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Women in Prison: Remand in Custody

Rona Epstein, Justice Gap: Women on remand (pre-trial detention) make up almost half of the women received into prison – accounting for 3,236 of the 7, 050 first receptions into prison in 2019. Too often women are inappropriately remanded into custody – almost two-thirds of women remanded to prison by magistrates are either found not guilty or are given a community order. The vast majority of women remanded to prison to await trial or sentence could safely be released on bail. This would be better for themselves, their families, their communities and the criminal justice system in general.

Dr Liz Hales reported on remand decisions in a busy London magistrates' court in 2019. 'Bail decisions for women were routinely made without requests for information in relation to dependent children or pregnancies.' Even where such evidence was produced it did not appear to have influenced the remand decision. For example, she reported two cases where the duty solicitor failed to mention that the children of the defendant were in the foyer just outside the court room. In another case a woman who was eight months pregnant was finally granted bail, with conditions of financial sureties, only to be remanded in custody when those conditions could not be met on the same day. In earlier research, Hales reported several cases in which young children (even breastfed babies) were taken into care on their mother's arrest, and the mother was subsequently refused bail.

Alternatives to custodial remand: There are two main alternatives to custodial remand: remand in the community with the support of women's centres, and therapeutic residential facilities. (1) Remand in the community with the support of Women's Centres In the case of vulnerable women in general and pregnant women in particular, we recommend remand in the community under the supervision of probation staff working closely with Women's Centres. There is much evidence that Women's Centres provide the necessary support for women whose lives are characterized by multiple disadvantage and, in many cases, domestic abuse. Helping such women access safe housing and deliver a child safely in the community is not only a crime prevention strategy but also a social and moral imperative. (2) Therapeutic residential facilities Residential support for pregnant women in the criminal justice system is another viable alternative to imprisonment. This can be seen in Jasmine Mother's Recovery in Plymouth and Phoenix Futures, in Sheffield, as detailed in our research report Why Are Pregnant Women in Prison?Jasmine Mother's Recovery (formerly known as Trevi House) is one of the services offered by Trevi. Trevi began in 1993 in Plymouth, Devon, as a drug and alcohol residential rehabilitation centre working exclusively with mothers and their children. Jasmine Mother's Recovery, their centre for pregnant women and women with babies, takes referrals from across the UK, accommodating up to 10 women and their children. Phoenix Futures National Specialist Family Service, Sheffield, provides similar services with an equal record of effectiveness. Jasmine Mother's Recovery and Phoenix Futures are alternatives to prison for vulnerable pregnant women in the criminal justice system. They are non-punitive and non-judgmental – and they work. A wide network of such provision would protect women and their children and respect the human rights of both mother and child. It would prevent damage cascading down the generations to the detriment of us all.

A case study: Ms A: In September 2019 Ms A, a woman, on remand in HMP Bronzefield, gave birth alone in her cell. The baby died. At the time of the remand hearing she was only eighteen years old, was eight months pregnant and was ill. She was known to be particularly vulnerable, having been for most of her life under social services care as a 'looked after child'. The reasons that Ms A was remanded in custody have never been published. Although the Prisons and Probation Ombudsman (PPO) produced a report of its investigation into the death of Baby A, it did not publish the section which set out the reasons for remanding Ms A in prison. The Ombudsman's office has advised us that they will issue no further reports on this matter.

Magistrates are required to give their reasons for remanding in custody in terms the defendant can understand, and by reference to the defendant's circumstances and the case. Thus, the Ministry of Justice must know the reasons for remanding Ms A in custody. We do not know if the magistrates requested a Bail Information Report in this case, nor if they did so, what recommendations it made. The reasons for this catastrophic error must be made public so that they can be discussed, and so that we, the public, may be reassured that there will never be a repetition of this tragedy. Accordingly, I ask the Committee to require the Ministry of Justice to release all information relating to the decision to remand Ms A in custody rather than in the community with support and electronic monitoring. Remand in custody should not be ordered for any pregnant woman: prisons are not safe spaces for pregnant women and unborn babies. No court should endanger the life of an unborn child.

What about peaceful protest? We all know that we have a right to protest peacefully. We know too that imprisonment is a last resort (the court must not pass a custodial sentence unless it is of the opinion that the offence was so serious that neither a fine alone nor a community sentence can be justified for the offence, s.230(2) of the Sentencing Act 2020). We know too that we are all innocent until proved guilty. Nonetheless people have been taken to prison from the site of peaceful protest and have served terms of imprisonment on remand. In my study of 228 cases of sanctions for contempt of court which is a civil matter, and does not come within the ambit, nor the protections, of the criminal law, there are ten cases, five of them women, who served time in prison on remand following an entirely peaceful protest against the production of fossil fuels at Kingsbury Oil Terminal in North Warwickshire.

Radical reform is needed: In a major study of remand decision making in England and Wales in 2016, hundreds of bail hearings in the magistrates; courts were observed (the only way to get quality data about remand since little is published). The findings were startling. 93% of bail hearings involving representations by a prosecutor took five minutes or less. The average prosecution application for remand took took 3½ minutes and the average defence case took 5½ minutes. Often the defence did not contest the prosecution's case for remand. At least in part, the brevity of the hearings appeared to be due to high caseloads and lack of resources. Furthermore, the reasons given by judges and magistrates for using remand were usually general, not relating to the particular circumstances of the defendant.

Dr Smith and Professor Cape subsequently advocated changes to the Criminal Procedures Rules (CPR), in particular to ensure that remand hearings were given sufficient time and that particular reasons were given for decisions. In 2020 Dr Smith conducted new research to check whether the changes in the rules had actually changed practice: unfortunately, they had not. He observed a week of magistrates' court hearings and surveyed lawyers, judges and magistrates. Despite reasonable awareness of the changes to the CPR, defence practitioners believed that they were not observed. In his recently published research, Dr Smith reports that reasons for remand decisions were provided in fewer than half of the 27 observed hearings.

According to the Prison Service statistics for the female estate from April to June 2018, 14% of the prison population were women who had not been convicted and 41% of all first prison receptions were women on remand. In their 2016 study, Smith and Cape found that a worryingly high number of women were denied bail. Where the prosecution sought a remand in custody, bail was granted in only one in four cases.

Following the introduction of the 'no real prospect' test under The Legal Aid, Sentencing and Punishment of Offenders Act 2012, defendants should not be remanded to custody if the offence is such that the defendant is unlikely to receive a custodial sentence if convicted. However, many women remanded in custody do not receive a custodial sentence when subsequently convicted: according to the Prison Reform Trust, 70% of those remanded in custody by the magistrates' court in 2019 were women; 59% of those tried by the Crown Court did not receive a custodial sentence.

