Operation Midland - Judge Calls for Police Prosecutions

The district judge persuaded to issue search warrants during Scotland Yard's disastrous Operation Midland investigation has called for a criminal inquiry into the police officers responsible. Howard Riddle, the former Chief Magistrate, has said detectives who allegedly "misled" him into authorising searches at the homes of those falsely accused of being members of a VIP paedophile ring, should be investigated for perverting the course of justice. Scotland Yard officers applied for six warrants in February 2015, allowing them to raid the homes of Lord Bramall, the former head of the Army, the late Lord Brittan, former Home Secretary and Harvey Proctor, the former Tory MP. The men had all been falsely accused of child abuse by fantasist Carl Beech, who was later convicted of lying and sentenced to 18 years in prison.

The raids had a devastating impact on those falsely targeted. Lady Brittan was still grieving for her husband - who had died just weeks earlier - when 20 officers turned up at her two homes in London and North Yorkshire in March 2015. Lord Bramall was subjected to a 10-hour search by 22 officers at a time when his wife was suffering from dementia. Mr Proctor lost his home and his job as a result of the publicity surrounding the searches.

In applying for the warrants, the detectives assured Mr Riddle that Beech's allegations were credible and true, despite allegedly knowing of numerous inconsistencies in his story. Mr Riddle has accused the Met officers of failing to disclose "undermining factors" in Beech's story in their application. He said he now believes the officers, who have so far escaped any sanction, should now be investigated for a potential criminal offence. He told the Daily Mail: "Perverting the course of justice is a serious criminal offence that almost always carries a prison sentence. Judges and magistrates issuing warrants must be able to rely on the accuracy and the integrity of the information sworn on oath before them. They must know that in the rare and exceptional case of being deliberately misled, then action will be taken for perverting the course of justice."

HMP Eastwood Park: Brain-Injured Women Held in 'Inhumane' Conditions

A brain-injured inmate has been held in "inhumane" conditions and "effective solitary confinement" for more than two years, a prisons watchdog has found. The woman, who is being held at HMP Eastwood Park, has behavioural problems and a personality disorder. The watchdog described her treatment as "unlawful" and noted that facilities for men were not available for women. The Ministry of Justice (MoJ) said it was "working closely" with partner agencies to better meet her needs. "The prisoner has extremely rare and complex needs and we are working very closely with partners across Government and beyond to ensure we are doing all we can to address them." The Department of Health has been contacted for comment. The woman, who was left with a brain injury as a child, is serving a significant sentence for a serious violent assault.

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 837 (10/03/2021) - Cost £1

Mark Alexander: Prosecution's Evidence Just a Bowl of Spaghetti

No good news here. I feel like I have done everything I can at this point, and it never seems to be quite enough. The common-sense layman's view of all the new evidence we have discovered would be that something must have gone wrong here, but we are dealing with a set of legal tests and thresholds that do not work that way and which we have to navigate awkwardly.

The prosecution case was a bit like a bowl of spaghetti. Not a single piece of evidence on which their case relied, instead loads of individual strands that together make a bowl of spaghetti. Even if you isolate half the strands, you are still left with half a bowl. The irony is, if I had been convicted on solid evidence, on a single key issue, then it would be much easier to prove my innocence at this point. The weird thing about weak, circumstantial cases is that they are harder to remedy when things go wrong.

I will have to rely on public engagement with this podcast series we have agreed to participate in about my case if only someone comes forward. It is pretty much out of my hands now; that is how it feels, at least. The series is being produced by Mark Sandell, who has good form in this field. We will see how it all goes. I just never imagined losing my twenties and thirties to this place; it all seems so bleak right now.

Anyway, I am staying as strong as I can; hopefully, things will turn around for us, take it easy.

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CCRC Success Ahmed Mohammed Conviction Quashed

The CCRC referred the sexual assault conviction of Ahmed Mohammed to the Court of Appeal, in September 2020. In February 2004, at Kingston-upon-Thames Crown Court, Mr Mohammed was convicted of indecently assaulting two women in separate incidents in Tooting, South London, in the summer of 2001. Mr Mohammed denied having anything to do with the indecent assaults. The central issue in proceedings against Mr Mohammed was whether or not he had been correctly identified as the attacker.

In 2002, a jury decided that, because of mental health issues, Mr Mohammed was not fit to plead in a full criminal trial. A trial of the facts was therefore held in which Mr Mohammed played no active part. In spite of alibi testimony from a member of Mr Mohammed's family, the jury in the trial of the facts concluded that he had carried out the indecent assaults. The judge made a hospital order, with restrictions under s41 of the Mental Health Act 1983. The effect of that order was to have Mr Mohammed detained in hospital. His name was also added indefinitely to the Sex Offenders Register. Mr Mohammed's legal representatives applied to the Court of Appeal for leave to appeal against the verdict in the trial of the facts, but the application was refused. In 2004, when Mr Mohammed's mental health had improved, he faced a full criminal trial for the offences. He pleaded not guilty but was convicted. The judge imposed another hospital order with restrictions.

In 2017 Mr Mohammed applied to the CCRC for a review of the jury's finding at the trial of the facts in 2002. The CCRC began a review of that finding. At that stage, the CCRC had not been informed that the trial of the facts in 2002 had been followed by the full criminal trial and conviction in 2004. In 2019, when it became clear that a subsequent criminal conviction had superseded the

finding at the trial of the facts, the CCRC focussed its attention on the conviction at the full trial. During its review the CCRC used its section 17 powers extensively to obtain material from the police, the Crown Court, the Court of Appeal, National Offender Management Service (NOMS), NHS records and the Forensic Archive. The Crown Prosecution Service no longer had any papers and the defence solicitors had gone out of business and their files destroyed.

Court of Appeal, Analysis and Conclusion

39. We have been struck by the great disparity between all the initial descriptions and details of the assailant in 2001 and the actual appearance of the appellant. Nevertheless, we acknowledge Mr Connolly's argument that a verbal articulation of an offender's appearance may well fall short of a subsequent certain recognition on an identification parade and two complainants did independently identify the appellant and convinced two juries of the reliability of their identification. Against this, and what we find to be certainly established, is the fact of the greater similarity of S's physical appearance to all the initial descriptions provided in 2001, which would not have been known to either the complainants or the juries. Undermining Mr Connolly's 'wider considerations' point, this includes one of the complainants assaulted around midnight on 23/24 August, during which time the appellant was 'lost', and who attended at the identification parade and did not identify him as her assailant.

40.This factor certainly would not be sufficient to upset the safety of the conviction and we understand the reason why the single judge considering the application for permission to appeal in 2002 would reject it as a basis for doing so in the context of what was to all intents and purposes a textbook Turnbull direction. Nor do we regard it as conclusive proof that S was responsible for the assaults. However, we find it implausible to regard the question of identification as distinct from the mobile phone.

41. We agree with Mr Thomas's submission that its location, situation and condition rendered the mobile phone significant in the investigation, which is obviously how the police regarded it contemporaneously to the assault upon KF. The physical description and other known details of its likely recent handler/user make it the more so. In 2002/2004 it is understandable why the jury could dismiss the presence and potential import of the mobile phone that had been found; the gender, age and ethnic origin of its owner were unknown. However, the DNA evidence matching it to S now provides that information and makes it a crucial part of the identification process. If the present information had been accessed by the police in 2003, at a time when S's profile became available for comparison, we would be astonished if he had not been interviewed and relevant further inquiries made.

42. The information regarding the character of S is further grist to the mill of this appeal. We make clear that we do not consider that it is, of itself, determinative of S's likely involvement in the assaults or propensity to commit assaults such as those complained of by KF and EM. What is more, whilst we agree with Mr Thomas that Braithwaite does not establish that non-proven allegations will inevitably be regarded as without the necessary substantial probative value, this, and the issue of 'satellite litigation', would need to be argued at trial in relation to certain aspects of the information that has come to light and, as Mr Thomas frankly concedes, would not necessarily be determined in the appellant's favour.

43. However, we have come to the certain conclusion that the details of the police caution which S received in 2003 would be admissible. As Mr Thomas adopted the point, and Mr Connolly reasonably conceded it when Lavender J posited the issue, this evidence goes not to propensity, but to rebuttal of a coincidence. That is, the coincidence that another man matching the description of the assailant, who in 2003 was known to have ridden a bicycle late at night in the same area of the

Fellow leader Eldridge Cleaver was forced into exile in Algeria, and David Hilliard was on trial for threatening to kill president Richard Nixon. For a small revolutionary organisation the loss of so many leading activists was a crushing blow. To many members a retreat into the party's community programmes seemed to be the only way to survive. But "serving the people" pulled towards engaging with the state. To fund the breakfast clubs and clinics party activists applied for charitable grants, and to win them they had to make friends with local politicians. This arrangement soon took a turn towards standing in local elections on a radical ticket. The state was using a combination of repression and incorporation to fragment the organisation. In the years that followed many Panther activists either drifted towards mainstream politics or fell away from activity all together. By the mid-1970s all that remained of the fire of the late sixties was embers, and with it went the hopes of millions of people. But capitalism is built on oppression and exploitation, and therefore is always prone to explosions. The rage of the poorest would be felt many more times before the eruption of the Black Lives Matter movement in 2014. The fact that today the history of the Black Panthers is once again relevant to many newly radicalised people—black and white—is surely the revolution's revenge.

1,338 People Serving an IPP Sentence in Custody Following Recall.

As at 31 December 2020, there were 1,338 people serving an IPP sentence in custody following recall. This is approximately 28% of all offenders who have been released on an IPP licence. On 31 December 2020, 812 recalled IPP offenders were known to be still in custody more than a year after their recall.These figures have been drawn from the Public Protection Unit Database held by HMPPS. As with any large-scale recordingsystems, the figures are subject to possible errors with data migration/processing. The power to recall is a vital public protection measure andall individuals on licensed supervision in the community are liable to recall to prison if they fail to comply with the conditions of their licence in such a way as to indicate that their risk may no longer be effectively managed in the community. It falls to the independent Parole Board (PB) to determine whether it is safe to re-re-release offenders serving an IPPsentence following recall. Consequently, where an offender has spent more than one year in custody following recall, it is because the PB has judged that their risk is too high for them to be safely managed afresh on licence in the community.Our primary responsibility is to protect the public; however, HMPPS remains committed to safely reducing the number of prisoners serving IPP sentences in custody.

Where's the Early Release?

Serving Prisoner HMP Highdown: I'm truly disgusted that low-risk prisoners with less than 6-months to serve are not being considered for early release. We have all lost access to Release on Temporary Licence (ROTL), yet no days have been deducted from our sentences because, apparently, changing your life for the better is a 'privilege'. All the prisoners who have come before us have had access to ROTL's and resettlement, and I totally understand why they are currently unavailable, but no days have been deducted to cover this loss and that doesn't seem fair. HMP Downview has a huge amount of Covid cases and more than half of the staff are off with Covid, but us low-risk prisoners are still left in our rooms for 23-hours a day with no education, minimal jobs and scarce healthcare. Governors have a legal obligation to keep us safe but locking us in our rooms for 23-hours a day is not keeping us safe as our mental health suffers and the effects of this can be damaging and long-lasting. To a governor, each person imprisoned is a profit in budget for their prison, it is said that see us as a payday rather than human beings with families. None of us have been sentenced to death, yet it seems that this is what is happening in prisons right now. And it seems like the Prison Service couldn't care less.

California College students Huey P Newton and Bobby Seale wanted working class black people to get organised. They formed the Black Panther Party for Self-Defence in 1966 and began by addressing the terrible conditions in which most people around them lived. Their party said no more black people should be sent to fight in Vietnam. It wanted decent jobs for black people, houses that were fit to live in and schools that taught black history. And, most famously, it wanted racist police out of black communities. Fed up with official politics, the Black Panther Party insisted only revolution could bring real change.

Inspired by black nationalist leader Malcolm X, the Panthers fought for freedom "by any means necessary". But they also embraced elements of Maoism—the ideas developed by China's Communist leader Mao Zedong. Mao was increasingly popular with US radicals looking for left wing ideas that appeared as an alternative to Russian Stalinism. His often elitist conceptions stressed the need for a committed "revolutionary vanguard" to lead the struggle against capitalism. But this vanguard must also "serve the people".

Newton had studied law and knew that all US citizens had the right to bear arms. He and Seale decided that one of the first objectives of the Panthers would be to end police harassment in their community. They recruited and armed young men and women to "patrol the pigs"—following police patrols through the ghettos. Unsurprisingly the state did not accept the right of the Panthers to patrol the police. In the spring of 1967 authorities sought to outlaw the carrying of weapons. The Panthers responded by organising an armed march on California's state capital.

Bobby Seale recalled the day in his memoirs, "We went across the bridge to Sacramento with a caravan of cars. There were 30 brothers and sisters—20 of the brothers were armed… A lot of people were looking. A lot of white people were shocked, just looking at us. I know what they were saying, 'Who in the hell are those niggers with guns'." "I'm so thirsty for revolution. We're going to have a black army, a Mexican American army, an alliance with progressive whites. All of us." News of the protest spread like wildfire and within months the party grew from about 50 members to over 5,000. Young black people wore the group's uniform of black leather jacket, black trousers, powder blue shirt and black beret—and raised a clenched fist salute. Soon Panthers were "patrolling the pigs" in cities across the US. Fulfilling Mao's demand to "serve the people" the Panthers also organised a social programme. They set up centres that provided breakfasts for up to 250,000 children a week. They also launched medical clinics and community-controlled schools.

A nationwide poll conducted for Time magazine in 1970 revealed that 9 percent of the black population—about two million people—considered themselves to be "revolutionaries". The community initiatives proved extremely popular. But they increasingly represented a split in the organisation about whether to continue "revolutionary" armed operations against the state or move towards a form of grassroots "reformism". The establishment was now targeting the Panthers as "the greatest threat to the internal security of the country". FBI chief J Edgar Hoover was obsessed with the idea of a "black messiah" who'd rise to lead the oppressed in a revolution. What worried him particularly about the Panthers was the way they deliberately appealed to both black and white radicals.

Informers were planted throughout the organisation. Their job was to inform the FBI about the Panthers' plans and engineer conflict between different parts of the organisation. The cops would aim to draw the group into shootouts. Inevitably, revolutionaries would suffer the most casualties. Those that escaped bullets were then hunted down and either jailed or forced to go on the run. Bobby Seale was fitted up as part of the Chicago Eight trial after an anti-war demonstration in the city in 1968. Upon release he was rearrested for another crime he had not committed. Newton was shot in the stomach by police during a confrontation in which a police officer was killed. He was sentenced to three years in prison.

2001 assaults and engaged in unlawful (in that it had the tendency to offend public morality), albeit consensual, sexual activity out of doors, just happened to drop his mobile phone, at the scene of, and proximate to the time of, the assault upon KF, who accepted that the mobile phone might have been used in the assault. This 'bad character' evidence does have substantial probative value. Moreover, S must have admitted the offence to receive a caution. The gateway for admissibility is pursuant to section 100 (1)(1)(b) of the Criminal Justice Act 2003.

44. For the purposes of this appeal, we consider it necessary in the interests of justice to admit the evidence relating to the further DNA analysis of the mobile phone and its match to S pursuant to Criminal Appeal Act 1968, section 23(1). The evidence was not available to be produced before the intervention of the CCRC and affords a ground for allowing the appeal. It would have been admissible in the proceedings. It does completely transform the landscape. The evidence that was available is given an entirely different and 'fresh' perspective.

45. We are satisfied that the uncertainty created by the fresh evidence related to the mobile phone and its probable user significantly weakens the reliability of KF's identification of the appellant and taints the reliability of EM's identification. That is, the similarities in the nature, timing and location of the assaults are overwhelming, and were relied on as such by the prosecution. The likelihood of different assailants being responsible for the two attacks is remote.

46. This important evidence was not in front of the jury. Consequently, we are not satisfied of the safety of either conviction; both will be quashed.

47. We have considered the question of retrial. We are told by Mr Connolly that no further investigation of any of the assaults is likely to occur in the interim but, nevertheless, there is said to be a public interest in trying the appellant for the offences again. We do not agree, when seen in the light of the circumstances we describe above, the age of the offences, and the fact that, although the appellant was released from the restrictions of the Hospital Order made in the criminal proceedings in 2015, there are continuing welfare issues arising from his medical condition. We refuse the application.

'They Wanted to Jail a Banker - I Was That Banker'

BBC News: Tom Hayes, the first banker to be jailed for rigging interest rates, has told the BBC he believes fresh evidence will show his conviction was unsafe. It raises questions about more than 20 other cases and some of the only bankers prosecuted in the UK since the financial crash. His case is now being examined by the Criminal Cases Review Commission. The Serious Fraud Office (SFO) said he was found guilty by a jury and the Court of Appeal upheld the conviction. "I don't blame the jury for it but they were presented with a false narrative and they reached a conclusion based on those facts. I believe had they been presented with full evidence they would have reached a very different conclusion," Mr Hayes - who was jailed for 11 years and served five and a half - told the BBC in his first TV interview since being released. "This wasn't an easy sentence. In that time, I lost my mind, I lost my mental health. I suffered deep bouts of depression. I harboured suicidal thoughts often. I was very angry and bitter. I struggled with my emotions. "Now I sit here in the park and I can smell freedom... but believe me, when you're sitting in a cell for 23 and a half hours a day with two other gentlemen and there's not even room to stand up - that's difficult, very difficult." The former UBS trader was found guilty of manipulating Libor, the benchmark that tracks the interest rate banks pay to borrow cash from each other.

The new evidence is part of eight grounds of appeal now being examined by the Criminal Cases Review Commission (CCRC), the body set up to review allegations of miscarriages of justice. In 2015, the SFO called Tom Hayes the "ringmaster" of an international conspiracy to rig interest

rates. After a jury returned a guilty verdict, he became the first UK banker to be jailed since the financial crash Rulings made prior to his 2015 trial outlawed any consideration of a bank's commercial interests when setting the Libor benchmark. They followed evidence from a key prosecution witness, John Ewan, who said it was against the rules to allow a bank's trading positions to interfere with the process of setting that interest rate and that at no point did he suspect that was taking place.

Mr Hayes says the new evidence, of a conversation involving Mr Ewan at the body that regulates Libor, is in "stark contrast" to that testimony. The rulings have since been used by the SFO to prosecute 23 further defendants in subsequent trials for interest-rate rigging. However, more have been acquitted than convicted as defendants' lawyers questioned if traders' conduct was regarded as unlawful at the time. Criminal proceedings have also been issued in the United States against six defendants for the same offence, resulting in four convictions, two of which have been overturned.

