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Man Kept on Remand for 6 Months - Freed on First Day of Acid Attack Trial

Owen Bowcott, Guardian: A judge has called on the Crown Prosecution Service to expand its review of disclosure failures after a man spent six months in prison accused of carrying out an acid attack only to be freed on the first day of his trial. Anthony Brack, 51, would have faced up to 16 years in jail if convicted, but when the case eventually came to trial on Monday the prosecution offered no evidence at Liverpool crown court.

The judge, Steven Everett, criticised both the CPS and the police after evidence emerged belatedly showing the victim had a medical history of burning herself with bleach and CCTV footage undermined her account of events. Everett said he was astonished that the medical evidence had not been seen earlier, adding: "On the face of it, it seriously undermined the case." The case, reported by the Liverpool Post, is the latest in a series of failures by the police and CPS to disclose crucial evidence to the defence ahead of trials. Most of the previous high-profile cases involved rape or sexual assault charges that were dropped after data downloaded from mobile phones contradicted the victims' accounts.

However, a number of other types of cases have collapsed recently, showing the severe strains on the criminal justice system chiefly due to the massive volumes of digital evidence now associated even with routine cases. Everett told the court: "Disclosure is a major issue as we all know and has been for a little while following various acquittals to people charged with rape. "I am beginning to have real concerns that what really happened was that there was a review for rape and sexual assault allegations and the review was limited to that. I don't know if that is right, but if that is right then the review was seriously flawed … the CPS and police will have to look at other case notes where there are assaults – not just sexual assault."

Suzanne Gower, the managing director of the Centre for Criminal Appeals, which investigates miscarriages of justice, said: "This case is a stark reminder that failures by police and prosecutors to turn over vital evidence are not limited to rape cases."

A CPS spokesperson said: "We keep all cases under continual review. Following receipt of further information from the police at the start of the trial we concluded there was no longer a realistic prospect of conviction and stopped the prosecution. We note the comments of the judge and will work with the police to review the handling of this case and any lessons which can be learned."

Appeal Court Rules That Ministerial Code Does Not Dilute Human Rights

Diane Taylor, Guardian: Human rights campaigners have lost a challenge against Theresa May in the high court in which she was accused of abandoning the longstanding principle that members of the government should be bound by international law. In a hearing at the court of appeal last week, campaigners from the Gulf Centre for Human Rights (GCHR) argued that ministers had abandoned their commitment to abide by international law after rewriting the ministerial code in 2015.

The code has been in existence since 1997 and sets out the standard of conduct expected by ministers. In 2010 the code wording pointed out that there was an "overarching duty on ministers to comply with the law, including international law and treaty obligations, and to uphold the administration of justice and to protect the integrity of public life".

In the current version of the code, that sentence has been edited to say only that there was an "overarching duty on ministers to comply with the law and to protect the integrity of public life". Critics said changes to the code had far-reaching implications for the UK and its relationship with the rest of the world.

GCHR brought the case against May and the Cabinet Office minister David Lidington after the Guardian revealed the edits to the ministerial code. Key issues affected by the change could include decisions about whether to go to war or use military force, about decisions made by an international court about the UK, and about any laws not incorporated into English law, such as human rights legislation and the Geneva conventions, lawyers said. When the Guardian revealed the deletion, the Cabinet Office denied that there was any intention to weaken international law and the administration of justice by omitting the phrases.

In their judgment on Wednesday 01/08/2018, the lord chief justice, Lord Burnett, Sir Terence Etherton, master of the rolls, and Lord Justice Hamblen found that the arguments of the human rights campaigners were "unsustainable" and that despite the change in the wording of the ministerial code, the "overarching" duty to comply with the law included international law and treaty obligations even though these words were no longer explicitly included.

Sue Willman, solicitor at Deighton Pierce Glyn, who acted for GCHR, said: "While a disappointing conclusion, this is a positive judgment from the court of appeal that now clarifies that ministers are indeed still obliged to respect international law despite David Cameron's secret change in wording, which could have otherwise been left open to a narrow interpretation by the government. This is a welcome reassertion of the application of international law to central government given that the deletion was part of a package of measures intended to water down Britain's human rights commitments in the Conservative party's pre-election human rights manifesto."

Adopt Inquisitorial Criminal Justice System in UK, Charity Urges

Owen Bowcott, Guardian: The UK's criminal justice system should switch to a continental-style inquisitorial process, pay defence and prosecution lawyers fixed salaries and do away with the burden of legal aid, according to a prominent social charity. The radical proposal is contained in a policy paper from Toynbee Hall in the East End of London which has historically pioneered schemes, including the provision of legal advice, to support the disadvantaged.

