimidation and on occasions showed strong antipathy towards the police, on one occasion signing a retraction statement. Her arrest for possession with intent to supply Class A drugs was made on 10 March 2010. The fact of her arrest and intended prosecution was known to the appellants' counsel at re-trial.

• There was a transcript of her evidence from the first trial which was patently used before the jury in attempts to undermine her reliability. Notably, she had been cross examined in the first trial, as she was reminded in the second, in relation to her alleged willingness to give false evidence to escape the prospect of her own prosecution for perverting the course of justice. She was challenged entirely properly but robustly on matters going to her credibility, not least the difference in her accounts, but showed remarkable resilience in the face of attack. Significantly, in our view in the light of the context of this appeal, her evidence in the retrial contrasts to some degree with that in the first in so far as it displays a greater vagueness about matters of detail. She cannot be demonstrated to have 'firmed up' her factual evidence, whether with an inducement of the text or otherwise.

• The misbehaviour of the police officers may well have created a distraction but we are not satisfied in all the circumstances of this case that a conscientious jury properly directed would have been left in doubt as to Susan Norwich's credibility by explicit reference to the "text" or the circumstances existing when she gave evidence and the possibility of police assistance in relation to a sentence for her drugs offending. The broad consistency of her evidence at the first trial and the retrial remained entirely compelling. Consequently, these appeals against conviction are dismissed.

committee questions “the effect on respect for the legal process” of mass non-payment. Every witnesses who submitted evidence on the charge to the inquiry – including many senior judges – were critical of the system; only the MoJ was in favour.

Bob Neill, the Conservative MP and barrister who chairs the justice committee, said: “The evidence we have received has prompted grave misgivings about the operation of the charge, and whether, as currently framed, it is compatible with the principles of justice. In many cases it is grossly disproportionate, it fetters judicial discretion, and creates perverse incentives – not only for defendants to plead guilty but for sentencers to reduce awards of compensation and prosecution costs. It appears unlikely to raise the revenue which the government predicts. It creates a range of serious problems and benefits no one. We would urge Michael Gove to act on our main recommendation and abolish it as soon as possible.”

More than 50 magistrates have resigned in protest. Some courts have been handing down absolute discharges to avoid imposing it. The mandatory criminal courts charge varies from £150 for those who plead guilty at magistrates court to up to £1,200 for those who are convicted following trial in the crown court. It has to be paid in addition to any fines, compensation costs, prosecution costs and the victim’s surcharge. The committee regretted that the minister for the courts and legal aid, Shailesh Vara , declined to be questioned by MPs.

The Howard League, a penal reform charity, provided a list of cases referred to by MPs, including the example of a 32-year-old woman who admitted stealing a four-pack of Mars Bars worth 75p. The report recorded her sayingshe had stolen the item because she “had not eaten in days” after her benefits were sanctioned. She was fined £73, ordered to pay a £150 criminal courts charge, £85 costs, a £20 victim surcharge, and 75p compensation.

The government’s original aim was to require adult offenders to contribute to the costs of the justice system. But even the Crown Prosecution Service in evidence to the committee said that it was “concerned that the courts charge will displace the prosecution costs award, which the CPS uses to recover part of the costs of bringing a prosecution case.

If this pattern continues over time it will have an adverse effect on the CPS budget impinging on the organisations ability to effectively prosecute cases.” The Sentencing Council providing guidelines for judges and chaired by Lord Justice Treacy also cautioned MPs that: “If the offender has insufficient resources to pay the total amount, the order of priority is: compensation; victim surcharge; fine; costs. The [criminal courts] charge, which is not part of the sentence, runs counter to that well-established guidance.”

Responding to the report, Malcolm Richardson, national chairman of the Magistrates’ Association representing magistrates in England and Wales, said: “Our members will be encouraged by this news and hopefully it signifies the beginning of the end for the charge as it currently stands. My post bag attests to how strongly magistrates feel about the charge and its perverse influence on fairness in court. Because Mr Gove has shown he’s willing to reform justice policy, we now eagerly await the government’s response.”

Phil Bowen, director of the Centre for Justice Innovation, said: “All the evidence to date shows the criminal courts charge was unfair and undermined the principles of fairness that our courts are rightfully respected for across the world. Putting financial pressure on a defendant to plead guilty – whatever the evidence and nature of the case – bears the hallmarks of a US-style plea bargaining system.” An MoJ spokesperson said: “As the justice secretary has said, we note the concerns which have been expressed and are keeping the operation of the charge under review.”

"(1) Proceedings to which this section applies may only be instituted by or with the consent of the Attorney General. (2) This section applies to proceedings against a person for a fatal offence if — (b) The person has previously been convicted of an offence committed in circumstances alleged to be connected with the death."

7. Having made enquiries both with the Crown Prosecution Service and the Attorney-General's Office, there is no record of an application having been made for the Attorney-General's consent in relation to the prosecution of these appellants for murder and no record of consent having been sought or granted.

8.. Mr Simon Denison QC, for the Crown Prosecution Service, does not challenge that conclusion. Although there is no precedent identified where the grounds of appeal were a failure to obtain the Attorney-General's consent to institute proceedings under the Law Reform (Year and a Day Rule) Act 1986, a failure to obtain permission to institute proceedings for other offences in other circumstances has resulted in proceedings being declared a nullity. Thus, R v Angel [1968] 1 WLR 669, the defendant was convicted of offences of gross indecency and buggery with a young boy under section 8 of the Sexual Offences Act 1967. The consent of the Director of Public Prosecutions was required for the institution of such proceedings but had not been obtained. The Court of Appeal allowed an appeal stating the proceedings were a nullity without the consent of the DPP.

19. For the reasons we have identified we make the order namely, that the conviction and judgment be set aside and annulled and that a new trial shall take place on the charge of murder. The defendant is ordered to appear before a Crown Court to be determined by the Presiding Judge for the South Eastern Circuit to plead to the indictment. We make an order that these proceedings shall not be reported until after the conclusion of the retrial. That order is made under section 4(2) of the Contempt of Court Act 1981.

Criminal Courts Charge Must Be Abolished 'As Soon As Possible'

Owen Bowcott, Guardian: The criminal courts charge, a mandatory payment of up to £1,200 imposed on all convicted defendants, must be abolished "as soon as possible", the Conservative-dominated justice select committee has urged. The controversial costs create "perverse incentives" for defendants to plead guilty; are a "grossly disproportionate" punishment for many offences; leave no discretion for judges or magistrates to vary the charge and undermine compensation awards to victims, according to the MPs. If the Ministry of Justice refuses to scrap the measure then MPs say it should "radically reduce the levels of the criminal courts charge" and at least give courts the freedom to decide whether to enforce the penalty and alter sums in accordance with individuals' ability to pay. The Commons committee says it has "grave misgivings about whether the charge as currently framed is compatible with the principles of justice". Only a very small proportion of fines imposed have been collected, it believes. The scathing conclusions are the latest in a series of public humiliations for the previous justice secretary, Chris Grayling, who introduced the charge in the final months of the last parliament.

The current justice secretary, Michael Gove, has already reversed many of Grayling's reforms – such as the ban on prisoners receiving books from their families – and made it clear he would like to do away with the highly unpopular courts charge. While the select committee's report will provide further political cover for that manoeuvre, Gove is still locked in discussions with the Treasury on the next round of spending cuts and has to find alternative sources of funding. One suggestion has been for a tax on the profits of City law firms. Grayling's charge was projected to provide a net revenue by 2023–24 of between £80m and £160m a year. The justice select

The Disturbing Case of Roger Khan – and the Cost of Cheap Justice

How a dyslexic man with no legal knowledge ended up defending himself on a charge of attempted murder. David Rose, The Spectator, 21/11/2015 - The defendant, Roger Khan, was on trial for a vicious attack that left a man's skull shattered and his brain exposed to the elements, but he had no lawyer representing him in court. He was dyslexic and had no legal knowledge, but the judge had told him that, if he fired the legal-aid lawyers he no longer trusted, he would have to defend himself. In fact, the only legal advice he was getting came from the prosecution. Throughout the four-week trial, a junior Crown barrister went down to the cells each morning to advise him on how to conduct his defence — although naturally enough, the prosecution's aim was to get him convicted and sent to prison.

Even more strangely, some of those in court had been acquainted with each other long before the trial began. For example, one of the jurors knew the victim, the Newton Abbot restaurateur Nasim Ahmed, because she worked for his GP. (The juror was discharged at the end of the trial, but by then had been mixing with her peers for weeks.) She also knew other witnesses including Ahmed's estranged business partner, Faruk Ali, who has a criminal record for violence and bigamy: according to one witness at the trial, in the weeks before the attack Ali had been threatening to 'put a hit' on Ahmed, although this is denied by Ali. Yet this trial did not take place in some backward dictatorship, but in England — before Judge Graham Cottle at Exeter Crown Court in July and August 2011. It ended when Khan, now 62, was convicted with his co-defendant, Faruk Ali's brother Abul. Khan was sentenced to 30 years — an exceptionally harsh term for attempted murder. He remains in Whitemoor prison in Cambridgeshire.