Foreign national women are more likely to be remanded in custody than British women, often for less serious offences. The make up a significant and increasing proportion of prison admissions on remand, raising concerns that compliance with national and international standards of justice is being eroded in practice. This is the conclusion drawn by May Robson, following her research published in 2022.

Conclusion: In her chapter in Fiona Donson and Aisling Parkes' volume on Parental Imprisonment and Children's Rights (Every child matters? Global perspectives on incarcerated mothers and their children), Helen Codd notes that: 'Women prisoners are likely to have committed non-violent offences and be categorised as non-dangerous and low risk after release, and thus there is a very real question as to why they are imprisoned at all if they do not pose a risk and a custodial sentence would harm their children.' This strong and principled statement applies even more powerfully when we look at imprisonment on remand. There is an urgent need to radically reform remand decision making in respect of women and, in particular, pregnant women and women with children. While the law on remand may have changed, it appears that cultural practices have not. And behind the statistics lie real human beings, with real human stories, frequently of tragedy and often of deprivation, poverty, disadvantage, addiction and poor health. They and their children must be better served – this will benefit not only them but also the whole society of which we are all a part.

Is Robin Garbutt innocent?

Bill Robertson, CCRC Watch: Diana Garbutt was brutally bludgeoned to death with an iron bar on 23rd March 2010. Her husband, Robin Garbutt, was arrested on 14th April after previously assisting police as a significant witness. He was charged with her murder on 16th April. North Yorkshire Police conducted a flawed investigation into the incident, which has enabled Robin Garbutt to raise a number of issues suggestive of a miscarriage of justice, however all attempts to appeal his case based on police blunders have failed to produce the desired result. The Garbutt's managed a village store and post office. Mr. Garbutt and his wife owned and ran a sub-post office in the small village of Melsonby in North Yorkshire. At some point during the night or early morning of 22nd/23rd March 2010, Diana Garbutt was killed by three blows to her head with what, it was later alleged, was an iron bar. Mr. Garbutt's account to the police was that the post office had been robbed at 08:35 on the morning of 23rd March 2010 by an armed robber, and that the robber or an accomplice must have killed his wife.

Garbutt's trial for murder opened on 21st March 2011. The Jury returned at 10:2 majority guilty verdict on 19th April. He was sentenced to life imprisonment. The jury found that, on the evidence, Garbutt's story about an armed robbery was untrue. Passing sentence, Mr Justice

Openshaw was scathing. He said that Garbutt had shown no remorse over the death of his wife, adding: "He has always accompanied his lies with sanctimonious lies of his love for her. By their verdict, the jury have exposed this as pure humbug. This was a brutal, planned, cold-blooded murder of his wife as she lay sleeping in bed. There was no struggle, she never awoke. He struck three savage blows, smashing her skull and causing her immediate death as clearly, he intended." The story of the armed robber he said was 'ludicrous from beginning to end'.

An appeal was lodged with Criminal Division of Court of Appeal on 11th November. There was a Court of Appeal hearing on 15th May 2012, but the appeal was dismissed. The appeal judges reasoned that the conviction is 'safe' and emphasised the jury's finding that the armed robbery could not have taken place. The Court of Appeal found that Robin Garbutt's account of the robbery was implausible and raised many objections to his version of events. The CoA said: Even if some assumptions were made in G's favour regarding the alleged robbery, the evidence as to the timing of death and its impact on what must have happened was conclusive. If the robbery had occurred in the way G asserted, the robbers would have had to have been at the premises several hours before appearing and taking the money. It was highly unlikely that robbers would have arrived early, done nothing to further the robbery or have gone upstairs when the money was downstairs in the shop. If the robbers knew of the 08.30-time lock on the safe as suggested that was even less reason to arrive hours before the robbery could be effected, or to go upstairs. Further, it was improbable that the robbers would have killed G's wife without him hearing anything and that having killed her, they waited for the safe to be opened, or that they would not have been violent towards G who was alone in the shop. If the robbers had a gun as G alleged, it was doubtful that they would have needed an iron bar, which was the murder weapon. The defence, at trial, relied on the report of another almost identical alleged robbery at the same premises a year earlier, on 17th March 2009. The court heard Garbutt's account of how, at about 08.30am, he had been confronted by two hooded men, with their faces covered, one pointing a gun at him, as he opened the post office safe.£11,000 went missing and the implication is clearly that this was another story concocted by Robin Garbutt. The CCRC: Garbutt has made three submissions to the Criminal Cases Review Commission arguing his innocence. All three have been rejected.

Forensic evidence and 'expert' witness testimony lie at the heart of Robin Garbutt's difficulties. An expert witness said that Diana had died between 02:30 and 04:30am. Dr. Jennifer Miller analysed Diana's stomach contents before expressing her view on the time of death. Robin and Diana had eaten a meal of fish and chips at 8pm. Dr. Miller said that her professional opinion was that Diana died prior to 04:30. Diana was found dead by Robin Garbutt around 08:30 in the morning. Dr. Miller said that death 10 hours after eating the meal was "a very low possibility" and under oath averred; "I think you would struggle to get ... as far as 10 hours...very unlikely".

Dr Jennifer Miller: Dr Miller concluded that digestion appeared to have continued for six to eight hours after consumption until stomach functions ceased as a result of death or severe trauma. Basing her findings on the amount of undigested food content of the stomach and allowing for uncertainties and variables inherent in analysis by this method, she had found "it is quite feasible to suggest that Mrs Garbutt died or was subject to severe trauma to cause hypostasis pylorospasm (i.e., to stop her stomach actions working) at some point six to eight hours after consuming [the fish and chips]. Her findings, therefore, suggested that the time of death was therefore some time, and probably some hours, before 8.30am, i.e., between 02:30 and 04:30. In rejecting Garbutt's appeal, the CoA seemingly placed great reliance on Dr. Miller's testimony and said: "it is the evidence of the

TOD [Time of Death] and its impact on what must have happened that leads us to our conclusion." [COA Judgment Vol 1. Tab 3 Pg 8 para 25:26] A pathologist also gave evidence for the prosecution. He was less dogmatic on TOD than Dr. Miller. Dr. Hamilton stated, "the presence of confluent hypostasis which remained evident at the front of the body for a number of hours after the body was turned is in my view incompatible with an individual who had died immediately prior to the body being turned over." Dr. Hamilton also found that rigor mortis was well established in the large muscle groups by the time of the post-mortem on 23rd March. The paramedics had noted a degree of rigor mortis shortly after 8.30am, which Dr Hamilton stated, "suggests that it is unlikely that the death had occurred shortly before the discovery of the body." In summary, Dr Hamilton found: "I am of the view that death could not have occurred immediately before the discovery of the body and given the above discussed factors I am of the view that death occurred at least one hour prior to that and taking into account the other factors it is more likely that death occurred several hours previously" (Hamilton report page 3).

Thus, from the prosecution evidence it appears that Diana Garbutt was murdered several hours before her body was discovered. Paramedics attending at around 08:45 am described seeing evidence of rigor mortis. Garbutt's campaign to prove his innocence is now focused on disputing the pathological evidence. Fresh evidence relating to time of death: Time of death was critical to the Prosecution case. Mr Garbutt's defence was that his wife must have been killed by the robber(s) who stole the cash from the till. The robbery was just after 8.30 am, as established by the timing mechanism on the safe. If death had occurred some hours before this, as the Prosecution alleged, then Mr Garbutt's account was simply not plausible because, according to him, Diana was alive when he got up at 4.00 am.

The Prosecution expert, Dr Jennifer Miller, gave evidence about time of death, based on her analysis of Diana's stomach contents (summing up page 84 onwards). She stated that severe trauma stops the digestive process. On the agreed basis that Diana's last meal had been fish and chips at 8.00 to 8.30 pm on the night before she died, she stated that digestion was most likely to have stopped 6 to 8 hours later – that is at about 2.30 to 4.30 am (summing up page 85). Even with the acceptance that time of death is rarely an exact science, she stated that death occurring as long as 10 hours after eating the meal was a "very low possibility" (summing up page 87). Plainly, if the jury accepted Dr Miller's evidence, they would have in all likelihood also rejected Mr Garbutt's account that Diana was alive when he got up and left her at 4.00 am and that she had been killed after that by the robbers. Her evidence was central to the Prosecution case.

Those acting for Mr Garbutt instructed Dr David Rouse to prepare a report specifically commenting on Dr Miller's findings. Dr. Rouse is a highly qualified pathologist with circa 20 years' experience. Dr Rouse accepts that timing of death is "a notoriously difficult subject and the general consensus is that the best parameters are between the times when the deceased was last seen alive and when found dead." Dr Rouse has commented on Dr Miller's findings and the literature she referred to in reaching those findings. He concludes that, in fact, Dr Miller's statement as to the probability of death occurring within certain given timescales is incorrect. His review of the literature concludes that, where the stomach contents contain an estimated 20% of the final meal consumed, then a timescale for death up to 12 hours would be within the 95 % confidence limit. In short, he finds that "time of death may have been substantially later and may have been just after 0645 as would have been suggested by Dr Cooper "[defence expert instructed prior to trial].

In a submission to the CCRC, Garbutt's lawyers said: "Dr Rouse's conclusion is stark and, given the centrality of time of death in the evidence in this case, highly significant. It is submitted that his findings alone raise a compelling doubt about the safety of Mr Garbutt's conviction. Those representing Mr Garbutt have also obtained transcripts of the evidence given by Dr. Miller in another recent murder trial, R-v-Tabak (Bristol Crown Court 2011). The evidence given in this case, admittedly on differing facts, is potentially illuminating. In Tabak, Dr Miller gave evidence regarding a victim who had eaten half a portion of "cheesy chips" for lunch, with alcohol. She examined the stomach contents which consisted of 125 ml of semi solid food mixed with stomach lining material. She found that it was very likely that digestion, due to sudden trauma or death, had occurred within eight to ten hours of that last meal (transcript page 7). In the case of Diana Garbutt, her stomach contents also had a volume of 125 ml (statement 28.4.10 page 11). Her last meal was fish and chips. Yet, as stated above, Dr Miller estimated a likely time of death at between six to eight hours after the meal had been eaten. Even allowing for the presence of alcohol in the victim's stomach in Tabak (transcript page 11) the difference in the witness's finding as to time of death are striking.

It is accepted that Dr Miller's conclusions as to likely time of death were, in the above case and in her evidence in Mr Garbutt's case, dependent not just on the kind of food consumed in the last meal, but the amount, and the consumption or non-consumption of alcohol. The facts in these cases are not identical. However, it does appear that Dr Miller's evidence in Tabak suggests a greater latitude or window of possible timings for the point at which digestion stopped and death occurred than she allowed in Mr Garbutt's case. In the Tabak case, it appears that the victim had consumed a meal not dissimilar to that which Diana Garbutt had consumed (in fact possibly less volume) and that 125 ml of food was still present in the stomach eight to ten hours after the meal was consumed. It should also be noted that on Mr Garbutt's account, it would have been usual for Diana to drink alcohol with her last meal. Also, there was an open bottle of red wine with at least one glass having been poured from an open bottle of Amaretto, in the premises on the morning of the murder.

To emphasise the significance of this aspect of the case, we again refer the Commission to paragraph 27 of the judgement of the Court of Appeal. In dismissing the appeal, which had been based on the fresh accounting evidence, the Court stated "On the evidence of time of death, he or they [the robbers] had probably been there [in the post office] several hours before appearing. There is no reason anyone bent on robbery would arrive so early and do nothing to further the robbery." Plainly, not only the jury but the Court of Appeal considered the Prosecution evidence on time of death a major factor in rejecting Mr Garbutt's account. It is submitted that the evidence of Dr Rouse now renders the conviction unsafe".

The CCRC appears unable to accept the significance of Dr. Rouse's evidence, or the fact that it totally negates what Dr. Miller said at the trial. The CCRC said: "It is the view of the Commission that even if it transpired that Mrs. Garbutt was murdered some hours LATER than the 04.30 hours indicated by Dr MILLER as the latest possible time, this would NOT undermine the safety of Mr. Garbutt's conviction."[i] The Statement of Reasons dated 17/07/2017 rejected Garbutt's submission based on the following logic: 74. As stated above, the CCRC 'has reviewed Mr. Garbutt's case on the basis that Dr. Rouse's report is correct, that Dr. Miller was in error and that, according to the stomach content evidence alone, Mrs. Garbutt could have died at any time up to the moment she was found. 75. It is also accepted by the CCRC that, as suggested by Mr. Garbutt's solicitors, paragraphs 25-28 of the Court of Appeal Judgment make it clear that it was the time of death evidence that was determinative of the appeal. 76. It has been suggested by Mr. Garbutt that once Dr. Miller's evidence is disproved, the prosecution would be unable to rule out the possibility that the robbery occurred shortly

after Mrs. Garbutt was killed and that it was reliance on Dr. Miller's evidence as to the time of death window which assuaged the Court of Appeal's concerns about the financial evidence and satisfied them there had not been a miscarriage of justice.

The CCRC concluded: 84.In light of paragraph 27 of the Court of Appeal judgment, in which the Court laid out their view of the inherent implausibility of the actions that must have been taken-by the robbers, it is the view of the CCRC that unless there were to be fresh evidence which disproved the evidence of the pathologists that Diana Garbutt had been dead for at least an hour when her body was found, their evidence alone would provide a sufficient basis on which the Court of Appeal would uphold Mr. Garbutt's conviction. Therefore, it is the view of the CCRC that in the absence of any new evidence relating to the evidence of Dr. Hamilton and Dr. Cooper there is no real possibility the Court of Appeal would find Mr. Garbutt's conviction to be unsafe based on the report of Dr. Rouse.

Dr Miller is not a pathologist; she is an academic. An Associate Professor at Nottingham Trent University. She is course leader for the MSc in Forensic Science and module leader for Forensic Casework Examination (BSc Year 2), Suspicious Death Investigation (BSc Year 2), and Forensic Bioarchaeology (MSc). Her research areas are listed as: Stomach contents analysis to determine last foods consumed, duration, timings & other events for criminal investigation - Gastric transit and digestion in infancy for forensic application - Forensic archaeology: methods for search & problematic human remains recovery - Refining interpretation of non-standard & environmental forensic evidence - Scene examination including interpretation of taphonomy, environmental indicators of contact, duration & timings

Her listed publications are revealing and informative. 24 listed articles on botany and 1 technical paper in 2009, 'Technical paper for the Home Office Forensic Regulator and UK Police Forces'. Thus, it appears that Dr. Miller is in reality a botanist with an academic interest in one aspect of crime scene processing and at the time of giving evidence in the Garbutt case, not very experienced. It appears that someone for the prosecution thought that they needed some expert evidence that undermined Robin Garbutt's account of events and Dr. Miller fitted the bill perfectly. Perhaps significantly, Dr. Miller appears to have published nothing since 2009 on the subject of estimating time of death from stomach contents, which does not suggest the output of an expert.

Professor Bernard Knight CBE. Further opinion on Dr. Miller's testimony has been sought from the acknowledged expert, Professor Bernard Knight CBE. On 3rd August 2013 he wrote: "In regard to the evidence in the case of Robin Garbutt, I have the following observations to make: The main issue is about the time of death and the prime prosecution witness was Dr Jennifer Miller. Having re-read her extensive statement, I appreciate her meticulous approach and as regards the matter of the stomach contents (identifying the nature of the meal as that of the last fish and chips) I am in no position to dispute anything, as this is a specialist forensic science matter which she seems well qualified to handle. The report is very detailed, to the point of overkill, and I wonder with whether it is really necessary for an expert witness to set out all the laboratory procedures for use in court, as no one except herself would really be able to follow them. However, this is hardly relevant.

What does puzzle me is that the evidence about the time of death, extrapolated from the stomach contents, was given by a witness who is basically a botanist and archaeologist, as such evidence is normally given by a forensic pathologist and where necessary, a hyper-expert such as a clinical gastroenterologist. It seems unusual for no medical witness to have given any evidence about the time of death based on gastric contents, unless the pathologist himself covered this matter. Having been involved in many thousands of post-mortems, I

have had the opportunity of seeing an equal number of gastric contents and have observed the great variation in quantity and state of digestion, including those where the time of the last meal and the time of death were not in dispute. This has led me to be very wary of setting strict time limits on the time of death for a wide variety of reasons. I say this because I feel it is really the province of a forensic pathologist to offer opinions on the time of death derived from a variety of means, including gastric contents. To have the prime evidence given by a forensic scientist who has never performed a postmortem examination (on humans) and thus never had the chance to note the timing discrepancies that arise, seems an unusual situation.

Nothing in Dr Miller's statement is intrinsically incorrect, but I feel that she has not appreciated the full extent of variables, which dog all attempts at determining the time of death. In a number of places, she rightly offers references to other scientific publications, almost all by pathologists, a number of these being my own ... and in fact, she alludes to the uncertainty expressed by those. In all these, pathologists endlessly point out the dangers of being too dogmatic in using fixed parameters based on gastric contents, which have often proved fallacious. If the evidence of Dr Miller is to be further scrutinised and possibly challenged, I would have thought it necessary to obtain such expert opinions from those people who know most about the passage of food through the intestines."[ii]

The CCRC appears embarrassed to acknowledge that Dr Miller was not a reliable forensic expert witness. The CCRC's approach to such issues was summarized by the CCRC as follows: Selection and Instruction of Experts 2.4 Criticised expert witnesses, lawyers, or other professionals 2.4.1 An application to the CCRC may include an assertion that the expert opinions or evidence at the time of the original trial were flawed. If so, the CCRC may contact the expert(s) at trial and invite a response to any such criticism. 2.4.2 In order to assist in assessing the validity and strength of any such criticism, the CCRC may obtain a report from a new expert. If so, the trial expert(s) may be invited to comment on any such report

The CCRC has declined to obtain a report from a new expert. Thus, despite the evidence of Dr Miller now being regarded by the CCRC as unreliable, they have simply reverted to the testimony given by the pathologist Dr Hamilton, who said that at 08:30 am Diana Garbutt had been dead for at least an hour and possibly longer. However, the CCRC has no way of knowing what impression Dr Miller made upon the jury or the judge and whether her testimony was in fact the crucial factor in Robin Garbutt's conviction. Perhaps of greater significance is the fact that the CCRC has not reported the shortcomings of Dr Miller's testimony to any other body in an attempt to prevent her from giving similar problematic evidence so emphatically in other criminal trials. The CCRC policy is stated thus: Disclosure by the CCRC 20 Material Which Indicates Significant Misconduct or Negligence 20.1 There may be occasions where the CCRC discovers evidence of significant misconduct or negligence by a police officer, or an officer or other person employed by an investigatory authority, or by any other person working in the Criminal Justice System. Careful consideration will be given as to whether disclosure can and should be made to an appropriate person / body.

Surely, if the CCRC was a serious authority on criminal appeal matters, it should have reported the failings of Dr Miller's approach to relevant authorities? As Professor Knight said: "What does puzzle me is that the evidence about the time of death, extrapolated from the stomach contents, was given by a witness who is basically a botanist and archaeologist". Professor Knight pointed out that the Police and/or Crown Prosecution Service (CPS) had obtained expert witness testimony to bolster the case against Robin Garbutt, perhaps wishing to utterly negate any sug-

gestion that Diana Garbutt was murdered by the alleged post office robber(s). Perhaps the police/CPS were not willing to rely on the evidence of the pathologist, Dr Hamilton, who was less favourable to the case against Robin Garbutt about time of death. Additionally, the fact that Dr Miller gave very detailed (and unnecessary) evidence about the scientific procedures involved in her work methodology could only have impressed the jury even further that she was an important scientific expert in the topic she was outlining – which was not in fact the case. It should be the duty of the so-called miscarriage of justice 'watchdog' to question the Crown Prosecution Service as to why such important evidence was sought from someone who cannot in any sense be regarded as a reliable expert witness. Was the use of Dr Miller in giving evidence an act of deception on the part of the prosecution?

The apathy of the CCRC means that it has failed to ensure that the botanist Dr Miller does not give crucial pathological evidence in murder trials. Clearly, as Professor Knight says, it is utterly inappropriate for an academic botanist who has never conducted an autopsy to be regarded as an expert witness regarding time of death questions. The CCRC should be actively seeking the cooperation of the CPS in preventing such fraudulent practices as used by the prosecution in the case of Robin Garbutt. Especially so as it is well known that the Court of Appeal frowns upon the suggestion that the defence may find a "bigger and better expert" at the appeal stage to counteract the original trial expert. Such guidance from the CoA encourages the CCRC to 'protect' the original expert witness from criticism by refusing to countenance the new evidence of a 'bigger and better' expert such as Dr Rouse. The fact that the police and the CPS can get away with such flawed practices in relation to expert witness testimony can only serve to prolong allegations of miscarriages of justice by alleged victims such as Robin Garbutt, which if true can leave innocent victims languishing in prison unable to overturn their wrongful convictions. Despite being established with the express task of finding the truth of claims of innocence by alleged victims of miscarriages of justice, by not objecting to this practice the CCRC is contributing to the problem rather than resolving it.

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McGurk's Bar Bomb Attack Report Quashed "In Its Entirety"

Alan Erwin: Belfast Live: A contentious police report into the McGurk's Bar bomb atrocity is to be quashed in its entirety, a High Court judge ruled today Wednesday 29th June 2022. Mr Justice Humphreys ordered complete binning of the Historical Enquiries Team (HET)'s review because findings within it of no bias in the original RUC investigation were irrational. He said: "It is not possible to remedy this legal wrong by mere excision." The verdict represents victory for relatives of those killed in the loyalist attack on the pub in North Belfast - one of the bloodiest in the history of the Troubles. Fifteen people were murdered and many others injured when an Ulster Volunteer Force bomb detonated on December 4, 1971, causing the building to collapse.

In 2011 Northern Ireland's Police Ombudsman identified investigative bias in how the RUC handled the case. The watchdog concluded that detectives failed to properly probe loyalist paramilitary responsibility for the bombing because they were so focused on the mistaken view that the IRA was to blame. At the time of the attack it was suggested that it may have been an accidental "own goal". But a separate review in 2014 carried out by the police's now defunct HET reached a different verdict. It claimed there was no evidence of any bias on the part of the RUC investigators. Those findings were challenged by Brigid Irvine, whose mother Kathleen was among those killed in the attack. Despite the court being told back in September 2015 that

the Chief Constable at the time, George Hamilton, was no longer contesting the Police Ombudsman's conclusions, Ms Irvine's lawyers continued to press for the entire HET report to be quashed. At a hearing last month it emerged that the PSNI has accepted the finding of no investigative bias was irrational and contrary to the weight of evidence. The judge said those concessions rendered the HET's conclusions on the issue "wholly ill founded, unsustainable and illogical". "It is rare for a public authority to admit that it has behaved irrationally," he said. Competing submissions centred on a dispute about whether the report should be edited or completely scrapped as a "nuclear option". Senior counsel for Ms Irvine claimed the court had been misled for years into believing the Chief Constable saw nothing unlawful about the HET's conduct. Seeking full expungement of the HET review findings, he argued that the victims' families were stigmatised for years after the bombing because police wrongly briefed politicians and the public that it had been an IRA attack. Lawyers representing the Chief Constable resisted those calls by insisting everything else in the report is unimpeached.

However, Mr Justice Humphreys decided against an alternative option to remove references to the issue of investigative bias. "Having carefully considered the competing positions, and recognising that there is much in the HET report which is uncontroversial, I have nonetheless concluded that the proportionate and efficacious remedy is for the court to quash the HET report in its entirety. The findings in relation to investigative bias are infected by irrationality and it is not possible to remedy this legal wrong by mere excision. To do so would cause the HET report to fail to meet its stated objectives and, in particular, render it incapable of addressing a key issue as far as the applicant and the families of the victims are concerned."

Kathleen Thompson Inquest: Soldier's Shooting of Derry Mother-of-Six 'Unjustified'

BBC News: An inquest has ruled that a soldier was unjustified in firing shots that killed a mother-of-six more than 50 years ago. Kathleen Thompson, 47, was shot dead in the back garden of her home in Londonderry in 1971. An inquest in 1972 into Mrs Thompson's death returned an open verdict. The attorney general ordered a fresh inquest in 2013. This inquest started in 2018, but was adjourned to allow time to trace three soldiers and resumed in 2021.

Mrs Justice Sandra Crawford ruled that the fatal shots were fired by an individual know as Soldier D as the British Army withdrew from the South Way area of Creggan following an arrest operation in the area. The coroner said Mrs Thompson had gone to the rear of her home in Rathlin Drive and was banging a bin lid or another object on the ground to warn people of the army's presence when she was shot. She said that Soldier D had claimed he had opened fire after he was fired upon, and was thus acting to protect himself and his colleagues. The coroner said: "I cannot be satisfied that Soldier D held an honest belief he was under fire."

'Long and painful journey' - Speaking outside the court following the ruling, Mrs Thompson's family welcomed the finding and "the acknowledgement that our mother was a totally innocent civilian whose killing was never properly investigated at the time". A statement, read by Mrs Thompson's daughter Minty, said: "There was no justification for her killing and it's hugely important for us and for the wider community that the truth should be established, even though real justice remains elusive. "The legality of this killing should have been tested in a court of law with a prosecution at the time. This has been a long and painful journey for us, we should not have had to fight for justice. We wish to direct a question to the secretary of state Brandon Lewis - on the very day we received the findings from the coroner, you are railroading through a law that will deny other families the legal right to inquest. You're a qualified barrister, yet you intend to

deny families here justice. Have you no shame?" The government has stated that current legacy arrangements are not working. However, by coincidence on the day it is advancing legislation, come two court outcomes which, in the view of opponents, undermine its argument. It wants to ban all future inquests and civil actions related to the Troubles. Today, some victims' families found huge merit in having their day in court. In the case of Kathleen Thompson, an inquest found a soldier was not justified in shooting her. The other case was a civil action by relatives of those murdered in the McGurks Bar bombing. They had a police report quashed by a judge. But what happened today is not going to change the bigger picture. The government has embarked upon a course of action which it is highly unlikely to deviate from.

Pre-Trial Cross Examination of Witnesses: "Inimical to the Interests of Justice"?

Transform Justice: Has the government shot itself in the foot when it comes to protecting victims' interests? It has trumpeted the expansion of pre-trial cross examination of vulnerable witnesses as a huge step forward in making the justice system better for victims. But is it really? There are some witnesses who would probably never give evidence live in a Crown Court. They are too young or too afraid (for good reason) to face the formality of a court and the many players in it, including often the defendant. Courts take special measures to protect vulnerable witnesses (often victims) and defendants. One of these is Section 28 or pre-trial video cross examination of witnesses. It was piloted in 2014. The idea was that one bit of a criminal trial – the pre-trial cross examination of witnesses – should be fast-tracked and held in the least stressful way possible. So, when all the parties are ready – often months after charge but months before the rest of the trial – the defence and prosecution lawyers assemble in the court (with the judge presiding) and cross examine the witness who is linked to them on video from another room in the court. The video of the cross examination is then kept until the trial when it is played to the jury as part of the prosecution evidence.

There are huge advantages to a witness in having a section 28 cross examination – they don't have to wait months or years for the trial, they don't have to be in the same room as the defendant, and their cross examiner is at one remove from them – on video. But is it good for the justice system and for justice itself? The system has been massively expanded without anyone actually knowing what impact it has on justice outcomes. I blogged on this in October 2016 and we still don't know. The Ministry of Justice had just published a process evaluation about section 28. A process evaluation is, as it says on the tin, about process not outcomes. So it couldn't properly assess the impact of section 28 on whether defendants decided to plead guilty, nor on the outcome of trials if they maintained innocence. It didn't even set up proper criteria for selecting which witnesses would definitely benefit psychologically from giving pre-trial evidence on video. But victims' groups have put pressure on the government and the court backlog continues. Hence the expansion of section 28 to more areas and to a wider variety of witnesses including victims of knife crime. But there are many detractors. They point out several reasons why its not working.

Many prosecutors think juries may be biased against this evidence. This is not juries' fault. There is a huge difference between watching a cross-examination live and watching a video. Video produces a disconnect, live or not. Also pre-recording the evidence means juries cannot ask any extra clarification questions. Max Hardy, who often prosecutes in such cases, tweeted "I have misgivings about how impactful evidence is when watched by a jury on a screen recorded months before a trial. Live link has a real place but sometimes there is nothing like being in the room with the jury". If the jury is disconnected from this evidence they may be more likely to acquit, which does not serve the needs of victims.

Section 28 plays havoc with court listings and thus may not actually reduce the court backlog (though does undoubtedly reduce delay for witnesses). The pre-recorded cross examination is day one of the trial, but has to be listed way before the rest of the trial. This means getting all involved in the trial booked for one day. "S28 causes massive disruption to the diaries of legal professionals as they have to be available for the s28 hearing and then for the trial. It also adds to the burden of case preparation meaning that the case has to be prepared twice". So great have been the difficulties in listing that the government has now said (Criminal Procedure Rules, Practice Directions amendment March 2022) that it is not essential to have continuity of defence counsel – so a different defence advocate may do the pre-trial cross examination from the trial itself. As solicitor Stephen Davies points out: "The Defendant is left in an invidious position speaking to multiple lawyers, at the most pivotal time in their life". The government are struggling to find defence counsel willing to take on section 28 cases (and it typifies the kind of case barristers are striking about now) since, even if they stay on the case, they do double the work of a normal trial without double the pay.

We all want to improve victims' experiences of the criminal justice system but the delays in our system and its adversarial nature make this a tall order. It is very difficult to make a highly adversarial system victim and witness friendly. The Secret Barrister sums this up brilliantly in their latest book "Nothing but the truth". "Academic justifications don't change the fact that when standing in court and advocating on behalf of my client, I may well be compounding the already unbearable suffering of an entirely innocent victim of the most hideous abuse. When I put to her that her complaint is vindictive…deriding her evidence as a fabrication, I am giving voice to her worst fears…Even though a not guilty verdict does not necessarily mean that a jury thought the complaint was false…a victim may carry that verdict, and my words to her, for ever, as a vindication of what she suspected all along; that there was no point, because the system was never truly going to believe her". Pre-trial video cross examination saves a witness from being accused of lying in front of a live audience, but may increase the chance of an acquittal, which will in turn lead to a lack of faith in the system. When a prosecutor says Section 28 is "actually inimical to the interests of justice" and a defence barrister says "S28 cases will very soon cause the whole system to grind to a halt and topple over the cliff" surely we should at least pause the roll-out?

Court of Appeal of Trinidad Quashes Manslaughter Convictions

Court of Appeal of Trinidad and Tobago quashed the manslaughter convictions of Roger Mootoo, Phillip Boodram and three others. The Appellants were represented by Edward Fitzgerald QC and Paul Taylor QC, leading Rajiv Persad and a team of attorneys from Allum Chambers in Trinidad.The Appellants had been convicted in 2017 and sentenced to 28 years imprisonment with hard labour. The prosecution alleged that the deceased had been killed in a drug related revenge attack, and relied on the accomplice evidence of Roderique. The Court made comprehensive findings in relation to adverse publicity, non-disclosure (describing the prosecution stance at trial as having generated "profound disquiet"), the need for an accomplice warning, misdirection on lies, and the unviability of the prosecution case on manslaughter. They further found for the appellants on the rare ground of lurking doubt. The prosecution did not seek a retrial. The group's appeal centered around how the presiding judge in their trial handled the evidence of the State's main witness Nigel "Cat" Rodrick, who implicated them for the murder of Samdaye Rampersad.

Death of Jermaine Baker - Most Damning Failures by the Metropolitan Police Service

Lucy Mckay, Inquest:The Report of the Jermaine Baker Public Inquiry has identified a catalogue of the most damning failures by the Metropolitan Police Service from the moment the operation was conceived, throughout its planning and right through to its implementation on the morning of 11 December 2015 when Jermaine was fatally shot. However, it has fallen short of expectations by concluding that Jermaine was lawfully killed and finding the failures identified did not contribute to his death. Key issues identified include the following:

Jermaine and associates had plans to intercept the transport of a prisoner, Izzet Eren. The overarching criticism is that those in command decided at the outset to allow the prison van to take Izzet Eren to Wood Green Crown Court to be sentenced in order that the police could intercept those who would be present to assist his escape. This was based on a 'delusional' idea that the operation could rid the streets of North London of firearms; The judge concluded that '…whatever lip service may have been paid to considering other options, there was never in reality more than one.'

Having made that decision the officers failed to inform agencies that were directly affected by the plan to let the escape run, namely the prison holding Izzet Eren, Wood Green Crown Court and Serco which would be involved in transporting him. The judge found that these failures involved directly misleading the Court and the prison and occurred because the senior officers did not want those agencies to thwart the plan. Unsurprsingly the judge found that the conduct of the officers "was indicative of an arrogant, dismissive attitude towards formality and a failure to appreciate the importance of accountability". This also revealed itself in his finding that the only steps taken by DCI Williams to minimise the risks to all persons potentially affected by the operation was to establish a geographical tipping point that meant that the Audi would never come into contact with the Serco van.

Equally unsurprisingly therefore he concluded that 'powers and policies and European Convention on Human Rights principles were given, at best, scant regard; '"DCI Williams had, as TFC [Tactical Firearms Commander], an agenda without sufficient consideration for Article 2 [Convention] principles; 'The planning of operation Ankaa fell short of that which would have been reasonable, in particular having regard to the need to minimise to the greatest possible extent the risk to life'.

The judge also found 'There were several instances where efforts were made – which could only be described as examples of institutional defensiveness – to justify what others might see as a blurring of roles or an extensive level of incompetence.' The judge concluded that the Control room set up to manage the operation on the morning of 11 December was incompetently established and run and 'not fit for purpose'. The most damming finding is that the audio equipment which enabled officers to listen to what was being said in the Audi was not properly installed. Had it been it would have been known that the occupants of the vehicle were only in possession of an imitation firearm. Instead, and again through failings on the part of DC Williams and others, the message relayed to the officers left them believing that the occupants were definitely armed with a real firearm. Because the senior officers were intent on letting the operation run as long as possible they failed to recognise that they had enough evidence to make arrests an hour before the firearms officers intervened, failed during that hour to gather any evidence that would have assisted the firearms officers in understanding the environment in which the vehicle was parked and where the arrests would be made. The chair also expressed serious concern that police officers have been able to avoid disciplinary proceedings.

Ms Margaret Smith, Jermaine's mother, said: "Jermaine was dead before he got in that car. His life was taken for no good reason – as I have always said he should have gone to prison like the rest of the men in the car. I therefore cannot agree with the judge's conclusions that Jermaine did not die as a result of these failures. That is a conclusion that I can not understand and the judge has not explained why he has drawn that conclusion. After seven years of waiting and two months of evidence we deserved more."

Michael Oswald, solicitor for the family, said: "Given the extent of these failings and the obvious role they must have played in Jermaine's death, the family is at a total loss to understand how the judge can have come to the conclusion that Jermaine did not die as a result of those failures. The judge's findings in relation to W80 are ones which cause the family acute concern. They cannot comprehend how in the face of the expert evidence and common sense the judge can have found that Jermaine was moving his hands towards his man bag when W80 shot him. In light of this extraordinary finding the family can only conclude that the judge wanted to do all he could to exonerate W80."

Anita Sharma, Head of Casework at INQUEST, said: "It's difficult to comprehend how such catastrophic failings were not assessed by the judge to have contributed to Jermaine's death. As the Metropolitan Police is subject to special measures, this report is yet more evidence of the systemic failures of this force, and harmful policing practices nationally. We must see accountability for those involved in Jermaine's death, to send a message to police leadership and officers that they are not above the law. The failure to hold police to account breeds impunity which ultimately allows deaths and harms to continue. Scrutiny of previous fatal police shootings has revealed serious failings in firearms operational planning, intelligence, and communication. There has been an institutional failure to enact change, which cannot continue."

AG Accused of 'General Attack' on Juries in Colston Four Case

The attorney general has been accused of mounting 'a general attack upon the use of juries' as she asked the Court of Appeal to give guidance following the acquittal of the so-called Colston Four. Four people were charged with criminal damage after the statue of slave trader Edward Colston in Bristol was pulled down in 2020. They were all found not guilty by a jury in January, after which Suella Braverman referred the case to the Court of Appeal.

The verdicts cannot be reversed, but the attorney general has asked the court to rule that the question of whether convicting a defendant of criminal damage is a disproportionate interference with their human rights should not be left to a jury. 'No balancing exercise is appropriate,' Tom Little QC told the court today. 'Damage to property is – like violence to the person – a simply unacceptable way to engage in political debate.' He said that 'the protection of property rights … is in the pursuit of a legitimate aim' in relation to Articles 9, 10 and 11 of the European Convention on Human Rights. 'Acts of criminal damage, whether it be that statue, whether it be other statues in many other towns or cities around the country, [they] cannot be pulled down and damaged in the way that this was in pursuit of or pursuant to the rights under Articles 9, 10 and 11,' Little added. He also said in written submissions: 'Criminal damage is within the category of offences where any proportionality balance which may arise is struck by the terms of the offence-creating provision, without more ado.'

But lawyers for one of the Colston Four said the attorney general's argument 'extinguishes the role of the courts to review the convention compatibility of a criminal conviction that restricts expression in individual cases once the offence has been deemed to be intrinsically proportionate'. Clare Montgomery QC argued in written submissions: 'This is, at its core, fundamentally at odds with the constitutional shift brought about by the [Human Rights Act 1998] in the protection of rights of expression and assembly.' She also said that juries – 'by far the most reliable arbiter of society's views on fairness and balance' – are capable of making value judgments, giving the example of where they must decide whether a defendant has used reasonable force. 'The fact that the jury may have to weigh competing values does not present particular difficulty,'

Montgomery said. 'Juries are often asked to make judgments about balance in relation to moral as well as legal issues. Decisions about dishonesty, abuse of position, indecency, as well as reasonable excuse often involve difficult questions of judgment.' She added: 'The suggested difficulty of inconsistent or unreasoned decision making is no more than a general attack upon the use of juries rather than a reasoned basis for denying a jury trial to direct action protesters.'

Human rights group Liberty, which has intervened in the case, said that 'it is incumbent on the court, as a public authority, to justify an interference with the right to protest'. Jude Bunting QC argued: 'The wider concerns expressed by the attorney general (about the potential for inconsistency, the lack of reasons given for jury verdicts, the difficulty for a defendant to challenge a jury verdict on irrationality grounds) are really concerns about the jury system as a whole. Those concerns are over-stated. The constitutional importance of the jury in finding facts ought not be under-stated.' In a statement, the attorney general said: 'Trial by jury is an important guardian of liberty and critical to that is the legal directions given to the jury. It is in the public interest to clarify the points of law raised in these cases for the future. This is a legal matter which is separate from the politics of the case involved.'

HMP Brixton: 'A Prison in Trouble'

Jon Robins, Justice Gap: Prison inspectors have called HMP Brixton 'a prison in trouble' with prisoners 'breaking the rules without challenge' from staff who either 'did not have high enough expectations or turned a blind eye'. Staff-prisoner relationships were described as 'dysfunctional' and '[lacking] professional boundaries', according to the latest inspection of the category C resettlement prison which has a normal capacity of 509 but was holding 720 men at the time of inspection.

'Prisoners were free to vape around the jail, the dress code was not enforced, and some prisoners appeared to be permitted to spend much longer on the phone than others,' wrote chief inspector Charlie Taylor. 'It took inspectors a long time to walk from one end of a wing to the other because they were stopped by so many prisoners eager to express their exasperation with life at the prison and their inability to get the support they needed to complete their sentence and prepare for release,' he continued.

Many prisoners shared 'tiny, cramped, and dilapidated cells with inadequate furniture and graffiti on the walls', inspectors found. It was reported that there were 'not nearly enough activities' for prisoners and, on G wing which holds vulnerable prisoners, there was 'even less to do'. 'If this wing is to remain, leaders in the prison and at the prison service will have to give some serious thought to how they improve provision to this largely compliant but frustrated group of prisoners some of whom, if they are not given suitable support or access to treatment programmes, could pose a risk to the public when they are released.'

The report was published on the same day as a second on HMP Mount, a category C prison near Hemel Hempstead holding about 1,000 men and both found that most men were locked in their cells for 22 hours per day and more on weekends. The report highlighted officer shortages which had been a problem 'well before' the COVID-19 pandemic and, at the inspection, 40% of staff could not be deployed to operational duties. 'As such, the regime remained severely restricted, and time out of cell was poor, with many men locked up for 22 hours a day.'

'We found a prison that was deteriorating to the extent that in every healthy prison test the establishment was judged poor or not sufficiently good,' Taylor wrote of their last 2018 visit. Inspectors reported no improvement in outcomes for respect and purposeful activity but an improvement in terms of safety, now reasonably good, and a 'slight improvement' in rehabilitation and release planning.

However inspectors noted that continued failure to deliver work and activities was 'completely undermining' the prison's stated purpose as a training establishment. Inspectors pointed to staff shortages and noticed that a 'significant percentage' of new officers had resigned within their first year.

'When someone is in trouble with the law, we should do all that we can to guide them away from crime,' commented Andrew Neilson, director of campaigns at the Howard League for Penal Reform. 'Locking them in a cell with nothing to do for hours on end is never going to help them turn their lives around. Brixton and The Mount are meant to be prisons that prepare people for life after release, but today's reports reveal the gulf between this aspiration and the grim reality for those living behind bars.'

In the Cause "D" Against The Bishop's Conference Of Scotland

In the 1970s, when the pursuer was a teenager, he attended a residential school inScotland. The pupils at the school were boys who were aiming to become priests in the Catholic Church. The pursuer was sexually abused at the school, by a priest who was his Spiritual Director. After further education and training, the pursuer became a priest. He worked as a priest for a lengthy period, but eventually left the post. He now claims damagesfor loss said to have been caused by the abuse, including having to leave the post. The summons seeks payment of £2,250,000, plus interest. The defenders are the trustees of the Catholic National Endowment Trust, known as The Bishop's Conference of Scotland. The defenders admit that the sexual abuse occurred and accept liability for any loss, injury ordamage that was caused by the abuse. The key issues in dispute between the parties are: (i) causation (whether the pursuer's departure from the priesthood was caused by the abuse); and (ii) if so, the quantification of any resulting loss. The case called for a proof before answer, over eight days, conducted remotely using WebEx.

Conclusion: For many years, the pursuer carried out his role as a priest in an effective and well-respected manner. However, as a teenager in secondary education working towards being apriest, he had been subjected to vile sexual abuse by his Spiritual Director. This trauma hastormented him for many years. His personality, his ability to function and indeed his lifewere impaired by it. He did what he could to block from his mind the memories and effectsof the abuse, but there came a point in time when he could no longer do so. As a perhapsobvious consequence, remaining in his role as a priest became burdened with intolerable difficulties. The loss he sustained and continues to suffer can never adequately be addressed merely by an award of damages. However, in assessing compensation I have concluded that the award of damages should include £55,000 for solatium and £400,000 forconsequential loss arising from leaving his post as a priest.

CCRC Warns Serious Risk' of MoJ's as a Result of 'Inadequate' Legal Aid Rates

Jon Robins, Justice Gap: The watchdog has called for an increase in legal aid fees for lawyers conducting appeals work as the barristers' strike entered its second week. The CCRC has published its submission to the independent Criminal Legal Aid Review highlighting 'the dangers' posed by 'inadequate levels of representation' during police investigations and trials with 'the serious risks of miscarriages of justice occurring as a result'. The watchdog also flagged 'poor (or no) representation' in police interviews, 'incomplete requests for disclosure' and 'ill-informed guilty pleas as obvious causes'. '[These] created more issues for resolution in the appellate courts and by the CCRC,' the CCRC says. 'We consider that there is a strong case that better investment at first instance would be repaid by a reduction in the higher costs of appellate work. This in turn will increase efficiency, strengthen public confidence in the legal system and most importantly, avoid miscarriages of justice.'