How Libor Works: What the FTSE or Nikkei are to share prices, Libor is to interest rates - an index that tracks the cost of borrowing cash between the banks. It's used to set interest rates on millions of residential and commercial loans around the world. To work out Libor each day, 16 banks answer a question - at what interest rate could they borrow money? They submit their answers and an average is taken and published as Libor (the London Interbank Offered Rate). The evidence against Tom Hayes and other traders consisted of messages and emails asking for those interest rates to be submitted "high" or "low". Mr Hayes acknowledges his hope was it might move the Libor average in favour of his bank, UBS, which could make or lose money on trades it had done linked to the Libor rate. "I sent emails and I made phone calls in full knowledge that all of these things were recorded. And I did it with abandon, because I didn't believe I was doing anything wrong," he said.

While prosecutors said it was "self-evidently" corrupt, a key plank of his defence was that it was normal practice to ask for "high" or "low" rates - as long as they were still accurate. Each day banks were able to borrow at a number of slightly different rates (e.g. Barclays offering 3.18%, HSBC offering 3.20%, Lloyds offering 3.19%), creating a narrow range of rates which were all accurate answers to the Libor question - at what interest rate could you borrow? It was standard industry practice, according to the CCRC application for Mr Hayes, to select a rate within that accurate range best suited to the bank's commercial interests - based, for example, on the trades it had done. That was, according to him and the other defendants in rate-rigging trials, in line with a fiduciary duty they had as part of their jobs to do all they could to maximise revenues and minimise losses for their banks.

However, in his closing speech to the jury, SFO prosecutor Mukul Chawla repeatedly attacked the idea of a range, claiming that "range…does not exist". Prior to Mr Hayes' trial, presiding judge Mr Justice Jeremy Cooke found that any attempt to influence a Libor submission to suit a bank's commercial interests was in breach of the rules. His finding, upheld by the Court of Appeal, established a precedent which was then used to prosecute 24 money brokers and traders at other banks such as Barclays and Deutsche Bank.

Mr Justice Cooke made his finding after seeing a witness statement from key prosecution witness John Ewan, who previously oversaw the rate-setting process at the British Bankers Association, which owned and supervised Libor. Mr Ewan's witness statement prior to Mr Hayes' trial stated that attempting to move Libor to help a bank's trades was against the rules. The former Libor manager at the British Bankers Association testified that "at no point" did he suspect this was taking place. If he had been aware of it, it would have been investigated and steps taken to stop it.

But while in prison Tom Hayes came across a transcript, disclosed in US criminal proceedings

"That said" – said the Court of Appeal – "the real problem in this case arises simply from the accident of the appellant's age and the timing of the relevant court appearances, which has resulted in the cliff edge of an adult sentence at the age of 18". The "accident" of T's age and the timing of court appearances is of particular concern knowing, as we do, about the delays and likely case timeframes in 2021 criminal justice. It highlights the huge impact that even the shortest of delays can have on how young people are dealt with by the courts, and how wary youth practitioners must be before time is allowed to elapse unnecessarily.

Wider impacts include rehabilitation periods of adult sentences which are much greater. Although in effect T will have engaged in the same rehabilitation work with Probation as his co-defendants did with the Youth Offending Team, the Community Order will take an additional year to be "spent" in terms of his criminal record, compared to a Referral Order which is spent as soon as it is complete. Similarly, the point of release from imprisonment, and the length of time defendants are subject to the Sex Offenders' Notification Requirements are also greater.

Of course, defendants who are accused of offences can cross the significant age threshold of 18 between the date of commission of the offence and the first court appearance. In that instance, the Youth Court has no jurisdiction to hear the case at all. Small impacts such as lack of access to YOT, the physical layout of the courtroom, the company of an appropriate adult, may all make a material difference to the experience of a very young adult in a criminal court, perhaps for the first time. The concept of RUI means it is increasingly the case that the timescales of police station cases are extended by months, if not years. These currently involve no fast-tracking provisions for young people, including those approaching their 18th birthday. This can also preclude young people from being eligible for youth cautions or out-of-court disposals designed to triage them away from the criminal justice system at the earliest stage.

In a time where, unfortunately, the timelines of the relevant court appearances are likely to cause a cliff edge of adult sentencing for youths who find themselves in the adult court arena – particularly those in multi-handed cases where control over proceedings is not all theirs – the 18th birthday of youth clients should be as important to youth practitioners as it is to youth defendants themselves. We must be ready to ensure that, despite their numerical age, young people who commit offences as young people are appropriately dealt with as just that.ey are sentenced principally considering their rehabilitation and the prevention of re-offending, whilst their friend is dealt with as an adult? What if the delays in the case which mean a defendant has turned 18 years old before sentence, are through no fault of theirs?

The Black Panthers and the Revenge of the Revolution

Socialist Worker: In a packed hall in downtown Chicago in 1969 Black Panther founder Bobby Seale stood alongside local leader Fred Hampton. He was making a speech to a newly established district of the party—the mixed crowd of black and white radicals hung on every word. "I'm so thirsty for revolution," said Bobby. "We're going to have a black army, a Mexican American army, an alliance with progressive whites. All of us. And we're going to march on this pig power structure. And we're going to say, 'Stick 'em up motherfucker. We've come for what's ours'."

Seale was channelling the spirit of rebellion that had been sweeping American cities for the past two years. The movement against the Vietnam War had fused with liberation struggles, and the urban uprisings that set alight scores of black ghettos. From 1964 to 1968 black people rose up in almost every city in the north east, the Midwest and California. When the Watts ghetto in Los Angeles exploded in rage in 1965, the authorities deployed 14,000 National Guard troops. In the repression that followed 34 people died and around 4,000 were arrested. In each, police racism was usually the trigger.

Authority indicates that turning 18 is not a “cliff edge” in sentencing. In R v Clarke [2018] EWCA Crim 185, the Court of Appeal said that “reaching the age of 18 has many legal consequences, but it does not present a cliff edge for the purpose of sentencing” [paragraph 5] and that youth and maturity can be “potent factors” [paragraph 39] in determining sentence. But T’s case is a vivid example of how unjust disparity still features – particularly in multi-handed youth/young adult cases. The important date is that at which there is a “finding of guilt”, whether by plea or conviction. At paragraph 6.1 of the Overarching Principles, it is noted that “there will be occasions when an increase in the age of a child or young person will result in the maximum sentence on the date of the finding of guilt being greater than that available on the date on which the offence was committed.”

In such situations, continues the Guideline, the Court should take as its starting point the sentence likely to have been imposed on the date at which the offence was committed. This includes young people who have not merely increased in childhood age, but who attain the age of 18between the commission of the offence and the finding of guilt. When this occurs, the purposes of sentencing adult offenders have to be taken into account, which are: the punishment of offenders; the reduction of crime (including its reduction by deterrence); the reform and rehabilitation of offenders; the protection of the public; and the making of reparation by offenders to persons affected by their offences.

The case of R v Ghafoor (Imran Hussain) [2002] EWCA Crim 1857 sets out these points which are reflected ins142 Criminal Justice Act 2003. Paragraph 6.3 of the Definitive Guideline states that when any significant age threshold is passed “it will rarely be appropriate that a more severe sentence than the maximum that the Court could have imposed at the time the offence was committed should be imposed.” However, a sentence at – or close to – the maximum may be appropriate.

In the case of R v Amin [2019] EWCA Crim 1583, the Court of Appeal considered the case of Amin who was 17 at the time of commission of the offence but 18 at the time of conviction. Allowing the appeal, they quashed a sentence of 4 years’ detention for a Detention and Training Order of 24 months. In that case, assessing the line of authority on this point and with reference specifically to section 6 of the Definitive Guideline, the Court reiterated that although it is not the sole factor, the age at the time of commission of the offence is a significant factor to take into account and remains the starting point for the sentencing tribunal.

Similarly, in R v Obasi [2014] EWCA Crim 581 [paragraph 6] the Court observed: “with respect to an offender who has crossed a relevant age threshold between the date of the offence and the date of conviction, culpability is generally to be judged by reference to the offender’s age at the time of committing the offence”.

Turning then to the judgment of the Court of Appeal in the case of T, setting out the considerations of disparity [paragraph 18] they remarked, adapting the well-known test of Lawton LJ in Fawcett [1983] 5 Cr.App.R. (S) 158: “looking at the matter in terms of disparity, the question is whether a right-thinking member of the public would consider that something had gone wrong with the administration of justice when this appellant received a substantial community sentence with significant requirements attached to it, yet his co-accused received shorter and less onerous Referral Orders instead, including in particular, a defendant who was only three months younger and who had pleaded guilty to the much more serious offence of inflicting grievous bodily harm”. Having read Probation reports of T’s engagement with the Community Order in the time awaiting Appeal, the Court of Appeal sought to achieve parity with the Referral Orders imposed on the co-defendants by reducing the length of the Community Order, and quashing its additional requirements.

but not at his trial. He says it shows taking trades into account was seen as acceptable if the rates submitted were "representative" - meaning they reflected the real rates at which banks were offering to lend cash that day. "I was going through piles of paperwork in my cell and I couldn't quite believe what I was reading. "John Ewan said in that conversation: 'I don't know if this is the result of any derivatives trading going on but the rates are representative so from that point of view I'm fine.'" "Now had commerciality not been allowed in the decision-making process, the moment he knew, or suspected that this was a result of derivatives trading going on, he wouldn't have cared whether the rates were representative or not, he would have straightaway said: 'Well, this is against the rules. I need to investigate.' "It's absolutely in complete contrast to the rulings made by the court, to the evidence given at my trial."

The BBC offered John Ewan an opportunity to comment but has received no response. At a later trial in early 2017 Mr Ewan acknowledged under cross-examination it was legitimate to set Libor with commercial interests in mind within the range of high or low rates that were "representative" of offers in the market. The defendants in that trial were acquitted.

Mr Hayes has filed an application, running to more than 2,300 pages, currently being considered by the CCRC, the body set up to review miscarriages of justice. In it he also questions why key evidence of Bank of England involvement in "rigging" Libor was not disclosed at his trial.

In 2017, the BBC discovered a secret recording implicating the Bank of England in rigging Libor in 2007 and 2008, pressuring banks to under-state what they were paying to borrow cash - a practice known as "low-balling", for which banks have been fined. It prompted MPs to call for an "immediate inquiry". "Unfortunately some of that evidence was not actually in front of my jury," Mr Hayes said. "But there was no desire to go after the real story here, which was the low-balling story - which was the submission of false and inaccurate rates - because it was just easier for everyone to go after the traders. At the time it was expedient that, for political reasons, a banker went to prison and I was that banker. I was given an egregious sentence and my life destroyed."

In 2019, after noting evidence of Bank of England involvement in manipulating Libor, a senior New York judge, Colleen McMahon, gave former Deutsche Bank trader Gavin Black and supervisor Matt Connolly, both convicted by a jury of manipulating Libor, light sentences of "home confinement". "At certain times, such as during the height of the 2008 financial crisis, submissions were actually being manipulated at the request of the Bank of England," Judge McMahon stated in her sentencing remarks. She later added: "I'm always uncomfortable when I'm asked in any context - it usually happens in the drug context - to sentence the low man on the totem pole while the big guy goes free." The Bank of England has said Libor was not regulated in the UK at the time. The SFO maintained throughout Mr Hayes' trial and subsequent trials between 2016 and 2019 of traders at Barclays and Deutsche Bank that it was investigating low-balling and would pursue the evidence "as high as it went". However in December 2019, it shut down its investigation into low-balling. In a short statement, the SFO said: "Tom Hayes was found guilty by a jury of manipulating the Libor benchmark, and the Court of Appeal upheld Tom Hayes' conviction."

More Than 1,000 Prison Staff Dismissed for Misconduct

More than 1,000 prison staff have been dismissed for misconduct over the past six years, figures from the Ministry of Justice show. They include 43 who lost their jobs after they were found to have embarked on inappropriate relationships with prisoners. Other reasons for dismissal included “breach of security”, being “unfit for duty through drink or drugs”, use of unnecessary force on prisoners, and being asleep on duty. In all, 1,121 staff were dismissed for misconduct between 2014 and 2020 at English and Welsh prisons, the Mail on Sunday reported. Responding to a Freedom of Information request, the Ministry of Justice said: “The vast

majority of prison officers and other staff carry out their duties to the high standards the public rightly expect, but the small minority who fall short of those standards are held to account."

Only a small proportion of misconduct investigations result in dismissal. Last year Inside Time reported that in one 12-month period alone, the 2018/19 financial year, a total of 2,511 prison staff were the subject of investigations – an increase of 33% on the previous year's figure. The three most common kinds of allegation related to breach of security (496 cases), performance of duties (467) or unprofessional conduct (446). There were 169 staff investigated for assault/unnecessary use of force on a prisoner, 38 for having an inappropriate relationship with a prisoner, 24 for sexual harassment/assault, 14 for corruption, and 37 for being asleep on duty. The problem is a long-running one. An earlier newspaper investigation, in 2007, uncovered figures showing that 1,300 prison officers were found guilty of misconduct between 2000 and 2006 for a similar range of offences.

Gary Williams CCRC Referal to CoA Shot Down

1. On 16 July 2007 the appellant was sentenced to imprisonment for public protection with a minimum term of 7 years in relation to Counts 1 and 10. Concurrent determinate terms were imposed in relation to Counts 3 and 4 with no separate penalty on Count 9. He was tried with four other men who were charged with associated offences. One of his co-accused was a man named Isaac Frazer. Frazer was convicted inter alia of possession of firearm with intent to endanger life. This was not the same firearm as that referred to in Count 1. He was sentenced to imprisonment for public protection. The minimum term in his case was 5 years.

2. In 2010 the appellant applied for leave to appeal against his convictions on Counts 1, 3 and 4. His application was based on medical evidence relating to an injury he had sustained at the time of the incident involving the firearm. The evidence had not been called at the trial. It was said that it supported the appellant's case that he had not had possession of the firearm as alleged by the prosecution because the injury was consistent with the appellant having been struck with a blunt object such as a firearm. His case at trial was that this is how he had sustained his injury. He alleged that it was his co-accused Frazer who had struck him in this way. The applications for leave to appeal and for permission to rely on medical evidence were refused: [2011] EWCA Crim 128. The full Court determined that the appellant could have called the evidence at trial. There was no reasonable explanation for his failure to do so. He chose to run his defence in a manner which did not include any reference to medical evidence. He had been treated immediately after the incident some 35 miles away under a false name. For tactical reasons he did not disclose this at trial. Thus, the evidence sought to be introduced did not meet the criterion in Section 23(2)(d) of the Criminal Appeal Act 1968.

3. The case comes before us now by reference of the Criminal Cases Review Commission ("CCRC") pursuant to s 9(2) of the Criminal Appeal Act 1995. The CCRC decided to refer the convictions on Counts 1, 3 and 4. They did so on the grounds that there was fresh evidence that the appellant did not bring the firearm to the scene of the relevant incident and that the fresh evidence supported the appellant's case that the firearm had been in the possession of the co-accused Frazer. The fresh evidence consisted of what was said to be a confession by Frazer that the firearm was his.

34. In those circumstances it is not necessary for our determination of this appeal to reach any concluded view on the admissibility of the letter in proceedings involving the appellant and Frazer. However, the point was fully argued and it is appropriate that we express our view, albeit obiter.

35. In writing Mr Evans argued that, had the letter been available at trial, it would have been served on the prosecution by those representing the appellant. He suggested that it was

Conclusion: The Court of Appeal has clarified that interest will generally not be awarded on general damages in police civil actions, and that judges should explain the approach they have adopted. In upholding a significant level of exemplary damages on the facts of Rees, the Court endorsed the guidance in Thompson (at p.516A-B) that circumstances "can vary dramatically from case to case", and that the figures outlined in that case were not intended to be applied in a "mechanistic manner" [53].

"A Tale as Old as Crime": Crossing the Significant Age Threshold Into Adulthood

Chloe Birch, Carmelite Chambers: In reviewing the case of R v T [2020] EWCA Crim 822, Chloe Birch sets out the considerations for those who turn 18 between commission of an offence, date of conviction, and sentence. Sentencing in the Youth Court is governed by Youth Sentencing Principles, which are - for understandable reasons – different to those which govern the adult sentencing regime. When sentencing young people in the criminal courts, tribunals must have regard to the principal aim of youth justice: to prevent offending by children and young people. The focus is on rehabilitation where possible – so say the Overarching Principles of the Sentencing Children and Young People Definitive Guideline. But, what about those who commit an offence as a young person of 16 or 17 years old and are 18 by the time of conviction? Should they be sentenced as the adult they have become, by virtue of their numerical age, or as the child they were when the offence was committed? What about co-defendants who are still 16 or 17 years old, or younger? Is it right that thR v T [2020] EWCA Crim 822

In the recent case of R v T [2020] EWCA Crim 822, the Court of Appeal considered the disparity in sentence between defendants who had taken part in committing the same offence but were dealt with separately for sentence in the Youth Court and the Crown Court. The case began as an allegation of section 18 GBH with intent against six youth defendants – all of varying ages: the youngest being 14, and the oldest being the appellant, T (who was 17 at the time of the offence). The six youths appeared before the Youth Court for their first appearance on 27th August 2019, when their case was sent to the Crown Court. The first hearing – as per the normal timescales – at the Crown Court, was 24th September 2019, which happened to be T's 18th birthday. The Crown indicated that if the defendants who had caused the complainant's fractured cheekbone, and produced the knife and committed the stabbing, were to plead guilty to the GBH offences, pleas to s4 Public Order would be available for, and acceptable from, the remaining defendants – including T. T had no control over the pleas of the others.

The two leading offenders did plead guilty to the GBH offences, but not until November 2019 – by which time T was 18 years and 2 months old. Once these pleas were formally entered, pleas to s4 public order were accepted from the remaining defendants, all of whom – apart from T – were remitted to the Youth Court for sentence. Even the two who had pleaded guilty to GBH. Because T had entered his guilty plea as an adult, he remained in the Crown Court for sentence. He was the only one over 18 years old at the date of the pleas being entered. T was sentenced to an 18-month Community Order with what the Court of Appeal called "substantial requirements".

The remaining co-defendants were all sentenced at the Youth Court. Under the youth sentencing principles, because they had pleaded guilty to a first time offence, they were all entitled to a Referral Order – which all of them received – even the two who had pleaded guilty to fracturing a cheekbone and stabbing. T's role was far less serious than either of these, and yet his sentence was more onerous. The other offenders who, like T, had pleaded guilty to section 4 Public Order received Referral Orders of 3 months in length. Of note, the stabber had since also turned 18 years old – after the case had been remitted to the Youth Court for sentence. T appealed his sentence on the grounds that it was manifestly excessive compared to the sentences imposed on the co-defendants.

al behaviour". She awarded £150,000 in total, split between the original three claimants (the other two did not seek to appeal). Interest on each award from the date of the judgment.

Dismissing the claimant's appeal that the award of damages – particularly as regards loss of liberty – had been too low, the Court of Appeal accepted that the judge had, properly, "cross-checked" the basic award against awards in personal injury cases (per Thompson at p.512A-D); and had regard to awards for unlawful immigration detention (in particular AXD v Home Office [2016] EWHC 1617 (QB)) but concluded that such cases were not "ideal comparators" [26]-[27]. The award for loss of liberty had not been too low bearing in mind: the "progressively reducing scale" as the period of detention went on (per Thompson at p. 515E-F); the split between awards for distress, loss of liberty and aggravated damages (c.f. AXD where there had been a single basic award); and the facts of AXD, where the claimant faced being returned to a country where he believed he would be tortured and persecuted [31]. Likewise, the Court of Appeal was not persuaded that the judge had been wrong to award interest from the date of her judgment as opposed to the date when no evidence was offered in the Crown Court, or the date of issue.

It was accepted that section 35A of the Senior Courts Act 1981 conferred a discretion to award interest (c.f. in personal injury cases). Moreover, there was a principled basis for withholding interest, namely that in making the awards for damages, the judge had already taken into account all matters – e.g. distress, disappointment, and other damage – leading up to the judgment: Saunders v Edwards [1987] 1 WLR 1116, per Kerr LJ at p. 1129G regarding damages for disappointment and inconvenience, who held "…without purporting to lay down any rigid rules, it is generally better to award a global sum under this head of damages, without the addition of any interest", and Holtham v Commissioner of Police for the Metropolis (The Times, 28 November 1987), the latter concerning damages for wrongful arrest and false imprisonment, applied [39], [42], [45].

The judge had therefore been entitled not to award interest "on any element of the award for non-pecuniary loss" [43]-[44]. This did not mean that general damages should not be increased to take account of inflation (per Thompson at p. 517E) as the judge had done [41], [45]. Accordingly, the Court of Appeal held at [47]: "the better course for judges in cases of this kind will usually be to fix an award of damages both to reflect intervening inflation (having regard to the Thompson criteria) and then also to reflect the fact that the award of damages is being calculated by assessing the situation up to and as at the date of judgment. If that is done there will then be no call for an award of interest under s.35A of the 1981 Act. On the footing that a judge does proceed on that basis then I consider, all the same, that it would be good practice for him or her expressly to state, albeit briefly, that that is indeed the position being adopted." The Court of Appeal was satisfied that the judge had taken this course, even though she had not spelt it out [48].

The respondent Commissioner's cross-appeal against the award of exemplary damages was also dismissed. The prosecution had collapsed in circumstances of notoriety, and the officer who authorised it on a tainted basis had been of a senior rank capable of attracting a maximum award of damages (per Thompson at p. 517C-D) [51]. The judge had considered and rejected the arguments that aggravated damages would suffice, and that there had already been sufficient public scrutiny of the police misconduct. Although it was relevant that the Commissioner had only been vicariously as opposed to personally liable (per Thompson at p. 512H) this was not determinative and would be the case in almost all cases of this kind [51]. The award of £50,000, per claimant, was significantly less than the £50,000 (£91,500 adjusted for inflation) said to be the "absolute maximum" for an award of exemplary damages in Thompson (at p. 517C-D and p. 520A) [52], [54], [55].

"inconceivable that the prosecution would not have charged Frazer" with the firearms offences with which the appellant was charged. He went on to say that the prosecution might have discontinued the case against the appellant rather than present opposing cases before the jury. We reject both of those propositions. It is wholly unrealistic to suppose that the prosecution would have charged Frazer on the basis of a doubtful confession when the surrounding evidence did not support the confession. Still less would the prosecution have discontinued the case against the man in respect of whom the evidence was very strong.

36. Mr Evans's subsidiary submission was that the confession in the letter would have been admissible under Section 76A of the Police and Criminal Evidence Act 1984. The relevant parts of this provision are as follows: (1) In any proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a co-accused) in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section. (2) If, in any proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained— (a) by oppression of the person who made it; or (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof, the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession (notwithstanding that it may be true) was not so obtained. (3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in any proceedings, the court may of its own motion require the fact that the confession was not obtained as mentioned in subsection (2) above to be proved in the proceedings on the balance of probabilities.

37. Mr Evans submitted that the letter was a confession made by Frazer. Frazer was charged in the same proceedings as the appellant. The confession was relevant to the issue of who produced the gun in the alleyway and, in consequence, the guilt of the appellant in relation to the counts concerning that firearm. There would have been no basis to exclude the confession, there being no evidence of oppression or things being said or done to render the confession unreliable.

38. Mr Jarvis argued that Section 76A was enacted in order to give effect to a recommendation of the Law Commission made in its report published in 1997 entitled Evidence in Criminal Proceedings: Hearsay and Related Topics. The Law Commission drafted a provision which was repeated in Section 76A as enacted. The Law Commission referred to Myers [1996] 2 Cr App R 335 and expressed the view that the ratio in Myers should be given statutory force. Myers concerned two defendants jointly charged with murder. An out of court confession by one defendant was admitted at the instigation of the other defendant in support of his defence. This court upheld the admission of the evidence. By reference to those matters Mr Jarvis submitted that Section 76A cannot apply where, as here, the defendants are not jointly charged with the same offence. "Another person charged in the same proceedings" means jointly charged.

39. The origin and operation of Section 76A were considered by this court in Finch [2007] EWCA Crim 36 at [16]. In Finch Hughes LJ (as he then was) considered the meaning of the term "another person charged in the same proceedings" in the context of an argument that this included someone who had been charged jointly with the defendant who wished to rely on the out of court confession but who had pleaded guilty in advance of the trial. It was concluded with certainty that someone who had pleaded guilty was not charged in the same proceedings. Such a person is not a person charged with an offence for the purpose of his status as a witness. In

consequence such a person is compellable as a witness in the trial of any remaining defendant. Section 76A cannot have been enacted in ignorance of those propositions of law. Hughes LJ characterised the rationale behind the introduction of Section 76A in this way: "The new rule, and for that matter the decision in Myers , were designed to meet the problem faced by defendant A who, if charged in the same trial as B, could not call B into the witness box because section 1 of the 1898 Act prevents B from being called except on his own application. That obstacle, however, does not exist except where A and B are tried together."

40.Given the facts in Finch it was not necessary for the court directly to address the issue which would arise in any trial of the appellant and Frazer. However, the court's reasoning set out above suggests that, in the present case, Frazer's out of court confession would be admissible under section 76A. Albeit not jointly charged with the same offence, Frazer would not be compellable in proceedings in which he remained as a defendant on trial. Thus, if Section 76A were not to apply to the circumstances of a joint trial of the appellant and Frazer, the appellant would have no route to the admission of the evidence other than Section 114(1)(d) of the Criminal Justice Act 2003. We are not persuaded that someone in the appellant's position should be limited to that route. The natural meaning of "charged in the same proceedings" does not require that the persons concerned are jointly charged with the same offence. We observe that, in his commentary on Finch in the Criminal Law Review (June 2007), Professor Ormerod offered as an example of the proper application of Section 76A a case in which two co-defendants were charged with separate but related offences. The example he gave was of a defendant charged with handling wishing to rely on the out of court confession of the defendant charged with theft which revealed that the alleged handler could not have known that the goods were stolen when he received them. That example is different on the facts to this case but the principle must be the same.

41. We reach that conclusion in relation to the application of Section 76A even though we are doubtful whether the letter would be admitted pursuant to Section 114(1)(d) of the Criminal Justice Act 2003 as being in the interests of justice. It is not necessary for us to recite the list of factors set out in Section 114(2) to which a trial judge must have regard when considering the interests of justice. Suffice it to say that a judge must have regard to the circumstances in which the statement was made, the reliability of the maker of the statement and the reliability of the evidence of the making of the statement. For the reasons we have set out in relation to the credibility of the letter, we doubt that the letter would be admissible pursuant to Section 114(1)(d).

42. Conclusion: For the reasons given, we are satisfied that the fresh evidence on which the appellant relies does not meet the interests of justice test for admission on appeal and casts no doubt on the safety of his convictions in relation to his possession of a firearm. The appeal is dismissed.

Progress at Troubled HMP Birmingham 'Undermined' by Misreporting

There had been an improvement in safety at the troubled HMP Birmingham but progress has been 'undermined' by failure to accurately record violence and self harm, according to the latest prisons inspection. As a result of a 2018 inspection, then then chief inspector Peter Clarke triggered the 'urgent notification' scheme bringing one of the largest prisons in Britain, then run by G4S, back under state management. Clarke called it 'fundamentally unsafe' and 'failing in its responsibility to protect the public'.

His successor Charlie Taylor has now given an overall 'encouraging report'. 'Given Birmingham's recent history, its continued provision of decent living conditions and a calm, well-ordered environment suggest improvements are being embedded,' he said. Whilst the

latest report records 'some good work to promote safety', progress was 'undermined by the safety team's failure to record accurately all acts of violence and self-harm'.

Self-harm fell in the early weeks of lockdown but returned to previous levels in June 2020, averaging 73 incidents a month. Of the 448 incidents that took place in the previous six months, 41 had not been reported correctly. In the six months to the inspection, managers reported 90 incidents of violence however inspectors reckoned a further 68 incidents had been 'miscategorised'. From September 2020, there had been 451 incidents of force being used, a 50% increase on the previous six months which was attributed to 'prisoners' ongoing frustration at being locked up for long periods'.

The prison was also criticized for arrangements for newly-arrived prisoners being held in quarantine for 14 days to prevent transmission of COVID-19. More than 100 prisoners had tested positive following three previous outbreaks. Inspectors found prisoners who arrived up to seven days apart had to share cells and social bubbles had both recently arrived prisoners and those about to move into the main population. Prisoners about to be discharged were allowed to exercise and associate with prisoners who had just arrived, increasing the risk of infection spreading throughout the prison. Charlie Taylor said the scheme for new arrivals required 'immediate attention'.

No Interest on General Damages in Police Actions

The Court of Appeal has reiterated, in Rees v Commissioner of Police of the Metropolis [2021] EWCA Civ 49, that since non-pecuniary damages in civil claims against the police. e.g. for loss of liberty, or distress and inconvenience, are generally assessed by reference to all matters leading up to the judgment, there will usually be no need for an additional award of interest. A substantial award of exemplary damages – £150,000, split between three claimants, was upheld on the basis that the case had involved an egregious prosecution set in motion by an officer of very senior rank (a Detective Chief Superintendent).

Jonathan Rees was one of three men prosecuted in respect of an alleged contract killing in a pub car park in 1987. At the criminal trial, it was ruled that the evidence of a key witness, Gary Eaton, should be excluded because a police officer, Detective Chief Superintendent David Cook, had compromised the integrity of Mr Eaton's evidence by allowing extensive contact with Eaton in contravention of accepted procedures. During this period Mr Eaton's evidence had expanded to include presence at the scene of the killing shortly after its commission and knowledge of the three men in the vicinity. The prosecution was eventually discontinued and not guilty verdicts returned.

The three men brought civil claims in the High Court, which were initially dismissed by Mitting J ([2017] EWHC 273 (QB)) but allowed by the Court of Appeal ([2018] EWCA Civ 1587). It held that D/ChSup Cook had been the "de facto" prosecutor and had pursued the case when he could not have believed that, tainted with the evidence of Mr Eaton, it was fit to go to the jury and where, on the balance of probabilities, a prosecution would not otherwise have been brought. The period of detention post-charge had been lengthy, at 682 days, although Mr Rees had previously been in custody following a sentence of seven years for conspiring to pervert the course of justice.

The High Court judge (Mrs Justice Cheema-Grubb), applying Thompson and Hsu v Commissioner of Police of the Metropolis [1997] EWCA Civ 3083; [1998] QB 498, awarded Mr Rees a total of £155,000, broken down as follows: £87,000 as a basic award, comprising £27,000 for the distress etc. arising from the charge and £60,000 for loss of liberty; £18,000 in aggravated damages; £50,000 in exemplary damages, to "mark the court's denunciation of DCS Cook's unconstitution-