The document argues that legal aid should be replaced by a national legal service and that the adversarial system used in most courts should be abandoned in order to give judges greater powers and responsibilities. Simply increasing the money available to fund existing structures that are already failing will not solve the problem, the report says. The main author is Richard Lomax, who has worked both as a defence solicitor and as a prosecutor with the Crown Prosecution Service. Such a changeover could save up to £1bn a year, he says, provide stable incomes for lawyers, remove opportunities for fraud and solve the problem of "advice deserts" which have emerged where solicitors give up on professional areas that are not sufficiently rewarded by legal aid fees.

"Legal aid undoubtedly helps some indigent defendants and litigants," the report states. "Equally it undoubtedly provides many lawyers incomes. Inevitably many of them have voiced their disquiet with the cutbacks forced on public legal services and the sticking plaster expedients that government resorts to. Sadly, the solutions they propose are inadequate. However, much they protest there will never be the money the system needs. The resources problem cannot be ignored or wished away. Political parties – whatever they may have said in opposition – will not make the resources available when in office."

The Anglo-Saxon style adversarial procedure is inherently inefficient, the report maintains. “Providing advocates for impecunious defendants … giving public money to private sector lawyers is virtually unknown outside the UK. It is exceptionally costly.” In support of his argument Lomax quotes a recent speech by Sir Brian Leveson, the president of the Queen’s Bench Division, about the criminal justice system in which he suggests learning “from continental approaches” and France’s investigatory magistrates.

Several years ago, the then lord chief justice, Lord Thomas of Cwmgiedd, suggested that a judge-led, inquisitorial system may be a better way of conducting family and civil cases where litigants are unrepresented. “The provision of legal services via publicly financed, privately managed solicitors and barristers has a history of massive cost overruns,” the Toynbee Hall report says. “Attempts to contain costs have created advice deserts. It is time for a public sector salaried national legal service, financially secure and universally available.” Switching over to an inquisitorial system would save large sums on lawyer’s fees, it is argued. More judges, however, would need to be employed. The proposals are unlikely to be welcomed by most of the legal profession, which is deeply committed to the tradition of adversarial justice.

Inquisitorial system' v ‘Adversarial system'

Where at trial if the Expert witnesses prosecution/defence cannot agree on the facts of the evidence to be presented to the court, they should be barred from giving evidence to Juries!

Where cause of death is not determined - no murder charges should be brought!

If medical experts cannot determine the cause or mechanism of death, then how can a jury?

In the absence of strong evidence of murder, a case should not be prosecuted.

Evidence should not be allowed into court where prosecution and defence cannot agree on the value of the evidence.

There is a very strong case for using the 'inquisitorial system' used in Europe, rather than the 'adversarial system' used in the UK justice system.

'Inquisitorial system': The evidence/facts should be agreed before the trial proceeds; if the prosecution and defence cannot come to agreement, then the disputed evidence/facts should not be allowed into court to be presented to a jury. This is the common procedure in most other European Countries.

'Adversarial system': In the UK ‘adversarial system', juries can be susceptible to misdirection, by expert witnesses, based on expediency, distortion of facts, tunnel vision or malfeasance, and the bottom line is that no-one is ever held responsible. Tragedy is followed by cover-ups, the logic of the ostrich, and still it continues.

In the Angela Canning trial using the UK 'adversarial system’, the jury were forced to rely on the expert witnesses who had given contradictory evidence". This also happened in Nick Tucker's trial and happens all too often in other murder trials and leaves the jury in an unenviable position of having to make a judgement on something they know nothing about.

A new study that the Home Office has set up, at the behest of Ludovic Kennedy, being carried out by the British Institute of International and Comparative Law, to compare our 'adversarial system' against the European 'inquisitorial system'.

In Europe they use the 'inquisitorial system’ If it's a science, then the facts should be agreed before the trial proceeds; if they cannot come to agreement, then it should not be allowed in court, as the onus is on innocent until proven guilty. An inquisitorial system in forensics would go a long way to prevent miscarriages of justice and the unnecessary suffering that the innocent, and their families, have to endure.

Not to be Sniffed at: £52,800 if You Can Catch and Kill Sombra

A dog whose drug-sniffing skills have led to the capture of at least 245 people and the seizure of nine tonnes of cocaine from a gang has had a bounty put on her head. Sombra, a six-year-old German shepherd, has been marked for death by a Colombian mafia. Gangsters have imposed a bounty of 200 million pesos (£52,800) on the canine cop, prompting police to mover her to Bogota's El Dorado airport as a safety measure. Officers tweeted that Sombra, which means 'shadow' in English, has become "the torment of Otoniel". Dairo Antonio Úsuga, known as "Otoniel", leads the Urabeños, one of the country's most powerful gangs.