There is no disputing the savagery of the crime. Ahmed and Ali owned two Indian restaurants, one in Teignmouth, the other in Newton Abbot. A little before midnight on 27 October 2010, Ahmed returned home from work. Two men emerged from the shadows and set upon him. The night's takings, soaked in his blood, were left untouched. This month, Khan's case is being considered by the Criminal Cases Review Commission, the statutory body that investigates miscarriages of justice and has the power to order an appeal. (He tried to appeal two years ago but, once again, had no lawyers. A few days before the hearing, the London solicitor James Saunders agreed to act pro bono. Saunders had almost no time to prepare: the court turned Khan down.)

Acting for Khan now is Emily Bolton, the founder of a new legal charity, the Centre for Criminal Appeals. She previously founded and for four years ran Innocence Project New Orleans, which has freed no fewer than 26 innocent prisoners from the jails of America's Deep South. 'I'm stunned by the circumstances of Roger's conviction,' she says. 'British lawyers used to come to volunteer on death-row cases in Louisiana and tell me, "This sort of injustice could never happen in the British system." They were wrong.'

Cases like Khan's may well become more common, for its ultimate cause was a lack of funds for his defence. The reason why the judge ordered him to defend himself is that he had complained in pre-trial hearings about his solicitors, claiming they were not doing enough to prove his innocence. The first time he did this, the judge allowed him to switch to a different firm. But the problem persisted. Specifically, Khan said, they would not take the time to obtain or examine the hundreds of hours of CCTV footage shot in Newton Abbot on the night of the attack. Somewhere there, he insisted, were the images that would prove his alibi — that while he had been in Newton Abbot, he had merely gone to the pub, and then, having missed the last train home to London, slept rough in a local park. He wanted the court to appoint new lawyers who would get hold of the footage. But the judge refused, saying he could either

stay with the lawyers he had or represent himself. 'I had no faith in them,' Khan told me in the bleak Whitemoor visiting room. 'I felt I had no choice but to do the job myself.'

As cuts to criminal legal aid have deepened, defence lawyers' resources have been constrained. 'Twenty years ago, in the brief I'd get for a serious case, I'd be sent a thick dossier,' says a leading criminal QC. 'It would contain numerous witness interviews done by defence solicitors, and all kinds of other goodies — the fruits of hundreds of hours of work. Nowadays, I'll get asked to defend a murder on the basis of an email with just the prosecution witness statements attached.' As for Khan, he was eventually sent a package of 89 DVDs in his remand cell at Exeter prison a few weeks before the trial. Here it was at last: the CCTV footage. 'The only place I could view them was in the prison educational department,' he told me. 'Unfortunately I was only allowed there for one or two hours a day. Some of the disks were password protected, so I couldn't view them at all. Others seemed to have bits missing.'

Recent analysis of the DVDs by Bolton and her colleagues has found two sets of images of men near the area where the attack took place at relevant times, carrying what might be weapons. But they are muddy and indistinct. And these were only the municipal cameras — the disks in the pub cameras, which might have conclusively established Khan's innocence, had long been overwritten. There is little chance of finding a clear image of him now. Other evidence that might have proved Khan's innocence is only now being properly investigated. There was no trace of his DNA on the metal pole used to smash Ahmed's skull, but there was DNA from someone else who has never been identified. The same goes for a jacket worn by one of the attackers, stained with the victim's blood.

Khan is not a poster boy — he is not, to adapt a phrase used by criminologists, an 'ideal victim' of a miscarriage of justice. He was convicted in 1987 for armed robbery, although he protested his innocence of this crime, too, and the investigative journalist Paul Foot was preparing an article on the case at the time of his death. But if someone was trying to 'set him up', Khan's previous convictions made him more vulnerable, more plausible as a suspect, even though at the time of his arrest he had been straight for 15 years, working as a handyman and settled with a long-term partner.

Khan had never met Ahmed, nor his business partner Faruk. But his co-defendant Abul Ali, to whom he was related by marriage, lived near him in east London, and had asked him to share the driving on a trip to Devon. Unknown to Khan, Abul and his brother Faruk had accused Ahmed of sexually abusing another family member. According to witnesses at the trial, they were trying to extort thousands of pounds from him and force him to take a polygraph test. Abul supported Khan's alibi, saying that after they reached Newton Abbot, he gave him the money for his train fare home, and Khan got out of the car. He said that afterwards two white men got in. He gave them £200: their role, apparently, was to 'persuade' Ahmed to take the polygraph.

It would have been a challenging case for a skilled QC. Small wonder Khan struggled. At one point he exclaimed: 'I am not really getting a fair trial, am I your honour? The odds seem to be packing up against me. One minute, one thing happens. The next minute, another thing happens. I have no idea what is happening there. Then something else happens. I am supposed to sit here, take it, and everything is fine with everyone else, but I am the one going, the lamb that is going to the slaughter.' On the days he gave his own evidence, he was on hunger strike, and was faint from the lack of food. The judge observed his poor condition, but said: 'I have already expressed my serious anxiety about this declining state of health, but I am not going to let this trial be held to ransom. We will get to the end of this case, one way or another.'

At Whitemoor, Khan described the meetings in the courtroom cells each day. 'Every morning it was either the police or one of the prosecuting barristers who came to see me. They seemed to want to know what I was going ask the witnesses, and who I was going to call in my defence.' Sometimes, he claimed, they persuaded him not to challenge their own witnesses' veracity — warning that if he did, the jury would be told about his own previous convictions.

It has taken three years for Khan to reach the front of the long queue at the Criminal Cases Review Commission: with applications running at 1,500 a year, it has a gigantic backlog. If the commission does refer his case to the Court of Appeal, many more months will pass before it is heard. 'The human cost of trying to do justice on the cheap is innocent people losing years of their lives in prison,' Bolton says. 'In this Magna Carta anniversary year, we need to recognise that this is the modern meaning of an overmighty state.'

Paul Gowans & Barry Kenneth Hillman Convictions Quashed Retrial Ordered

1. On the 24th August 2001 in the Central Criminal Court before His Honour Judge Stephens QC and a jury, these appellants were convicted by majority verdict of murder. Both were sentenced to life imprisonment. In relation to Paul Robert Gowans, now aged 42, the period of 13 years was specified pursuant to the provisions of what later became section 269(2) of the Criminal Justice Act 2003. In relation to Barry Kenneth Hillman, now aged 35, the period of 11 years was specified.

2. On10th December 2003 the Full Court (Kay LJ, Douglas Brown J and Sir Michael Wright) dismissed the appellants' appeals against conviction. These convictions have now been referred to this court by the Criminal Cases Review Commission, it having established that consent to the prosecution had not been provided by the Attorney-General.

3. The background can be summarised very shortly. On 29th January 2000 the appellants attacked and robbed Vytautas Jelinskas, a pizza delivery man. During the robbery he was kicked to the head, sustained a subdural hematoma to the left side of his cranium and was left in a comatosed state from which he never recovered.

4. On 14th August 2000 both men pleaded guilty to robbery and on 16th August both were convicted of causing grievous bodily harm with intent contrary to section 18 of the Offences Against the Person Act 1861, each man receiving a substantial term of imprisonment. Three days after the convictions, the victim contracted an infection and died of septicaemia. As a result both men were charged with murder. The prosecution case was that the appellants had subjected the victim to a vicious assault in which he sustained brain damage that led to his death 6 or 7 months later. The victim had to undergo invasive procedures as a result of the injuries and these carried a risk of infection. These procedures would not have been required but for the acts of the appellants.

5. The defence case was that there was insufficient evidence to show the acts of the appellants had been a significant cause of the death of the victim and that the original injury did no more than set the scene in which another cause of death had come about. Thus, the issue for the jury turned upon causation and detailed medical evidence was adduced in relation to that issue. The jury having convicted, this court reviewed the convictions and, as we have recounted, dismissed the appeal. Both men then commenced to serve their sentences of life imprisonment.

6. It was, we are told, Mr Hillman who referred the case to the Criminal Cases Review Commission on the grounds, we understand, of fresh medical evidence. In the course of its review the Criminal Cases Review Commission undertook a check to ensure that the Attorney-General had given consent for the prosecution for murder under the Law Reform (Year and a Day Rule) Act 1996. That consent was required because section 2 of the Act states that: