that it has a separate responsibility to consider the disclosure of confidential material as a result of its receipt of a referral from the CCRC. It considered that henceforth in every such case: (i) The PPS should, within a period of not more than ten weeks from receipt of the referral, determine which of the confidential materials should be disclosed to the appellant and proceed to do so. This timeframe should provide adequate time and opportunity for any necessary communication between the PPS and the CCRC. (ii) Within a further period of ten weeks the appellant should make any appropriate representations about disclosure to the PPS and a comprehensive response should be made. (iii) If the processes outlined above do not yield a consensual outcome the appellant should, within a further period of four weeks, make a disclosure application to this court (as in Holden). (iv) If any such disclosure application fails to generate a consensual outcome or the court considers it necessary having reviewed the confidential annex there will be a combined ex parte and inter-partes listing before this court, with the two elements to proceed sequentially. In any case where the PPS does not seek the ex parte element, this should be communicated well in advance.

Finally, the Court said it wanted to emphasise that it will in all cases be the ultimate arbiter of any contentious disclosure issues. Furthermore, the power of the court to determine disclosure issues, proactively or otherwise, is exercisable at any stage of the proceedings.

Conclusion: For the reasons given, the Court concluded that there is merit in the CCRC's referral of the appellant's convictions and allowed the appeal.

Self-Harm Among Female Prisoners in England and Wales at Record High

Jamie Grierson, Guardian: Incidents of self-harm among women in prison have hit a record high, official figures reveal, after a big increase during the pandemic. The number of self-harm incidents in the women's prison estate in England and Wales increased 8% to 12,443 in the year to September, compared with the previous 12 months, while on a quarterly basis the number of incidents rose by 24%. This compares with a 7% decline year on year or a 5% rise quarter on quarter in men's prisons. The rate of incidents, which takes population size into account, was markedly different between men and women. There were 3,557 incidents for every 1,000 women prisoners in the 12-month period, compared with 595 for every 1,000 men in prison. There were 10 incidents for every self-harming female inmate, compared with 4.2 for every self-harming male prisoner. The rise coincides with a highly restrictive regime applied to prisons to mitigate the spread of Covid-19 in the estate, which experts including the then chief inspector of prisons have warned would have a devastating impact on prisoners' mental health. Frances Crook, the chief executive of the Howard League for Penal Reform, said: "While men's prisons have found some measure of respite through lockdown measures, the increase in self-injury in women's prisons is stark and extremely concerning. The mental distress caused by isolation can affect people in many different ways, some of which may not be evident for months or years."

Serving Prisoners Supported by MOJUK: Derek Patterson, Walib Habid, Giovanni Di Stefano, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, 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, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, 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, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan.

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MOJUK: Newsletter 'Inside Out' No 833 (10/02/2021) - Cost £1

Wrongfully Convicted Jack Whomes to be Released From Prison

Jack was 'wrongfully' convicted of the notorious "Essex Boys" farmland murders is to be released from jail. Now 59, he was given a life sentence in 1998 for the execution of three men whose Range Rover had been ambushed in Rettendon in December 1995. He has always maintained his innocence and in 2018 saw his minimum term cut from 25 to just over 22 years for "exemplary" behaviour behind bars. A Parole Board spokesman confirmed a panel had directed Whomes' release. In one of Britain's most notorious gangland killings, drug smuggler Whomes was convicted of shooting three men in a row over drugs. Patrick Tate, Anthony Tucker and Craig Rolfe were gunned down with a pump-action shotgun after their vehicle was ambushed.

Jack Whomes, Still Inside, Still Innocent, Still Fighting (Circa December 5th 2015)

Colin Adwent,: 20 years to the day since three Essex drug dealers were shot dead in what can arguably be described as the country's most infamous gangland murder. The hitman convicted of the triple-murder of Tony Tucker, Pat Tate and Craig Rolfe, on a remote track on a freezing winter's night was 35-year-old Jack Whomes, of Brockford, near Stowmarket. The father-of-two, who worked as a mechanic near Ipswich and was also a part-time doorman at a Stowmarket nightclub, was arrested five months later. Whomes and co-accused Michael Steele were convicted of the three murders at the Old Bailey less than a year later. To this day they still protest their innocence. The case has continued to grip the public's imagination, with films such as Essex Boys and Rise of the Foot Soldier, along with crime documentaries, made about it.

Whomes' mother Pam has never wavered in her belief that her son is behind bars for a crime he did not commit. Her faith has led her to wage a tireless campaign for his freedom. Now aged 77 she remains determined to see her son free but, unsurprisingly, carrying the burden of the fight has come at a cost. Mrs Whomes said: "It's been sheer hell. It's been a constant fight. It has completely broken my family up. That's what hurts me. It is such a struggle trying to prove his innocence. My whole life revolves around the telephone, waiting for him to call me twice a day. If I'm out I like to be back here so he gets an answer. It's about keeping yourself going and keeping the remainder of the family going. I feel like it's a losing battle. I just hope I live to see him walk out. I try to be strong all the time, trying to keep myself well and active, but it takes its toll, to be honest. "Once I'm out it's the only time I get relief – when I'm in other people's company. For that little while you forget everything. If I didn't do that I think I would go stark, raving mad.

I really draw strength from the fact I have got some good legal people behind me, helping me. Everybody's been so supportive. When Jack was convicted a lot of people said he did it, but a lot said he didn't and that he was a gentle giant. I know when anyone comes to the village, especially to the pub, I'm pointed out, but everybody's supportive." Mrs Whomes said her late husband Jack and their family originally managed to keep the arrest of the son she still calls 'Bubsy' a secret from her. I didn't know he had been arrested. When they went to charge him it came up on the telly. They showed some blokes covered up and just by the way he was walking I remember I said 'that looks like my Bubsy' and they [the family] said 'yeah, it is'. I nearly died on the spot. They tried to keep it from me. I had heard about the murders, but never in my wildest dreams did I think it was him."

Some would question why, at the age of 77, the mother-of-six keeps pursuing her son's case.

However, she said: “How can I stop? I keep fighting because I’m determined to see him walk out a free man. I will never give up on him because I know he wouldn’t on me.”

Her faith in her son and his innocence is unshakeable. I know he would never, ever do anything like that. He would never have put us through the agony of all those years. I’ve said to him myself ‘just say you have done it and you can come home’, but he won’t. Jack will never give in. It’s his way of life now. He’s never going to give in.” When asked about the future Mrs Whomes replied: “What future? I would like to see him go down to a different category prisoner and be at another prison nearer home so it makes it a bit easier to visit.

Mrs Whomes said her son has used his time behind bars well. He mentors other prisoners and has gained 26 City and Guild certificates. In a letter the Governor of HMP Whitemoor in Cambridgeshire stated he believes the passage of time and the positive way in which Whomes has approached his sentence has served its purpose and been his rehabilitation. The Governor wrote: “The level to which he has educated himself is truly impressive and he comes across as a man who just wants to end this chapter of his life, eventually get released, and spend the remainder of his life with his family.” Going through the agony of losing an appeal in 2006 against her son’s conviction was tough, but it has not deterred Whomes and his mother seeking a second appeal.

She said: “It was terrible. We all thought we had won. We were sure we had won and then the night before a journalist rang us and said we had lost it. I have got no faith at all in the justice system. Sometimes I think we are bashing our heads into a brick wall, but we have just got to keep our spirits up, keep fighting and perhaps one day we will get there.” Jack Whomes remains resolutely defiant after nearly 20 years behind bars. The 54-year-old still vehemently proclaims he is innocent of the gangland slaying of Tucker, Tate and Rolfe. Whomes lost his freedom more than 19 years ago, but to this day he maintains he was not their executioner.

The only real glimpse of the outside world he has had since then is being allowed out to attend the funeral of his father Jack senior in May 2011 in Bury St Edmunds. Speaking from HMP Whitemoor in Cambridgeshire, Whomes vowed he would never admit the murders for which he is convicted. Despite already losing an appeal in 2006 and spending years mired in the legal system while trying to get a second, Whomes said he has not given up hope of having his conviction overturned. His hopes hinge primarily on technological developments in being able to pinpoint signals from mobile phones. This, along with Supergrass Darren Nicholls’ evidence, were the mainstays of the prosecution’s case back in 1998.

Describing what life inside has been like for him, Whomes said: “It’s been one hell of an education in every sense of the word – 19 years incarcerated for a crime I did not commit and will never admit to. I hope to prove my innocence and walk out of the appeal courts a free man and be reunited with my family, friends and everyone who has stood by me.” Many would admit the offences for which they were convicted if it meant shortening their sentences. However, Whomes still refuses to countenance the idea of admitting the killings, as he did when Jack snr knew he was dying and begged him to, so his son would eventually be able to come home and look after his mum. Whomes said: “I never committed them and after 19 years of trying to prove my innocence I’m definitely not going to say otherwise. Why admit to something I have not done? My heartfelt thanks go to all my friends, family and the people who have believed and supported us in this long journey. I hope one day you will be able to hear the truth from me.”

The case against Jack Whomes: On May 13, 1996, Jack Whomes was hosing down a boat at his workplace G and T Commercials in Barham, near Ipswich, when armed police and customs officers burst into the yard and arrested him. Four days later he was jointly-charged with mur-

The Court said there can be no doubt that in matters of disclosure the CCRC is subject to relevant common law principles. It cited two reported cases in which the NI Court of Appeal has specifically addressed the issue of “Confidential Annexes” attached to the report forming the CCRC’s referral . The Court also considered the disclosure regime under the 1996 Act where the prosecutor’s disclosure obligations arise at two stages. At the first, or preliminary, stage, the materials to be disclosed are those, not previously disclosed, which in the prosecutor’s opinion might undermine the case for the prosecution against the accused. The second stage materialises upon receipt of the defence statement. The duty at this stage is to disclose any materials, not previously disclosed, which might reasonably be expected to assist the defence of the accused person as disclosed by the defence statement. By virtue of section 9 of the 1996 Act the prosecutor’s disclosure obligations continued thereafter and there is a specific duty to “keep under review” the possibility of disclosing further materials which in the prosecutor’s opinion might undermine the case for the prosecution or which might reasonably be expected to assist the accused’s defence as disclosed in the defence statement.

The Court also considered whether there are differing approaches to disclosure by the prosecution in an appeal against conviction to the Court of Appeal and in a statutory referral of a conviction to the Court of Appeal by the CCRC, bearing in mind that the 1996 Act does not apply to either species of challenge and, further, a CCRC referral equates to an appeal under section 1 of the Criminal Appeal (NI) Act 1980 “for all purposes” (section 10(2) of the Criminal Appeal Act 1995). The Court held the answer was “No” but said it was appropriate too that CCRC referrals can frequently feature material which did not play a part in the prosecution and trial under scrutiny.

It was noted that the Supreme Court has held that in appeals against conviction there is a common law duty of disclosure which it described as “limited.” In Nunn , the UKSC referred to the Attorney General’s Guidelines and, in particular, the requirement to make disclosure of any material coming to light post conviction casting doubt upon the safety of the conviction in the absence of any good reason to the contrary. The UKSC contrasted the differing situations of a defendant at trial and a defendant on appeal, while acknowledging the engagement of two public interests namely (a) the exposure of any flaw in the conviction rendering it unsafe and (b) the finality of criminal proceedings. Finally, it formulated the test of a “real prospect” that the post – conviction disclosure pursued “may reveal something affecting the safety of the conviction.” Ultimately the UKSC agreed that the convicted defendant’s request for disclosure did not “ go beyond the simply speculative”.

The Court said that Nunn is binding in this case and draws attention to the distinction between cases referred to the Court of Appeal by the CCRC and cases where the convicted defendant attempts to pursue a significantly out of time appeal: “Where the Commission exercises its statutory power of referral it will usually have deployed its extensive powers to gather fresh material which this court must take into account on the issue of safety applying the applicable legal principles. Where a defendant who has not appealed and is significantly out of time fails to convince the Commission to pursue his case he will invariably face significant hurdles in persuading the court to engage in an investigative exercise on disclosure. This emphasises the critical role of the Commission in dealing with suggested miscarriages of justice.”

The Court also drew attention to the CCRC’s policy on disclosure. While this is a published document the Court said there may limited awareness of its existence (an extract of the policy was included in the Appendix to the judgment). The Court commented that while no issue regarding the policy arose in the present case practitioners should be aware of it and it should inform their interaction with the CCRC in appropriate circumstances. The Court concluded

The Court said the trial judge, in his judgment, did not engage with any of this evidence. Nor did he engage with the evidence that Paul Kelly had made, in substance, the same complaint about the conduct of the same interviewing officers, namely DS Harper and DC Lumley. Furthermore the judge did not consider the fact that these complaints were made independently of each other, without any communication between the two arrested persons. The Court said that in this way the trial judge failed to engage with evidence which clearly bore on his assessment of the veracity of the testimony of DS Harper and DC Lumley and the evidence of the appellant and that this served to exacerbate its concern.

The third issue of substance was that prosecution adduced eyewitness evidence that the person who hijacked the motorbike had a moustache. The Court said this could not have been a description of the appellant and there was therefore a direct conflict between the eyewitness description of the hijacker and the alleged admissions of the appellant that he was that person. The trial judge did not address this issue in his judgment. The Court considered that it was incumbent upon him to do so. A further issue of substance of concern was the post-conviction evidence relating to the professional conduct of DS Harper (summarised in paragraphs [35]-[40] of the judgment). The Court said it was not its function to make any finding adverse to DS Harper but that it may properly consider this evidence. It found it impossible to overlook the strong similarities between the conduct attributed by the appellant to DS Harper in compiling interview notes containing fabricated admissions and the conduct alleged against him in R v Santus. The Court said this gave it a concern which was aggravated by the other post-conviction evidence relating to the professional conduct of DS Harper and that the cumulative effect of these sources of evidence served to "lengthen the shadow over the reliability of the admissions attributed to the appellant and fortify its reservations about the safety of his convictions": "To summarise, there are four issues of substance which, cumulatively, generate irresistible unease about the safety of the Appellant's convictions. It is unnecessary to give consideration to any of the other grounds of appeal. Our clear conclusion is that the convictions of Mr Devine must be regarded as unsafe. It follows that the appeal is allowed."

Commission Referrals: Disclosure: The referral which the CCRC made in the case was contained in its detailed report. The report referred to the existence of a so-called "Confidential Annex" entitled: "Annex 5 – Overview of confidential material in CCRC reference 00111/204 – R v Michael Devine." This report was not contained in the papers transmitted to this court but it was provided on the morning of the hearing to the Court and to the PPS. A brief outline (less than 200 words) had been provided by the PPS in its skeleton argument but it was confirmed that consideration had not been given to the question of whether any of these "confidential" materials should be disclosed to the appellant.

The CCRC's powers and duties relating to the acquisition and disclosure of documents and other materials are governed by sections 17 – 25 of the Criminal Appeal Act 1995 (the "1995 Act") (outlined in paragraphs [75] – [76] of the judgment). The Court said the statute focuses on the investigative and other activities of the CCRC undertaken with a view to deciding whether to refer a given case to the Court of Appeal but is silent on the matter of the CCRC's powers and duties of disclosure at the stage of making a referral or subsequently: "It says nothing about making disclosure of information and other materials to those persons and agencies who will thereafter be directly involved: the PPS, prosecuting counsel, the defendant, the defendant's legal representatives and the court. Furthermore, the Commission is not subject to the disclosure obligations of prosecutors imposed by the Criminal Investigations and Procedure Act 1996 (the "1996 Act"). In addition there is nothing relevant to the Commission in either the Judicial Protocol on the Disclosure of Unused Material in Criminal Cases or the Attorney General's Guidelines on Disclosure 2020."

dering Essex gangsters Tony Tucker, 38, Pat Tate, 37, and Craig Rolfe, 26. Tucker and Tate had enjoyed fearsome reputations as hard men known for violence, retribution and drugs.

A short time before their deaths Essex police officer's daughter Leah Betts died after taking an ecstasy tablet at a Basildon nightclub. The chain was believed to have trailed back to Tucker. Rolfe, Tate and Tucker were lured to Workhouse Lane – a remote snow-encrusted track in Rettendon, near Chelmsford – on the evening of December 6, 1995. There they were taken by surprise and shot while still sitting in their Range Rover. The trio's bodies were found the following morning. Tucker was clutching a mobile phone, Tate was slumped on the back seat, and Rolfe was sitting in the driver's seat. Whomes and Michael Steele, from Ainger's Green, Great Bentley,

Calls to Ban Facial Recognition Technology Over Racism and Protest Impact

Scottish Legal News: Facial recognition technology amplifies racist policing and threatens the right to protest, campaigners have warned as they launch a global campaign against its use. The new Ban the Scan campaign, launched by Amnesty International, will begin in New York City before expanding to focus on the use of facial recognition around the world. Facial recognition technology can be developed by scraping millions of images from social media profiles and driver's licenses, without people's consent. Software then runs facial analysis of images captured on CCTV, or other video surveillance, to search for potential matches against the database of scraped images.

Amnesty argues this exacerbates systemic racism, as it could disproportionately impact people of colour who are already subject to discrimination and violations of their human rights by law enforcement officials. Black people are also most at risk of being misidentified by facial recognition systems. Matt Mahmoudi, AI and human rights researcher at Amnesty, said: "Facial recognition risks being weaponised by law enforcement against marginalised communities around the world. From New Delhi to New York, this invasive technology turns our identities against us and undermines human rights.

"New Yorkers should be able to go out about their daily lives without being tracked by facial recognition. Other major cities across the US have already banned facial recognition, and New York must do the same." Amnesty International is calling for a total ban on the use, development, production, and sale of facial recognition technology for mass surveillance purposes by the police and other government agencies, and calling for a ban on exports of the technology systems. Albert Fox Cahn, surveillance technology oversight project executive director at the Urban Justice Centre, said: "Facial recognition is biased, broken, and antithetical to democracy. Banning facial recognition won't just protect civil rights: it's a matter of life and death."

Kevin McLaughlin Conviction Quashed 'Fragile Threads do Not Make a Strong Rope"

Kevin McLaughlin, was wrongly found guilty of having a haul of ammunition and bomb-making components without any proof he ever came into contact with them. The 36 year old from West Belfast was found guilty of the offences at a non-jury trial in March 2019 and was sentenced to five and half years in prison. His appeal was heard in November and the judges allowed the appeal and quashed the conviction, but did not give their full reasons on the day. On Tuesday January 26th 2021, they handed down their full decision. Which are below.

[1] The Appellant appeals against convictions for: (i) Possession of explosive substances in suspicious circumstances between 27 March 2015 and 23 November 2015, contrary to section 4(1) of the Explosives Substances Act 1883 ('the 1883 Act'); (ii) Possession of a firearm and ammunition between the same dates in suspicious circumstances, contrary to article 64(1) of the Firearms (Northern Ireland) Order 2004 ('the 2004 Order'); (iii) Possession of rounds of ammu-

nition for military use between the same dates, without authority of the Secretary of State, contrary to article 45(2)(e) of the 2004 Order; and (iv) Possession of rounds of ammunition between the same dates, without the authority of the Secretary of State, contrary to article 45(2)(f) of the 2004 Order. [2] Mr David Scoffield QC and Mr Dessie Hutton appeared for the Appellant and Mr Liam McCollum QC and Mr Michael Chambers appeared for the Prosecution.

[3] At the conclusion of the oral submissions this Court allowed the appeal, quashed the convictions and stated we would give our reasons later, which we do now.

Factual Background [4] On 22 November 2015 the police searched property at 4 Broom Close Belfast. The defendant has no connection with this property, or its owners and occupiers [5] In the attic of the premises a large burn bag was found (Exhibit No: JJD71). No further details concerning this bag were provided and the Trial Judge ("TJ") assumed that it was "a paper bag of some strength and durability, the primary purpose of which is to contain material such as documents which are intended to be incinerated".

[6] The burn bag contained a number of plastic bags within which a substantial number of items were found. These included 695 assorted rounds of ammunition, an AK47 rifle magazine, three mercury tilt switches, small arms propellant, fireworks composition, a modified large calibre firearms cartridge, improvised detonator cord, detonators and initiators.

[7] The materials recovered at the Broom Close address were forensically examined and the forensic and other evidence in the case was recorded in a Statement of Agreed Facts settled and signed by all Counsel. This Statement of Agreed Facts was the main basis upon which the original trial proceeded. The other source of evidence available was direct testimony from forensic witness Fiona Purdue.

[8] Forensic evidence from the burn bag consisted of four fingerprints from the "lower exterior of the bag". One of these was agreed as a match to the right little finger of the Appellant. It was also agreed that one palm print on this exhibit was a match with the Appellant. No evidence was agreed in respect of the identity of the maker of the other imprints.

[9] Within the burn bag was Exhibit JJD19 described as a "white knotted plastic bag … which contained 26 rounds of ammunition". Examination of this item recovered only one imprint, namely a palm print from the inside surface which, it was agreed, matched the Appellant. It was further agreed that it was not possible to age the constituents of contact marks. It was not possible to say when the Appellant might have touched JJD71 or JJD19 nor in what circumstances he may have done so.

[10] Also within Exhibit JJD71 was Exhibit JJD42 described in the Agreed Facts as "a poly bag". The handles and knot of this bag were swabbed for DNA. A mixed DNA profile was obtained and it was "largely possible" to determine a partial major contributor. It was agreed that this partial profile matched the Appellant and that this match was one in a billion times more likely to arise if the DNA profile originated from the Appellant than from an unrelated male.

[11] Also recovered from the bottom inside of the burn bag was a Paypoint receipt marked as Exhibit JJD67. The receipt showed that a payment of £10 was made at "Ann's" 4 Springhill Avenue Belfast on 28 March 2015 at 20:00hrs. Investigations revealed that the payment was made in respect of a Life Insurance Policy in the name of an E McLaughlin, DoB: 3 December 1954 of 20 Ballymurphy Drive Belfast. A finger imprint was found on the receipt. This imprint was agreed not to be matched with the Appellant.

[12] In addition to the Statement of Agreed Facts, the forensic witness, Fiona Purdue, gave evidence and was cross-examined during the trial. When asked about the "poly bag" she

defence sought to adduce in evidence his statement. The constable, as confirmed in the excerpts, reported to CID in the wake of the arrest of the appellant. The Court assumed that the interviewing detectives received a briefing before the interviews of the appellant commenced and said it was clear from the evidence of the interviews that certain of the questions posed by the officers must have been based on the material content of what later became Constable Collins' written statement. Furthermore the transcript of the cross examination of Detective Sergeant Harper revealed that prior to the commencement of the first interview he had "certain information" about the appellant and his associates and either "had" an intelligence file or "had seen" such a file containing such information. He further confirmed his pre-interview knowledge of the circumstances of and reasons for the appellant's earlier arrest in January 1979.

The Court said it was clear from the trial transcript that certain answers made by DS Harper in examination in chief and cross examination must have been based on the passage in the statement of Constable Collins relating to what the appellant said in response to the caution. This was referred to in the trial judge's judgment when he made two conclusions, each manifestly unfavourable to the appellant: "The first of these conclusions arose out of an analytical exercise which is demonstrably erroneous. The error lies in the judge's assessment that it was "clear beyond peradventure" that prior to the relevant interview Messrs Harper and Lumley knew nothing about the account which the Appellant proceeded to give of how he came to be in possession of the motor cycle. This error is exposed by those aspects of the evidence highlighted above. The judge failed to engage with this evidence. Furthermore there was no engagement with the statement of Constable Collins. It follows that one significant aspect of the judge's reasoning in finding Detective Sergeant Harper and Detective Constable Lumley to be "truthful and convincing witnesses" is unsustainable. Turning to the second conclusion, the judge's withering condemnation of the Appellant's veracity omitted the essential exercise of considering what (per Constable Collins' statement) the Appellant had said about securing possession of the motor cycle when cautioned and the consistency between what he said then (on the one hand) and said later in interview and in evidence (on the other)."

The Court said the fact that the appellant and Paul Kelly had joint legal representation must also be evaluated in this context. It said the "Run Kelly" passage in the statement of Constable Collins was, on any showing, prejudicial to Paul Kelly. In contrast, those passages in the same statement highlighted the potential to undermine the prosecution case and fortify the appellant's defence. The Court noted that the statement of Constable Collins was not deployed on behalf of the appellant either at his trial or as part of his ultimately aborted appeal and said it was concerned with the fact that this was so and not the reasons why this occurred. It said this must give rise to significant concern about the safety of the appellant's convictions.

The next matter addressed by the Court arose out of what the appellant and Paul Kelly recounted to the police doctors who examined them in custody. The appellant underwent two medical examinations by different doctors. In the record of the first, the doctor recorded the appellant's claim that during his three interviews (to date) "… things have been written down as having been said by him, but he says he hasn't …." Notably, according to the record, this interaction between the doctor and the appellant was stimulated by the appellant's request to see the doctor for the specific purpose of communicating this concern. The second of the medical examinations was carried out at around midday the following day, following further interviews. It recorded: "Told me that interviewers were writing down things that he had not said and that this am they said that he was denying things that he was supposed to have said yesterday. Says he is refusing to talk to interviewers until he sees a solicitor."

admissions were being recorded by the interviewing police and alleged that the officers had written things he had not said. He also denied having made the earlier admissions.

The appellant was convicted on 5 February 1981 of 10 offences (he was found not guilty of the offences of hijacking and taking and driving away). Paul Kelly was convicted of possession of a firearm with intent but also found not guilty to the offences of hijacking and taking and driving away. The acquittals on these charges were on the basis that the prosecution had not adduced any evidence identifying the motorbike. The defence case was that no admissions were made and there was no mention or questioning about the motorbike, its alleged hijacking, the alleged attempted murder or the alleged attack on Ms Trainor until the very end of the final interview when a summary of the appellant's alleged admissions were read to him. The trial judge made a number of findings and conclusions including that the appellant's claims about the conduct of the police interviews were "a lying fabrication", that the police officers were impressive witnesses and the appellant was " a most unconvincing witness a conceited and facile liar with complete disregard for the truth".The trial judge also found that the appellant's complaints to the police doctor were " without foundation and were made for the express purpose of enabling allegations to be made against the interviewing officers".

Both the appellant and Paul Kelly pursued appeals against their convictions. Paul Kelly's conviction was quashed by the Court of Appeal on 11 September 1981 on the basis that the prosecution had failed to prove that he was intending to commit an offence of hijacking, that he had used the gun to prevent his arrest, or that he intended to use the gun to prevent his arrest or the arrest of another. The appellant had based his appeal on his claim that he had obtained an indication from three witnesses that they would provide statements relating to the attack on Kathleen Trainor. The appellant claimed his counsel advised him to withdrawn his appeal on the day it was due to be heard and he accepted that advice.

The Criminal Cases Review Commission ("CCRC") referred the conviction to the Court of Appeal after identifying a number of new factors including the absence of modern standards of fairness in the police interview process (see paragraph [19] of the judgment). The appellant adopted the grounds formulated by the CCRC and added further grounds about the approach taken by the trial judge (paragraphs [20] – [43]). The Crown's ("the respondent's) submissions are set out in paragraphs [43] – 57] of the judgment.

Governing Principles: The principles to be applied by the Court of Appeal when considering criminal appeals (which includes CCRC referrals) are set out in paragraphs [58] to [61]. These include the principles governing the admissibility of confessions, the court's approach to the safety of such convictions, disclosure at common law and police misconduct.

Court's Conclusions: The Court firstly addressed a matter which it identified at the hearing as one of some substance, namely the witness statement of Constable Collins and the issues arising there from. Constable Collins was the officer who arrested the appellant on 29 September 1979 following an encounter with him and another male person (alleged to have been Paul Kelly) in the context of a report that a motorbike had been hijacked. The material passages in the statement of Constable Collins are: "I approached these [two male] persons. As I did so the youth who was astride the bike shouted to his mate 'run Kelly'. [Following a chase] I arrested [the appellant] and brought him to Hastings Street [police station] I cautioned him and asked him about the motor bike and he replied that he had found it in Albert Street and that the key, gloves and helmet were with it. I then informed CID"

The appellant's lawyers were in possession of Constable Collins' witness statement at the trial. The constable did not give evidence, being by then deceased. Neither prosecution nor

confirmed that it was a "white, generic, plastic shopping bag" with a handle. The bag was tied close to the top, adjacent to the handles and there was a rip in the bag just below the knot. The bag was a plastic surface so it was suitable for the retrieval of DNA. Both the handles and the knot were swabbed but only the material from the knot was forwarded for analysis.

[13] The material obtained from the knot was said to fall below the routine threshold for testing. There was a low level/quantity of DNA present. The sample was a mixed sample with at least two contributors. Once it gets down to a very low level it is quite difficult to say how many contributors there were but there were at least two, possibly more. It was "largely possible to determine a partial major contributor". This partial profile matched that attributed to the Appellant. The phraseology "largely possible" applied where sometimes from one or two of the tests it was not really clear and/or it was difficult to see the proportions and/or the sample was a partial sample.

[14] It was not possible to indicate what type of cellular material had been deposited. This was a minute trace of cellular material and it was not clear where it was from. The DNA profiling does not provide information in relation to when the cellular material was deposited or in what circumstances it got there or how long it may have been there. The length of time a deposit might stay on an item depended on how it was stored. If stored outside one would not expect it to last very long but if stored in a cool, dry environment it could last for a long time meaning months or years. Due to the very low level quantity in this case, one could not say that the DNA was deposited on the bag by direct transfer. One could not conclude from the DNA evidence that the Appellant had tied the knot on the bag. The best that the witness could say on that was that there was cellular material belonging to the Appellant on the exterior of the bag.

[15] The final item retrieved from the burn bag was the Paypoint receipt. This receipt was recovered from the bottom of the bag. The details on the receipt indicate that a cash payment of £10 was made at a shop known as "Ann's" shop on Springhill Avenue, Belfast at 8pm on 28 March 2015. The receipt was made in respect of a life insurance policy in the name of E McLaughlin, DoB: 3 December 1954, of 20 Ballymurphy Drive, Belfast. The police searched the premises at 20 Ballymurphy Drive, Belfast on 21 February 2017. This property is the residence of six people, including the defendant and an Elizabeth McLaughlin. Elizabeth McLaughlin was present during the search and she identified herself as the house owner. The Appellant was also present and was arrested at this address. He was subsequently interviewed on 21 and 22 February 2017. He declined to answer any questions.

[16] At the end of the prosecution case when all the above evidence had been led, the Defence team made an application of No Case to Answer. In the TJ's Ruling he notes that the law on this type of application is contained in R v Galbraith [1981] 2 All ER 1060 and at paragraph 4 he reviews the guidance given by Aikens LJ in R v Goddard & Fallick [2012] EWCA Crim 1756 on the application of the Galbraith test where he said: "(2) Where a key issue in the submission of no case is whether there is sufficient evidence on which a reasonable jury could be entitled to draw an adverse inference against the defendant from a combination of factual circumstances based upon evidence adduced by the prosecution, the exercise of deciding that there is a case to answer does involve the rejection of all realistic possibilities consistent with innocence. [our emphasis] (3) However, most importantly, the question is whether a reasonable jury, not all reasonable juries, could, on one possible view of the evidence, be entitled to reach that adverse inference. If a judge concludes that a reasonable jury could be entitled to do so (properly directed) on the evidence, putting the prosecution case at its highest, then the case must continue; if not it must be withdrawn from the jury".

[17] At paragraph 5 of the TJ's Ruling on the application of no case to answer he states: "5. The question for consideration by the court at this stage of the proceedings is whether a reasonable jury could be entitled to infer on one possible view of the prosecution evidence that it was sure that the defendant had been in possession of the explosives and ammunition, the essential elements of possession being knowledge and control. 6. I am satisfied that a reasonable jury could come to such a decision. There are three separate forensic links between the defendant and the explosives and ammunition, with a further connection between the defendant and the burn bag the other bags, socks and pipe through the Paypoint receipt. On one possible view of the evidence it is a proper inference to draw that he had handled the bags and as a result both knew of the contents of the bags and had control over the contents. 7. Applying the Galbraith principles, it cannot be said that there is no evidence that the crimes alleged have been committed by the defendant or that the evidence is of such a tenuous character that a jury relying upon it could not properly convict. 8. I therefore reject the Defendant's application".

[18] It is clear from the above that the TJ rejected the application of "No Case to Answer" because he considered that on one possible view of the evidence presented, a jury, properly directed, could be satisfied of the Appellant's guilt to the requisite criminal standard.

[19] The conclusion reached in the "No Case to Answer" application stands in contrast with the evaluation of the evidence made by the TJ in the main body of his Judgment. At paragraphs 18 and 19 of the Judgment he says: "[18] I have carefully considered what the forensic evidence actually proves. In the case of the fingerprint evidence it proves that the defendant has touched the plastic bag, JJD 19, and has touched the burn bag JJD 71. It does not prove when the defendant touched the bags, and what was in the bags when he touched them. In relation to the plastic bag JJD 42, the presence of a DNA match proves that cellular material from the defendant is present on the handles and knotted part of the bag. Again, this cannot prove when his cellular material came to be on the bag, or what was in the bag at the time. In addition, unlike fingerprints, it does not necessarily prove there was contact. Cellular material can transfer from direct touching, but can be transferred through a secondary party or by other transfer. The presence of the palm print on the inside of bag JJD 19 cannot prove anything beyond the fact that the defendant touched the inside of the bag. …"

[20] This appears to us to be an accurate evaluation of what the forensic evidence at its height does prove. It is notable that there is no proof whatsoever here of any connection between this Appellant and the explosives, ammunition or any other contents of the bags. This is where the prosecution evidence stood when the application for a direction was made.

[21] We consider that the evidence led in the present case is very similar to that presented in the Scottish case of Campbell v HM Advocate [2008] SCCR 847. In that case the appellant was convicted of possession of a rifle which had been secreted inside a house to which the appellant and various others had access. The rifle was found wrapped in black refuse bags and the appellant's finger and palm prints were identified on the bag. There was no evidence as to the time when the fingerprint was affixed or the location of the bag when it was affixed. Other fingerprints were found on the bag although these could not be identified. There was no evidence that the appellant had ever been seen with the rifle and the appellant's prints were not on the rifle.

[22] On those facts, very similar to the present case, the High Court of Justiciary held that: "[20] the evidence was insufficient to entitle a jury to draw the inference beyond reasonable doubt that the appellant had knowledge and control of the rifle … In our opinion, the jury would be entitled to infer that the appellant had indeed come into contact at some time with the black plastic bag (a move-

Ministers, however, argued that an explicit list of banned crimes could risk the safety of confidential informants, because it would allow terrorists or organised criminals to create tests to unmask informants. Michael Ellis, the solicitor general, said: "Were we to place explicit limits on the face of the bill that would create the risk to the operational tactics involved and to the safety of the covert human intelligence source and the general public at large." The minister also said that the bill would be compliant with the Human Rights Act, and that MI5 or police could not breach it. "Any authorisation which is not compliant with the Human Rights Act would be unlawful." A few minutes later the Lords amendment was defeated by 363 to 267, with Davis and one other Conservative Cheryl Gillan voting against the government. The result prompted the Sinn Féin MP John Finucane, whose father Pat was murdered at home in north Belfast in 1989 by loyalist gunmen, to accuse the government of ignoring "legitimate opposition" to the bill.

"The reality of this legislation, as shown through the court of appeal in the last two days, is that there will be no effective oversight to the most serious of crimes committed by state agents," Finucane said. The Chis bill aims to put into law for the first time the policy governing the state's handling of informants, partly because a series of legal challenges had been made the previous approach of relying on a partially-secret written policy.

A three-day hearing in the court of appeal is determining whether the old policy was lawful. Although the arguments in court will be largely superseded by the legislation, if the government were to lose the case, it could mean the informants policy will be illegal in Scotland where Holyrood has refused to give its consent to the bill. A second amendment passed by the Lords earlier this month, which would have banned the use of children as undercover informants – particularly in drugs gangs – was also overturned by 361 to 267. The Home Office said it was not appropriate to comment on ongoing legal proceedings. A spokesperson added: "The use of covert agents is an essential tool for our security and intelligence services."

Michael Devine's Conviction for Attempted Murder Quashed

The Court of Appeal 28th January 2021, delivered its reasons for quashing Michael Devine's convictions for attempted murder, possession of a firearm and ammunition and belonging to a proscribed organisation. His conviction dates from 1981 and was recently referred to the Court of Appeal by the Criminal Cases Review Commission.

Michael Devine ("the appellant") was first arrested in January 1979 (when he was aged 17) for a number of suspected offences arising from an alleged paramilitary meeting at Divis Flats during which he allegedly disposed of a gun by throwing it from a window when the meeting was interrupted by an Army raid. The gun had allegedly been used by the appellant on 8 October 1978 to shoot a police officer (Counts 7-10). The appellant was released without charge due to insufficient evidence. In June 1979 it was alleged that the appellant conspired to inflict grievous bodily harm on Kathleen Trainor, a potential Crown witness in a prosecution against Sean Hughes arising from the Divis Flats events (Counts 4-6). On 29 September 1979 the appellant and Paul Kelly were arrested by the police when they were stopped on a motorbike that had been hijacked earlier that evening (Counts 1-3 and 12).

During three police interviews following his arrest on 29 September the appellant was recorded by the interviewing officers as having made full admissions to all of the 12 offences ultimately included on the Bill of Indictment (the extra count being one of belonging to a proscribed organisation, the INLA). Both the appellant and Paul Kelly, independently of each other and without any opportunity to confer, complained to the police doctor that false

Terrorism Watchdog to Open Inquiry Into Radicalisation in Prison

Guardian: An inquiry into the way prisons deal with convicted terrorists is being launched by the independent terror watchdog amid concerns of growing radicalisation behind bars. Jonathan Hall QC said there had been a succession of terror attacks on prison officers while other inmates were coming under the influence of "high status" terrorist prisoners. Hall, the government's independent reviewer of terrorism legislation, said that if terrorist activity was taking place in jails then it had to be dealt with. "There has been a steady drumbeat over recent years of terrorist attacks against prison officers, and an increasing number of individuals who may well have formed their terrorist intent in prison under the influence of high status terrorist prisoners," he told the Times. If terrorism exists (in prison) then it ought to be dealt with. We need scrutiny of how prisons operate to either contain, or worse encourage, terrorism." His comments followed a series of high-profile cases, including the 2019 London Bridge attack when Usman Khan, a terrorist prisoner out on licence, stabbed two people to death.

Khairi Saadallah, who was given a whole life sentence earlier this month for murdering three men in a terror attack in a Reading park, had been befriended by a radical preacher while serving an earlier prison term. Last year Brusthom Ziamani, who was serving a 19-year sentence for plotting to behead a soldier, was convicted of attempted murder for trying to hack an officer to death in the maximum security Whitemoor jail. Hall said that he had been amazed at the way terrorist prisoners were looked up to by other inmates. "I find it astonishing that someone should go to prison for plotting a terrorist atrocity and the concern is not that they themselves are at risk of attack, like a paedophile is often at risk of attack because prisoners generally say what they've done is terrible," he said. Terrorists automatically achieve a sort of status. A Ministry of Justice spokesperson told the Times that it had trained more than 29,000 prison officers to better spot signs of extremism, increased the number of specialist counter-terrorism staff, and would separate the most subversive prisoners where necessary. "Our tough measures to stop extremists spreading their poisonous ideologies in prison have been stepped up," the spokesperson said. "We ended the automatic early release of terrorists and our new legislation means they will also face tougher sentences and monitoring on release.

Government Lawyer Tells Court M15 Officers Could Authorise Murder

D*an Sabbagh , Guardian:* Government lawyers have told a court that MI5 officers could authorise an informer to carry out a murder under controversial powers that ministers want to see continued contained in a bill that passed the Commons hours later. The admission came in a court of appeal hearing on Wednesday when Sir James Eadie, representing the government, was asked if there was "a power for a Security Service officer to authorise an agent to execute an extremely hostile individual". Eadie, defending MI5's current policy for handling confidential informants, said "there would be the power to do that" under 1989 Security Service Act and the royal prerogative that effectively governed the intelligence agency prior to that.

Critics immediately seized on the stark statement to demand the government accept an amendment to the covert human intelligence sources (Chis) bill being debated in the Commons on Wednesday afternoon. David Davis, a former Conservative minister, told MPs that the government's lawyers had acknowledged in court "only this morning" that MI5 "would authorise one of their informants to carry out murder as part of his activities". The MP was speaking in support of a Lords amendment that called for the creation of a banned list of crimes – including murder, torture and serious sexual offences – that could not be carried out undercover informants working for spies or police.

able item) which had been used by someone to wrap up the concealed rifle." They further added: "Thus some additional evidence would in our view be necessary before the inference could properly be drawn beyond reasonable doubt that the appellant had been involved in handling or concealing the rifle and thus that he had the requisite knowledge of and control over the rifle".

[23] We are troubled by the fact that when the direction was sought the circumstantial evidence and forensic links presented by the prosecution, and taken at their height only put the Appellant in contact with the bags in which the cache was found. There is no forensic evidence at all linking him to the content of these bags. Ubiquitous bags, whether paper or plastic, are precisely the kind of items that do get used and reused by many people over the course of many different transactions. Fragile threads do not make a strong rope. The jury would have been entitled to infer that the appellant had at some time come into contact with the bags which had been used to conceal the items. However the evidence was insufficient to entitle a jury to draw the inference beyond reasonable doubt that the appellant had knowledge and control of the items. As in Campbell some additional evidence would be necessary before the inference could properly be drawn beyond reasonable doubt that the appellant had knowledge and control of the items. For these reasons, and applying the approach in R v Goddard & Fallick [set out at para [16] above], we consider that the trial judge erred in law in refusing the application for a direction of no case to answer and accordingly the appeal is allowed.

Legal Update: Standard of Proof and Chief Coroner's Law Sheet No.6

Leila Benyounes, Parklane Plowden Chambers: Maughan and Beyond. On 13th January 2021, the new Chief Coroner, HHJ Teague QC, published Law Sheet No.6. This new guidance comes exactly two months after the Supreme Court gave judgment on 13th November 2020 in the case of R (on the application of Thomas Maughan) v. HM Senior Coroner for Oxfordshire [2020] UKSC 46 where it ruled by majority that all conclusions in coronial inquests, whether short form or narrative, are to be determined on the civil standard of proof: the balance of probabilities.

Prior to the decision of the Supreme Court in Maughan, it had been held by the Divisional Court and the Court of Appeal that the civil standard of proof was to be applied in a suicide conclusion. The Supreme Court decision makes a material change to the approach to be taken to one other of the 9 short form conclusions, unlawful killing, where the legal rule had been previously that a conclusion of unlawful killing could only be returned if the coroner or jury were satisfied to the criminal standard, beyond reasonable doubt, that a crime of murder, manslaughter or infanticide had been committed, resulting in death. As a result of Maughan the civil standard of proof now applies and a conclusion of unlawful killing should be returned if the coroner or jury is satisfied as a matter of probability that the crime of murder, manslaughter or infanticide has been committed, resulting in death.

Law Sheet No.6 reminds us that the decision in Maughan emphasises that an inquest is a fact-finding exercise and not a method of apportioning guilt. At an inquest where unlawful killing may be in issue, the Chief Coroner highlights that it will be important for the coroner to explain the distinction between criminal proceedings and inquests.

In 2019 there were fewer than 166 conclusions of unlawful killing (approximately 0.5% of conclusions). Therefore, whilst the decision in Maughan will have some continuing impact on the figures, and significance to those relevant cases, Law Sheet No.6 expresses that the issue of unlawful killing is likely to feature in relatively few cases so the change must be viewed in its wider context. Of course, those are 166 conclusions which were determined on the

criminal standard, beyond reasonable doubt. Whether there will be more conclusions in the future of unlawful killing on the civil standard, the balance of probabilities, remains to be seen.

Law Sheet No.6 confirms that the guidance and law sheets in relation to Unlawful Killing (Law Sheet No.1), Conclusions (Guidance No.17), Resumptions (Guidance No.33) will also be amended to take into account the decision of Maughan. The fact that each element of the relevant offence must be established for a conclusion of unlawful killing to be returned is not altered by Maughan. The Chief Coroner reminds us that for gross negligence manslaughter, each of the six elements of the offence as set out in the case of R v. Adomako [1995] 1 AC 171 must be established, but on the balance of probabilities. When sitting with a jury, a coroner will still need to decide the potential conclusions to leave to the jury, applying the Galbraith plus test. If unlawful killing is a conclusion properly open on the facts, the coroner will need to give a reasoned judgment explaining why and direct the jury accordingly.

Paragraph 8 (5) of Schedule 1 to the Coroners and Justice Act 2009 confirms that if an inquest is resumed following a criminal trial of a homicide offence in relation to the death, the inquest determination may not be inconsistent with the outcome of the criminal proceedings. Law Sheet No.6 confirms that if at inquest, the requisite elements of murder, manslaughter or infanticide are established on the balance of probabilities, then a conclusion of unlawful killing will be permissible even if there has already been an acquittal of the offence following a homicide trial (applying the higher standard of proof). However, if there has been a criminal trial at which a person has been convicted of a homicide offence, then a coroner or jury at a subsequent inquest could not reach a conclusion to the effect that the offence had not been committed.

Law Sheet No. 6 also reminds us there is no requirement in law for a coroner or inquest jury to use any particular form of words when recording a conclusion on the Record of Inquest. It is for the coroner or jury, subject to the coroner's directions, to choose the appropriate form of words to reflect the findings of fact on the critical issues relating to the death. Therefore, the words "unlawful killing" are not necessary just as the word "suicide" was not used by the jury in the inquest in Maughan prior to the decisions in the appellate courts.

In relation to resumptions, the Chief Coroner emphasises that as with any inquest, it is the role of the coroner to determine the scope of the inquiry with care and if there is an application resume an inquest after the conclusion of criminal proceedings, reference should be made to Guidance No.33. Law Sheet No.6 asks all senior coroners to alert their local authorities to the change in the law made by Maughan and where an inquest might justify it, senior coroners should also consider Guidance No.40 and the appointment of solicitor or counsel to the inquest to assist the coroner with any decisions arising from the change in the law.

Sentencing Guidelines For Drug Offences to Address Ethnic And Gender Disparities

New sentencing guidelines for drugs offences have been introduced in a bid to tackle ethnic and gender disparities. The Sentencing Council has published research showing that the odds of a black offender receiving an immediate custodial sentence for a drug offence are 40 per cent higher than the odds for a white offender. The odds of a male offender receiving an immediate custodial sentence are 140 per cent higher than the odds for a female offender. The new guidelines, due to come into effect from 1 April 2021, take some measures to address this, including drawing sentencers' attention to evidence of sentencing disparities in specific offences as an integral part the sentencing process.

However, the Council has also convened an internal working group to consider what further steps might be taken in this area and is in the process of commissioning a review of how its guidelines operate to help identify any areas for further work. Judge Rebecca Crane, a member of the Sentencing Council, said: "These new sentencing guidelines provide a clear sentencing framework for the courts. They cover all the main offences and provide an approach to sentencing offending involving any type of drug. They will ensure that victims, witnesses and the public will have clear information on how drug offences are sentenced. "The Council has also taken this opportunity to include measures to address disparities that exist in the sentence outcomes of some drug offences associated with ethnicity. This is an important area of work for the Council and we continue to explore whether any further changes could be beneficial to guidelines to help address any disparities in sentencing outcomes."

We Fear the Worst Is Yet to Come

The Ministry of Justice has today (28 January 2021) released the latest statistics on deaths and self-harm in prison in England and Wales. The overall number of deaths in prison is rising. The most recent quarter saw the number of deaths increase to 109, a rise of 70% from 64 in the three months to September 2020. In the 12 months to December 2020 there were a total of 318 deaths of people in prison, representing six deaths every week. With four deaths per 1,000 prisoners, the year saw the second highest rate of deaths since records began more than 40 years ago. Plus the highest ever rate of deaths recorded as 'natural causes' at 2.6 per 1,000 prisoners.

Of these deaths: 207 deaths were classed as 'natural causes', though INQUEST casework and monitoring shows many of these deaths are premature and far from 'natural'. This is an 18% increase from the previous 12 months. 67 deaths were self-inflicted, a decrease of 21% from the previous 12 months. 42 deaths were recorded as 'other', 32 of which await classification. Seventy-one of the deaths occurred within 28 days of a positive Covid-19 test, of which 51 are suspected to be due to Covid-19. Seven of the deaths were in women's prisons, five of which were 'natural cause' and two were self-inflicted. Nine of the deaths were of young people aged 18-24. There were also two homicides.

In the 12 months ending September 2020, there was a welcome overall decrease in self-harm in men's prisons, down 7% from the previous year but remaining at historically high levels. However self-harm in women's prisons continued to rise to the highest ever levels. There was an overall annual increase of 8%, with 11,482 incidents of self-harm. Self-harm incidents requiring hospital attendance increased by 35% to 331 in women's prisons.

Deborah Coles, Director of INQUEST, said: "These statistics represent hundreds of people suffering in extreme conditions in prisons. The Government ignored experts calling for largescale early releases to protect people in prison from Covid-19. We are beginning to see the devastating impacts of that decision. Unless radical action is taken, we fear the worst is yet to come. The reduction in self-inflicted deaths from historically high levels is welcome. However, indefinite solitary confinement is the harrowing reality for men, women and children across the prison estate. This will have serious consequences for both mental and physical health. In the short-term urgent action is needed to ensure people in prison have access to healthcare, and restrictions are eased as soon as possible. In the long term, we need a dramatic reduction of the prison population and more investment in communities. The continuing rise in self-harm in women's prisons comes at a time when the Ministry of Justice has announced 500 new prison places for women. Sadly, this will mean yet more unnecessary suffering and harm."