HMP Lewes Prison Mutiny Trial Collapses

Between 2 and 18 July 2018, five former prisoners from HMP Lewes in East Sussex stood trial for their alleged participation in a protest in October 2016. Prisoners’ rights activist and FRFI supporter *George Coombs* attended the trial throughout and has written this eyewitness report for us. On Monday 16 July I arrived at court, after the prosecution had spent two weeks putting forward its case against Ross Macpherson, Stephen Goodwin, Dave Carlin, Shane Simpson, and John Udy. The defence had been due to begin on the Monday but on the Friday before, after the end of the prosecution case, legal arguments resulted in the throwing out of all the main charges of mutiny, violent disorder and threatening behaviour.

For the two previous weeks the testimony had all been from prison officers who were working when the disturbance occurred. Even without the legal arguments against all the main charges, the case was not well put together. Several officers only knew one of the prisoners by name or sight; in one instance, it emerged that the name of the defendant was given to the officer testifying by someone else. There were also instances of an officer’s notes being inconsistent with subsequent written statements.

The incident which the trial was dealing with took place on 29 October 2016 against a background of a restricted regime due to staff shortages, poor hygiene standards and a lack of any meaningful rapport between the system and prisoners. It lasted for six hours until members of the 'Tornado Team’ and National Tactical Response Group regained control. In court it was put to one Tornado squad witness that an officer had kicked a defendant in the face. The response was ‘absolutely no way’. I heard someone in the main body of the court say ‘liar.’

Not surprisingly, the prosecution focussed on the specific alleged behaviour of the defendants, with any discussion of possible systemic underlying causes mentioned only in passing. However these underlying causes were never totally out of the picture, with the trial sometimes delayed due to problems with prisoner transport, while bleak prison conditions were significantly highlighted when one defendant asked the judge to email the prison holding him to ask them to enable him to take a shower.

After the defence closed, legal arguments led to a ruling that there was no clear, valid evidence of a prison mutiny; instead this was a specific incident on one wing of the prison. The violent disorder charges were also dropped, as there has to be proof that at least three people were involved and there was no clear proof of this. The threatening behaviour charge was also dropped as this has to involve actions and not just words. Emphasis was placed on one defendant having threatened to ‘...gouge someone's eyes out’; unpleasant though this is (and the press made much of it) it is still words and not actions. After all this, the only remaining charge was criminal damage, for which Ross was sentenced to an additional two years in prison and Stephen to 18 months. This case has been a complete waste of public money

on court time, legal representation and transporting prisoners and prison officer witnesses, given that the counts in the indictment did not stand up to legal scrutiny.

While I've been at Hove Crown Court I have spoken to defendants on bail and their friends and families, all of whom were concerned about the treatment of prisoners at HMP Lewes. If the trial hadn't ended when it did, at least one of the defendants was planning to bring up the underlying issues as part of their defence case - poor staffing, limited regime in the prison, no CCTV cameras etc. All these have been issues for a long time. Yet nothing is done and the question has to be why not?

HMP Lewes was built in 1853 as the county prison for Sussex. Its first prisoners included Finnish grenadiers taken prisoner of war in the Crimean War. Following the 1916 Dublin Easter Rising it was one of several prisons in England where those combatants who were taken prisoner but not executed in Kilmainham gaol were sent.

A hundred years on, Lewes housed 640 remand and sentenced adult male prisoners, although its official capacity was 617. C wing is the largest wing, containing 150 prisoners. In 2014 prison officer Kim Lennon warned publicly that conditions at the prison were deteriorating, drugs and violence were rife and that she feared for the safety of both prisoners and staff. Instead of heeding her warnings, the prison dismissed Ms Lennon from her job, since when she has continued to highlight problems at Lewes prison, including attending the recent trial to support the prisoners who had been made scapegoats for the failings of the system.

Ross Macpherson Found Not Guilty Of Prison Mutiny

On the 16-7-18 myself (Ross Macpherson) and 4 of my co-defendants (cod's) were found not guilty of Prison Mutiny, Violent Disorder and Affray.3 of my cod's were also acquitted of Criminal Damage following a half time submission of no case to answer. The judge agreed that the 'evidence' was so unreliable that he directed the jury to find us not guilty. In desperation the prosecution tried to add a charge of section 4 public order offence against me and 1 of my cod's only for the judge to dismiss this as well. In the end 2 of us were sentenced to 2 years consecutive and 20 months respectively which we had already pleaded guilty to.

This whole case was brought out of vindictiveness by the prison service, police and Crown Prosecution Service. From the beginning they have tried to make an example of us for standing up against what the judge described as inhumane conditions. Despite the prison service feeding nonsense stories to the media that I threatened to gouge out officers eyes with a pool cue, the evidence spoke for itself and exposed the failings of HMP Lewe and the deplorable conditions they kept prisoners in. Unfortunately I was unable to update anyone during the trial as I was sent to the segregation unit at HMP Elmley and all my property was confiscated in a ploy to disrupt and provoke me, so apologies to all those who took an interest. Now the focus needs to be shifted on supporting those that are due to stand trial next year for mutiny charges at HMP Swaleside.

Ross Macpherson A6791AD HMP Belmarsh, Western Way, Thamesmead, SE28 0EB

Kevin Nunes - First Tier Tribunal Orders Information Commissioner to Cough Up!

The murder convictions of five men for a gangland-hit were quashed after damning reports were withheld detailing how police handlers took a key witness out drinking to nightclubs and turned a blind eye to his criminal behaviour. Three judges said that the defence teams of the alleged killers were denied an important report that showed that members of Staffordshire police were part of a "dysfunctional" team fractured by in-fighting, whose honesty and integrity were open to question and whose paperwork could not be trusted. The report was ordered by one of four senior police officers currently under criminal investigation over allegations that key material was withheld from the court

which led to the quashed convictions. Five men were given sentences of more than 135 years for murdering the drug dealer Kevin Nunes, 20, following a trial in 2008 based largely on the evidence of Simeon Taylor, who allegedly drove the alleged killers and the victim to the scene of the hit. Mr Nunes, an amateur footballer once on the books of Tottenham Hotspur, was found dead in a country road in Staffordshire following a drugs feud. The convictions of the five were quashed in March 2012 after the manager of the Sensitive Policing Unit of Staffordshire Police claimed that there was "corruption, falsification and dishonesty" within the team, and clashed with other members as he tried to make it more accountable and transparent. On the 3rd August 2018 the aforementioned officer got a result in the High Court, dettails below.

28. The Appellant clearly has an ongoing concern about the circumstances in which officers involved in the murder investigation who were later subject to actual or potential misconduct proceedings, were awarded commendations for their work shortly after the trial had completed. One of the things he is concerned about is that some of the commendations were given by Supt Costello, the author of the Costello Report, which (as mentioned) was highly critical of officers involved in the murder investigation. The Commissioner states in the Decision Notice that the giving of the commendations was not initiated by Supt Costello, although he did subsequently make the awards. The Commissioner argues that therefore the Appellant's 'concerns about the that point are to some extent misplaced' but it seems to us that whether he initiated or made the commendations, Supt Costello was clearly very much involved in the process.

29. The Commissioner has also mentioned that the officers concerned have all now been 'formally dealt with using the appropriate channels', but that seems to miss the point of the Appellant's request: he does not want to see the wording of the commendations to somehow 'name and shame' the individual officers; rather he is interested in the process by which the force came to commend officers who appeared to have been already criticised by the force and the reasons for the awards.

30. Even though he has now retired, in our view the Appellant has a legitimate interest in pursuing what actually occurred and seeking disclosure of the wording of the commendations (without naming officers) is a reasonably necessary step for him to take to achieve those legitimate interests.

31. Having found that that is the case we repeat once more that (for the reasons set out above) the disclosure of the wording of the commendations will cause little prejudice to the rights and freedoms of the officers who received commendations, or their legitimate interests.

32. There is a small group of people who know which officers received commendations for their work in the murder trial, the disclosure of the wording of the commendation will not increase significantly the pool of people who have that knowledge, and therefore we do not find that disclosure would be unwarranted.

33. For those reasons we would allow this appeal, and substitute for the Commissioner's Decision Notice our decision that the wording of the commendation citations requested by the Appellant with any reference to the names or ranks of the officers concerned, should be disclosed by the chief constable.

Scottish Labour Calls for Review of Remand Following Analysis of Prison Deaths

Scottish Labour has called for a full governmental review of the use of remand after a new analysis by the party revealed that prisoners are more likely to die in prison if they are on remand. The new analysis highlights that remand prisoners – the majority of whom are awaiting trial, and thus have not been proven guilty – made up 27 per cent of all prison deaths over the last 10 years, despite making up just 18 per cent of the prison population. The most com-

mon cause of death for those on remand is suicide. It follows a report by the Scottish Parliament's Justice Committee that questioned whether remand was always properly justified. Many of those held on remand do not go on to receive custodial sentences, including more than half of those held under summary proceedings.

Justice spokesperson, Daniel Johnson MSP, said: "In many cases remand is completely appropriate, such as for those charged with serious violent crime who may present a risk of reoffending. However, the Justice Committee has heard significant evidence that questions whether there is always proper justification for remanding prisoners prior to trials. Those on remand haven't been found guilty of any crime. Indeed, the committee heard that a significant proportion of those held on remand don't go on to receive a custodial sentence including more than half of those remanded in summary proceedings." He added: "It is clear from the evidence we heard that remand is being used too frequently, with all the resulting disruption to work, family and routine. The fact that these prisoners are much more likely to die while in prison requires serious examination. While fatal accident inquiries will eventually take place for each of these deaths, a wider look must be taken at the reasons for the high rates of suicide for those on remand, and what can be done to prevent that happening in the future."

Litigators' Graduated Fees Scheme 2017 – Declared Unlawful

This is another claim for judicial review of a decision by the Lord Chancellor to reduce the amount of money made available as legal aid for defending people accused of crimes. The decision challenged in these proceedings has reduced fees payable under a scheme called the Litigators' Graduated Fees Scheme under which most of the work done by "litigators" (typically solicitors) in preparing the defence of persons prosecuted in the Crown Court is paid. (There is a parallel scheme for advocates.) The principle of the Litigators' Graduated Fees Scheme – referred to for short in this judgment as "the Scheme" – is that a fixed "graduated" fee is paid for conducting a case irrespective of the number of hours spent working on the case. The fee is determined by a formula and depends on a number of factors, of which the most important are the nature of the offence charged, whether or not the defendant pleads guilty, the length of the trial (if the case goes to trial), the number of defendants in the proceedings and the number of pages of prosecution evidence ("PPE") served. These factors are used as rough measures, or proxies, of the complexity of the case and of the amount and difficulty of the work which it is likely to involve.

• We have found that the Decision implemented by the 2017 Regulations was unlawful because the key analysis relied on in making the Decision (1) was not disclosed to consultees, rendering the consultation process unfair, and (2) used methods that were statistically flawed, making it irrational to rely on the analysis.

• In the circumstances, the orders that we think it right to make are to give permission to proceed with the claim, declare the Decision to be unlawful and quash the 2017 Regulations. We will deal with any consequential orders, if not agreed, after considering written submissions.

Cut to Legal Aid Fees For Evidence Work Ruled Unlawful

Owen Bowcott, Guardian: The high court has ruled as unlawful the government's attempt to cut fees paid to criminal solicitors for work on evidence. The judgment, coming in the middle of a crisis over failures to disclose key documents that have led to the collapse of a number of rape cases, is an embarrassing setback to the Ministry of Justice's efforts to slash its budget.

Dismissing the legitimacy of the MoJ's consultation exercise before the proposed cut of up to 37%, two judges, Lord Justice Leggatt and Mrs Justice Carr, said it was "difficult to express in language of appropriate moderation why we consider these arguments without merit".

The JR challenge was brought by the Law Society, which represents solicitors in England and Wales. It argued that the cuts were illegal because they did not take account of the huge volume of material generated through digital media in even routine trials. Under the proposals, solicitors effectively would not have been paid for reading additional material above a threshold of 6,000 pages of evidence. The previous threshold was 10,000 pages. The cuts were imposed in defiance of a departmental consultation process in which 97% of respondents opposed the changes. The number of solicitors in England and Wales registered for criminal work has fallen sharply as cuts to legal aid have made the profession less and less profitable. The number of firms involved in criminal defence work has recently fallen from 1,600 to 1,200.

Before the case, Richard Miller, head of the justice team at the Law Society, said: "There are areas where there are no young lawyers coming through and where the profession of defence solicitor is becoming extinct." In their ruling, the judges said: "We have found that the [MoJ] decision implemented by the 2017 regulations was unlawful because the key analysis relied on … was not disclosed to the consultees, rendering the consultation process unfair, and used methods that were statistically flawed, making it irrational to rely on the analysis."

John Halford, of Bindmans Solicitors, who represented the Law Society, said: "Legal aid was established and should function as a basic, non-negotiable safeguard of fair process and individual liberty in criminal cases. But rather than cherishing this vital part of the British legal system, successive ministers have undermined it with over a decade of cuts based on carelessly made decisions like this one. "Had the Law Society not stepped up to defend criminal defence solicitors, the fundamental flaws in the analysis on which this decision was based would never have come to light and their irrationality would have escaped proper scrutiny." The Law Society president, Christina Blacklaws, said: "Criminal solicitors provide a vital public service. We have consistently warned that this fragile criminal legal aid market cannot stand further cuts."The changes to the litigators graduated fee scheme (LGFS) were introduced in December 2017 and have meant a huge amount of work on the most complex crown court cases has gone unpaid. Defence solicitors have faced earning up to 37% less for some large cases, yet the Legal Aid Agency has expected them to undertake precisely the same amount of work."We recently published new data showing that in five to 10 years' time there could be insufficient criminal duty solicitors in many regions across England and Wales, leaving individuals in need of legal advice unable to access justice. These concerning statistics underline the need for reasonable payment for this challenging work."

A Ministry of Justice spokesperson said: "Defence solicitors do valuable work. The changes we made to the LGFS scheme were intended to ensure payments better reflect the work being done in legal aid-funded criminal proceedings. We will carefully consider the content of the judgment and determine next steps."

Disaster Recovery Plans for the Probation Service

Monidipa Fouzder, Press Gazette: The Ministry of Justice should be commended for taking urgent steps to save the probation service, but why does it often take legal action for the government to look again at its reforms? Chris Grayling presided over the Ministry of Justice for less than three years. But, four lord chancellors later, the legacy of the now-transport secretary still plagues the justice system. A week after parliament broke up for summer, the gov-

ernment outlined plans to replace Grayling's 'challenging and ambitious' probation reforms.

Pre-Grayling, probation services were run by 35 self-governing probation trusts, working under the direction of the National Offender Management Service. Grayling decided to replace these with the National Probation Service, which would manage high-risk offenders and advise the courts, and 21 community rehabilitation companies (CRCs), which would supervise low- and medium-risk offenders and provide resettlement services to released prisoners.

The plan is now seen as one of Grayling's many disasters. In September 2016, Meg Hillier, chair of the House of Commons Public Accounts Committee, warned that the MoJ might have 'bitten off more than it can chew'. Eighteen months later, the committee concluded that the department was a long way from delivering the 'rehabilitation revolution' it had promised. The ministry was unable to explain what it was getting back for the extra £342m of taxpayer money it had committed to stabilising its CRC contracts, the committee added. Last month the House of Commons Justice Select Committee said it was 'unconvinced that as things stand the Transforming Rehabilitation model can ever deliver an effective or viable probation service'.

The MoJ's latest probation announcement, which includes ending CRC contracts two years early, prompted shadow chancellor John McDonnell to declare that Grayling should never be let near a government department again: 'Chris Grayling's disastrous decision to privatise the probation services has left taxpayers with a bill of over half a billion pounds. That money could and should have been used to tackle NHS waiting lists, support cash-starved schools and fund care for the elderly and vulnerable.' The ministry should be commended for deciding to take 'urgent action' to strengthen probation services. But the amount of time, speeches and cash it has dedicated to this particular section of the justice system begs the question: why doesn't the MoJ do the same for other parts?

Grayling's probation reform seen as one of his many disasters. Why, for instance, has the ministry not been as willing to stage a similar intervention to stem the bleeding from its controversial legal aid cuts? Many organisations, including Amnesty International and the Law Society, have shouted loud and long about the casualties of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Society predicts that criminal defence solicitors are on the way to becoming extinct. The justice committee recently said the fragility of the criminal legal aid sector is placing human rights at risk. Meanwhile, the joint committee on human rights said the government's legal aid safety net scheme (exceptional case funding) was expected to support up to 7,000 cases a year. In reality, it only funds hundreds. Why does it often take legal action, or the threat of it, to make the government look again at its reforms?

To strengthen probation, the MoJ will 'invest' an extra £22m a year to improve resettlement provision for released prisoners. Criminal barristers had to take direct action to get the ministry to cough up £15m to invest in the justice system. Since the start of the year domestic violence victims have no longer had to endure harsh evidence tests to qualify for legal aid. However, the changes were introduced after campaign group Rights of Women, with the Law Society's support, successfully fought rules introduced in 2013 that required victims to provide a prescribed form of evidence to apply for family law legal aid. Justice minister Lucy Frazer QC confirmed last month that legal aid will be extended to immigration matters for unaccompanied and separated children – after the MoJ examined evidence presented as part of a judicial review brought by the Children's Society and government data on funding applications. The ministry says probation services 'are at the heart of an effective criminal justice system'. They are, but they represent just one valve. There are many others that urgently need operating on.

EU Nations 'Should Continue Extraditions to the UK Until Brexit'

Lisa O'Carroll, Guardian: EU nations should continue extraditions to the UK until it leaves the bloc next year, despite claims that Brexit could cause uncertainty for suspects, according to a legal opinion written for the European court of justice (ECJ). The opinion by the advocate general at the EU's highest court was issued after the high court in Ireland referred a case concerning the extradition of a man wanted in relation to alleged rape, arson and murder, on the grounds there was a risk that the man's rights under present EU law could be compromised post-Brexit. It asked for the ECJ's view after the man mounted a legal challenge to a European arrest warrant (EAW), arguing he could not surrender to British authorities on the grounds that he could be subjected to inhumane and degrading treatment once the UK leaves the bloc. The suspect has been in custody since 3 February 2016 after two EAWs were issued in 2016.

The Irish court had ruled against the suspect, known as RO, in relation to all of the objections to extradition save the consequences of Brexit. In his opinion, Maciej Szpunar, the ECJ's advocate general, said the EAW should continue to apply as long as the UK remained an EU member state. He also said that there were "no tangible indications" that the UK would "not respect" the fundamental human rights enshrined in European law.

"The UK has decided to withdraw from the EU, not to abandon the rule of law or the protection of fundamental rights. Consequently, in the advocate general's view, there is no basis to question the UK's continued commitment to fundamental rights," Szpunar said. The advocate general's opinion is not legally binding but is often reflected in the final ruling, which will be handed down later this year. The EAW system allows EU countries to request the extradition of suspects from other member states, with very few reasons allowed for refusal.

Standard of Proof for Suicide

F*reya Foster, Henderson Chambers:* On 26 july, Leggatt Lj, sitting with Nicol j, handed down a judgment that challenges the long-held view that suicide must be proved to the criminal standard of proof in an inquest. Leggatt Lj, considering the purpose of modern coroner's courts and the relevant jurisprudence, held that the correct standard of proof to be applied is the normal civil standard of balance of probabilities.

I. Case arose out an inquest into the death of Claimant's brother in custody at HMP Bullingdon.

2. At the inquest the coroner accepted that the evidence was not sufficient for the jury to be sure that the deceased intended to end his life and therefore they could not consider a 'short-form' verdict of suicide. However he directed the jury that they could record a narrative conclusion which considered, inter alia, whether it was "more likely than not" that the deceased intended his actions to be fatal. The instructions accompanying the questions for consideration by the jury stated that the standard of proof to be applied when considering these questions was the balance of probabilities. The jury accordingly found that, on the balance of probabilities, the deceased had intended to fatally hang himself.

The Challenge: 3. The Claimant sought to review this verdict on the basis that the coroner had erred in law by instructing the jury to apply the civil, rather than the criminal, standard of proof. The Claimant's position was that the criminal standard was applicable, regardless of whether the verdict was to be recorded in short-form or as a narrative verdict.

4. The Defendant relied on the express guidance given in the June 2015 edition of the Coroner Bench Book and the Chief Coroner's Guidance No 17, but took a neutral stance on whether the directions and verdict were lawful.

Consideration by the Court: 5. The Court considered the purpose of the coroner's investigation (paras. 10-1 I) before proceeding to consider the relevant legal principles, the nature of an inquest, and the relevant guidance, before examining the case¬law that was said to establish the rule that a verdict of suicide at an inquest can only be delivered on the discharge of the criminal standard of proof.

Standards of Proof in Criminal and Civil proceedings: 6. Leggatt LJ considered the reasoning behind the standards of proof applied in civil and criminal proceedings. He found that it was clearly established that the standard of proof in civil proceedings was not variable, regardless of the seriousness of the allegation or consequences of the decision. While the seriousness of the allegation may go to the 'inherent probabilities' it does not alter the standard of proof to be applied (paras. 27-33).

Nature of Inquests and Relevant Guidance: 7. While the coroner's verdict historically had a role in the criminal justice process, the role of the coroner today is to "seek out and record as many of the facts concerning the death as public interest requires." (para. 37 citing Lane LCJ in R v South London Coroner, ex p Thompson (1982) 126 SJ 625.) Accordingly there was no longer any analogy to be drawn with criminal proceedings so as to justify the application of the criminal standard of proof (paras. 34-38).

8. Leggatt LJ drew further support for the Court's conclusion from the differences between coroner and civil proceedings, adding that the decriminalisation of suicide in 1961 supported the application of the civil standard. The Court acknowledged that the consequences of a finding of suicide are far-reaching and can be devastating to the family of the deceased, but maintained this should not alter the applicable legal standard of proof (paras. 39-43).

9. It was noted that the Coroner Bench Book and the Chief Coroner's Guidance, simply provide guidance and do not have legal force. Leggatt LJ also noted that while the Guidance indicates that the Ministry of Justice is considering what the correct standard of proof is, no active review of the matter was being undertaken at the time (paras. 14-20).

10. The Court expressly considered the notes to 'Form 2' provided for in the Schedule to the Coroners (Inquests) Rules 2013, which states that the standard of proof for the short-form conclusion of suicide is the criminal standard of proof while the civil standard applies to all other short form and narrative verdicts. Leggatt LJ reasoned that this provision would have been included within the Rules themselves had the legislature intended it to be binding. Instead it was simply a statement of what the standard of proof was understood to be. An understanding that appears to have been mistaken in the Court's view (paras. 45-48).

Consideration of the Jurisprudence: I I. The Court concluded that the authorities cited in support of the principle that the criminal standard of proof applies to a coroner's verdict do not establish such a rule. Instead they simply establish a principle, in accordance with the civil standard of proof, that suicide should never be presumed; a verdict of suicide can only be justified if it is proved by evidence and not just because other explanations appear improbable. Leggatt LJ surmises that this illustrates a general point about the civil standard of proof, namely that it is not a simple exercise of choosing the most probable, or least improbable, theory but requires an analysis of the sufficiency or weight of evidence (paras. 50-57).

12. The decision then turned to the case of R v West London Coroner, ex p Gray [1988] QB 467. Leggatt LJ found that the dicta in ex parte Gray that concluded that the criminal standard of proof should apply were not part of the ratio decidendi. However, even if those comments were not obiter, they were not binding as the Divisional Court considered that this conclusion was based on a misinterpretation of the preceding case-law (para. 61, 64). In support of this, Leggatt LJ suggested that the Divisional Court in ex parte Gray erred in the following ways: a. First that it misread Widgery LCJ's judgment in R v City of London Coroner, ex p Barber [1975] I WLR 13 10. Leggatt LJ suggested that the "stringent test" referred to is not the criminal standard of proof, but the test of whether "any reasonable coroner could have reached the conclusion that the proper answer was suicide." (para. 62). b. Second, despite citing Lane LCJ's dicta in ex parte Thompson emphasising the difference between a criminal trial and an inquest, no reference was made to the general rule that it is the civil standard of proof that applies where a criminal offence is to be proved in civil proceedings, despite the fact that the relevant authority (Hornal v Neuberger Products Ltd [1957] I QB 247) for this rule was cited in argument before the Court in ex parte Gray (para. 63).

13. Leggatt LJ also noted that the standard of proof suggested in ex parte Gray has been disapproved by the Court of Appeal and Supreme Court in Braganza v BP Shipping Ltd ([2015] UKSC 17), where it was suggested the relevant dicta was "a little outdated." Furthermore, other common law jurisdictions have declined to follow it, instead holding that the civil standard of proof should apply (para. 65). In addressing two cases that followed ex parte Gray, Leggatt LJ distinguished one as simply reaffirming the principle that suicide should not be presumed and concluded that the second had understandably followed the precedent in ex parte Gray but, nonetheless, had been wrongly decided (paras. 66-74).

Conclusions and Impact: 14. The Court's conclusion that the applicable standard of proof required for a verdict of suicide in the Coroner's Court is the balance of probabilities, regardless of whether that verdict is to be recorded in a short-form or narrative verdict, is significant - overturning as it does the commonly-held view that the correct standard of proof in such cases is the criminal standard. Leggatt LJ effectively concludes that the standard of proof may have been incorrectly applied for decades, at least since the 1988 decision in ex parte Gray.

15. The potential implications of this decision and any future decisions on appeal are far-reaching, not just for future inquests but, given the significance of suicide verdicts, for previously decided cases. This decision has the potential to affect other aspects of proceedings in the coroner's court: Leggatt LJ's reasoning as to the application of the civil standard of proof more generally could lead to further arguments as to whether the applicable standard of proof for a verdict of unlawful killing is criminal or civil. The decision also calls into question the accuracy of the guidance notes to Form 2, contained in secondary legislation, which now arguably misstates the standard of proof for suicide.

16. Given the significance of this decision, it seems likely that this case will progress to the CoA, possibly further. Not yet confirmed whether permission to appeal has been sought or granted.

Hostages: Sally Challen, 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, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary,