Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Email: mojuk@mojuk.org.uk Web: www.mojuk.org.uk

MOJUK: Newsletter 'Inside Out' No 812 (23/09/2020) - Cost £1

Robert DuBoise Cleared of Rape and Murder Convictions After 37 Years in Jail

Associated Press: After 37 years behind bars, a Florida man was formally cleared on Monday 14th September 2020, of a 1983 rape and murder which DNA evidence proved he did not commit. Robert DuBoise was convicted at a trial that relied on a testimony from an unreliable jailhouse informant and faulty bite-mark analysis. He was released from prison last month. On Monday, a hearing before Hillsborough county judge Christopher Nash resulted in an order wiping away the convictions and life sentence, and removing DuBoise from the state sex offender registry. "This court has failed you for 37 years," Nash said during the remote hearing. "Today, it has finally succeeded." DuBoise, 55, was convicted in the 1983 murder of 19-year-old Barbara Grams, who was raped and beaten while walking home from her job at a Tampa mall. He was sentenced to death, then re-sentenced to life. At the hearing on Monday 14th September 2020, expert testimony showed that bite-mark evidence on the victim's left cheek used at trial has been determined to be unreliable – police used beeswax to take an impression of DuBoise's teeth – and that DNA showed conclusively he was not a suspect in the assault of Grams.

The jailhouse informant's testimony has also been discredited. "It's been 37 years," said Hillsborough county state attorney Andrew Warren. "We're righting this wrong today, finally." The exoneration was a result of cooperation between prosecutors and the Innocence Project, which works to free wrongly convicted prisoners. Susan Friedman, the Innocence Project lawyer representing DuBoise, said he maintained his innocence on Death Row and often in solitary confinement in six Florida prisons. "The state took 37 years away from Robert," Friedman said. In brief remarks during the hearing, DuBoise, who was 18 at the time of the crime, said he "had a lot of roadblocks thrown in my path". "There are really true-hearted people in these offices now," he said. "It's been amazing. I'm just very grateful to all of you."

DuBoise was released from the Hardee Correctional Institution in central Florida on 27 August, to be reunited with his mother and sister. He has been living in a Tampa center for people wrongfully imprisoned and has said he must learn the ways of modern life, from shopping at Walmart to using an iPhone. Warren, the chief prosecutor, said his office was undertaking a review with the Innocence Project of cases in the Tampa area in which convictions relied heavily on now-discredited bite mark evidence. "This won't be easy, but it will be worth it," he said. "Wrongful convictions deprive victims and their families of justice. They deserve the truth, not false closure based on a false story. Beyond that, wrongful convictions threaten public safety, putting an innocent person behind bars while the actual person who committed the crime goes free." A forensic DNA analyst, Nancy Wilson, said two people were involved in the Grams assault, neither of them DuBoise. The murder will return to the unsolved file. The exoneration was a result of cooperation between prosecutors and the Innocence Project, which works to free wrongly convicted prisoners. Susan Friedman, the Innocence Project lawyer representing DuBoise, said he maintained his innocence on Death Row and often in solitary confinement in six Florida prisons. Warren, the chief prosecutor, said his office was undertaking a review with the Innocence Project of cases in the Tampa area in which convictions relied heavily on now-discredited bite mark evidence.

Words of Victor Boreman, on His Lived Experience Since His Exoneration

[Victor Boreman, Michael Byrne and Malcolm Byrne (not brothers) were codefendants. Wrongly convicted in 1998 of murder in the 1996 death of a man who likely died because of fumes from a fire in his house hours after the three men assaulted him. In June 2006 the Criminal Court of Appeals quashed the men's murder convictions and life sentences, and replaced them with "charges of wounding with intent and and unlawful wounding" and eight years sentences. So the men were released with time served."]

We fight our PTSD
Everyday, 24 hours, no break
It takes its toll
We are human
No batteries, no doll
Mental health a stigma
Totally misunderstood
We do not prey on you
Only the demons within
We scream in silence
Bleed in silence
Often nobody to encourage us
It's exhausting, demanding,
Debilitating and depressing
Our brains are in constant chronic stress and anxiety
Far far more than our brains are designed for
These feelings rarely subside
Day or night
We're in fight or flight
Figuring out whether we're in
The Past or the here and now.
It's soooooooo exhausting, mental and full body fatigue
We fear the world as a permanent threat
We crave solutions
The power and energy
To fulfil them
It's exhausting as we dig deep within ourselves to fight our way out
But we must
And never stop trying
We can never change
What has happened to us
But we sure as hell have a major say
In where we are going
Proud
Tough
Strong
Determined
That's PTSD -

In Struggle, Victor Boreman

High Court of Ireland: Miscarriage of justice Compensation Granted

Andrew McKeown , Irish Legal News: The High Court, sitting qua the Central Criminal Court (as the court of re-trial), has certified that a man is entitled to compensation for wrongful conviction. The man had been acquitted of murder but a newly-discovered fact revealed that there had been a miscarriage of justice. Yusuf Ali Abdi was tried in the Central Criminal Court in December 2019, charged with the murder of his infant son in April 2001. The jury acquitted him of murder and returned the special verdict of not guilty by reason of insanity. The jury accepted the evidence that, at the time of the killing, Mr Abdi was suffering from compelling overpowering delusions arising from schizophrenia. He had been previously tried in the Central Criminal Court in May 2003. He was convicted of the murder of his son in that trial, when the jury did not accept his defence that the evidence established that he killed his son while legally insane. Evidence that he was suffering from schizophrenia was rejected by the jury in the original trial, as it was disputed by expert witnesses. An appeal to the Court of Criminal Appeal was unsuccessful.

Chronic psychiatric conditions may vary in intensity, and new symptoms and behaviour may result in a review and change of diagnosis. Some years following his conviction, he was diagnosed with schizophrenia by psychiatrists in the Central Mental Hospital. He applied to the Court of Appeal for an order quashing his conviction under s.2 of the Criminal Procedure Act 1993. In 2019, the Court of Appeal held that the confirmed diagnosis of schizophrenia, and the medical reports supporting it, were "newly discovered facts" which indicated that there was a real risk that the murder conviction involved a "miscarriage of justice". The Court of Appeal took the view that if this diagnosis of schizophrenia was an accepted fact at the time of the original trial, the jury may have taken a different view of the evidence and concluded that Mr Abdi was insane at the time of the killing. The conviction was quashed and a re-trial was ordered. The diagnosis changed gradually. By the time of his re-trial, the disputed medical opinion that Mr Abdi suffered from schizophrenia at the time of the first trial had become accepted fact.

The Court of Appeal allows such an appeal under s.2 of the 1993 Act where it considers that there is a real prospect that a jury would come to a different conclusion if "newly-discovered facts" were available as evidence at the trial or if it considers that the new material points in some concrete way to the result in the original trial being a miscarriage of justice. The Court of Appeal in exercising jurisdiction under s.2 is only concerned with whether the "newly-discovered fact" demonstrates that the initial verdict is unsafe and that there has been a "miscarriage of justice" in that sense. The term "newly-discovered fact" in s.9(1) has the much the same as meaning as it does in s.2, being "….a fact discovered by or coming to the notice of a convicted person after the appeal proceedings have been finally determined…". It is sufficient that the new material be discovered or come to the notice of the convicted person after trial as in DPP v Wall [2005] IECCA 140.

Compensation: In the matter of an application under the Criminal Procedure Act 1993 S.9, being compensation for wrongful conviction, counsel for the Director of Public Prosecutions accepted that the verdict amounted in law to an acquittal and that had a special verdict been entered in 2003, this would have amounted to an acquittal, but he suggested that the nature of the activity which Mr Abdi was proved to have engaged in showed that Mr Abdi was not "acquitted" within the sense of that term as used in s.9.

Mr Justice Alexander Owens, sitting as the Central Criminal Court, said that "miscarriage of justice" in s.9 is the popular meaning which connotes "a failure of the judicial system to attain the ends of justice", citing the Court of Criminal Appeal in DPP v Hannon [2009] 4 IR 147. The words "miscarriage of justice" in s.9(1) are used convey that "something has gone seriously wrong in relation to the original trial process which has led to a conviction and not merely that there are misgivings about the result." The judge said that "Miscarriage of justice" is used in a different sense in ss.2 and 3, noting that these sections deal with criteria which must be met by either an applicant who relies on s.2 or an appellant under s.3 in order to succeed in an appeal against conviction: "It is not necessary to show the matters specified in s.9 in order to succeed in an application under s.2." Mr Justice Owens noted that things had "moved on" since the decision of the Court of Appeal. The "decisive factor" in the re-trial was agreement by all psychiatric experts who gave evidence that Mr Abdi was suffering from schizophrenia when he killed his son.

Conclusion: Mr Justice Owens said that he suspected it was not the first time that something of this nature had happened in an insanity case. He said that similar issues arise where expert evidence is relied on in trials, giving an example of a forensic science conclusion which may have been central to a conviction which is subsequently demonstrated to be erroneous. "The error discovered might be in the science or in the scientist. The effect of the error may be that a person who would otherwise be treated as not guilty of an offence and who may be innocent is convicted. In that scenario it would be difficult to take seriously any argument that the newly-discovered fact did not result in a miscarriage of justice." The court held that there was no reason why an incorrect diagnosis should be treated differently to any other expert error. The court therefore issued a certificate.

Fake Law by the Secret Barrister

Sir James Munby once warned that public confidence in the family courts, which he ran between 2013 and 2018, was undermined by "ignorance, misunderstanding, misrepresentation or worse". The problem affects all areas of law but takes different forms. "Ignorance", to adopt Sir James's blunt phrasing, arises from a lack of what is called public legal education: people do not know much about the legal system to begin with. "Misunderstanding" arises from the inherent complexity of the law. "Misrepresentation or worse" is chiefly laid at the door of the press and politicians; Theresa May's "catgate" speech to the 2011 Conservative Party conference is still the classic text, although it is less well remembered that the story started life in the Sunday Telegraph ("Immigrant allowed to stay because of pet cat").

The different forms of public legal miseducation feed off one another. A low base level of knowledge means that people are ill-prepared to interrogate false claims. The difficulty of easily stating what the law is or decoding a dense and controversial judgment hinders rapid rebuttal. Political attacks on liberal judges or activist lawyers reinforce cynicism and ignorance.

Efforts to address the problem are varied. The government stresses, but does not fund, public legal education. Many lawyers blog for the public, others pursue corrections in the press. I once work on a fact checking project scrutinising fake news about the legal system, funded — like the admirable Transparency Project in the family law arena — by the Legal Education Foundation. It was not a notable success, but one or two of those old fact checks are cited in Fake Law by the Secret Barrister, now the authoritative account of public legal miseducation, its causes and its cures.

Although the anonymous author is (we are assured) a criminal specialist, crime is not the sole focus this time around. The tour d'horizon includes family, personal injury, employment, human rights and the constitution. Lawyers in those fields need no help diagnosing the illness. Where this book succeeds most brilliantly is explaining how much fake law matters and setting the problem in a broader context. Public understanding and appreciation for individual rights have not only been debased, they have been debased to serve ideological ends ("misrepresentation or worse"). In a book ostensibly about the domestic legal system, Donald Trump looms large.

Immigration lawyers, as we have seen in just the last couple of weeks, are on the front line of

what Fake Law sets up as a titanic clash between runaway authoritarianism and the rule of law. Several of the book's case studies are immigration-adjacent. Shamima Begum makes an appearance as an example of someone entitled to the benefit of law no matter the state of public opinion. Human rights challenges to deportation are discussed in the context of the equally unpopular Mohammed Ibrahim, a refused asylum seeker who fled the scene of a road traffic accident which killed a 12-year-old girl. The Secret Barrister concedes that the reader might "reasonably disagree" with the judges who decided that Ibrahim could not be deported, but points to vital context lurking beneath the headlines. Ibrahim's Article 8 right to family life developed during the six years that elapsed between the accident and the Home Office starting deportation proceedings, during which time he fathered or became step-father to several British children and step-children.

Fake Law concludes with suggestions for reform. Many are orthodox: more responsible self-regulation from the press, legal education in schools. Most eye-catching is a call for the Lord Chancellor's job to revert to that of independent guardian of the constitution, shorn of the base political responsibilities of a Secretary of State. In this guise, the head of the legal system — "a retired judge, perhaps, or legal academic, who views the role as a career pinnacle, rather than a political stepping stone" — would be free to robustly challenge misreporting and populist assaults on the judiciary. An institutional response of some sort seems right, and a judicial or quasi-judicial figure in the vanguard might be effective: for all the impact of fake law and the decline of deference, polls show public trust in judges at close to a record high. If rehabilitation of the Lord Chancellor's office seems ambitious, the UK Statistics Authority could be a more modest inspiration. Its chair, a respected senior economist, calls out misuse of official data as well as regulating its production.

Those who can take or leave questions of high policy will enjoy the writing for its own sake. Readers of Stories of the Law and How It's Broken may recognise the polemical style, from the "half-price snake oil of the Chris Graylings" to the "bastions of inherited privilege who preach from their tabloid pulpits". Terry Pratchett fans will appreciate the description of the legal system as "the giant turtle atop which our daily existence is unknowingly, delicately balanced". Like much of the vivid imagery peppering the book, though, the analogy is deployed in service of a serious argument: attacks on the rule of law affect us all.

Ireland:Academics Call For Repeal of Sex Buyer Ban

Scottish LegalNews: A coalition of 80 academics has called on the government to repeal a law criminalising the purchase of sex in Ireland as soon as possible in order to protect sex workers from violence. In a joint submission to the Department of Justice's ongoing review of Part 4 of the Criminal Law (Sexual Offences) Act 2017, the academics said the ban is "actively creating a climate of risk and danger that harms sex workers' safety". The Act includes a provision requiring a review of the operation of the law to be prepared and submitted to the Oireachtas within three years of it coming into effect. Solicitor Maura Butler was appointed in July to lead the review.

In the joint submission, co-ordinated by legal academics Dr Vicky Conway and Dr Sinéad Ring, the 80 academics – who include lawyers, sociologists, criminologists, historians, economists, medics, nurses, psychologists and media studies scholars – urge the government to take a "harm reduction" approach. The submission notes: "Not only did the 2017 Act strengthen the penal provisions applicable to sex workers, it also created additional risks of harm to their health and safety. Because a purchaser risks conviction under the 2017 Act, the purchaser may push the seller to engage in more risky behaviour. "There is more at stake for the purchaser in engaging in this conduct. One study by Krüsi et al found that criminalisation of the purchaser

forced women to work longer hours and it severely impact on their safety strategies. They found women spent less time screening and negotiating with clients, were willing to engage in less safe sex (e.g. without condoms) and engaged in activities in less well lit, more isolated areas where there is a less accessible help."

It adds: "The State's obligations to protect its subjects require an approach that prioritises the safety of sex workers, while supporting and facilitating their withdrawal from this industry. The current legal framework places sex workers at odds with the police and the criminal process and risks their health and their safety. Research clearly shows that the most effective way to enhance their safety is to improve their relationship with police and the criminal justice system." In particular, the report highlights the positive impact of decriminalisation in New Zealand as well as the decision of police in Liverpool to treat attacks against sex workers as hate crimes.

Scale of Failure in Prison System Staggering, say MPs

Jamie Grierson, Guardian: Ministers' have not met pledge to improve condition of prison estate, committee says. The scale of failure in the prison system in England and Wales is "staggering", with only 206 out of 10,000 promised new prison spaces delivered by the government, parliament's spending watchdog has said. Ministers and officials have failed to deliver on a pledge to improve the condition of the prison estate by 2020, the public accounts committee says in its report, published on Friday. In 2016 the Prison Service launched the "prison estate transformation programme", which was expected to create 10,000 new-for-old prison places by 2020 by building five new prisons and two new residential blocks. But by January 2020 it had created 206 prison places, the report says. The committee says the Prison Service allowed a "staggering" backlog of maintenance work to build up that will cost more than £900m to address, meaning 500 prison places are taken permanently out of action each year due to their poor condition.

The poor state of many prisons, coupled with high levels of overcrowding, are contributing to dangerously high levels of violence and self-harm in prisons, the report says. Meanwhile, there is "no sign of a cross-government strategy for reducing reoffending", it says. The committee says the failures at the Ministry of Justice echo the disastrous and now abandoned reforms to probation services introduced by Chris Grayling when he was justice secretary. "The scale of failure in our prisons and in the disastrous probation reforms is really quite staggering," said Meg Hillier, the committee's chair. "The ministry is still reeling from the long-term consequences of its unrealistic 2015 spending review settlement, but our whole society is bearing the financial and human cost of sustained underinvestment. Even now we are not convinced MoJ and HMPPS [the Prison and Probation Service] have the ingredients for an effective, sustainable long-term strategy.

"We now expect a set of reports to be made to us over the coming months assessing the realistic costs of their mistakes to date and how to fix them, and a credible new plan for a working prison estate and system that can reduce reoffending – not just lock people in to this cycle of violence and harm." The transformation programme ran for almost three years before it was superseded by a government announcement in August 2019 committing to create a further 10,000 prison places, in addition to the 3,566 now expected to be built under the original programme. The Prison Service now aims to deliver a total of 13,566 new prison places, including 6,500 places by 2025–26 through four new prisons. In 2015 the Prison Service contracted the private outsourcers Amey and Carillion to provide facilities management across the prison estate in an attempt to save £79m. Following Carillion's collapse in January 2018, the MoJ established Gov Facility Services Limited (GFSL), a not-for-profit government company, to assume responsibility for its work.

The shadow justice secretary, David Lammy, said: "The Ministry of Justice's failure to create prison and probation services fit for the 21st century is putting public safety at risk. Its failed approach to outsourcing has contributed to a system that removes the hope of rehabilitation, guarantees an endless cycle of reoffending and creates new victims of crime. "That the government has not even come close to delivering on its own promises shows a complete lack of competence and a failure of leadership."

Frances Crook, the chief executive of the Howard League for Penal Reform, said: "Cramming more and more people into crumbling jails has succeeded only in exposing more and more people to crime, violence and despair. Each and every half-baked measure enacted for reasons of political expediency has demonstrated a lack of care for the people living and working in prisons and a lack of care for future victims of crime, who would be protected if the system worked as it should." Peter Dawson, the director of the Prison Reform Trust, said the report showed that the government had "no coherent plan" to reduce reoffending among prison leavers. "That represents a betrayal of the communities to which prisoners return," he said. "And it is a shameful way to treat the people who live and work in our prisons."

A Ministry of Justice spokesperson said: "We are investing £2.75bn to modernise the prison estate and deliver 10,000 new prison places – strengthening security and boosting rehabilitation. Work is already underway on two modern prisons at Glen Parva [in Leicestershire] and Wellingborough [in Northamptonshire] which will create 3,360 new places over the next three years."

New Figures Show Criminal Court Backlog Has Surged Past 500,000

John Hyde, Law Gazette: Combined outstanding cases in the magistrates and Crown courts surged 500,000 over the summer, new figures show, but there are signs that the system is slowing starting to perform better. Raw data published by HM Courts & Tribunal Service show that by 23 August there were 46,467 outstanding cases in the Crown court in England and Wales and 517,782 cases in the magistrates' court. Since 15 March, the last week before lockdown, the backlog had increased by 16% in the Crown court and by 31% in the magistrates' court. As of the start of July this year, the number of outstanding Crown court cases had increased year-on-year by 29%, and in the magistrates' court by 48%. The figures cast a spotlight on the monumental task of trying to reduce the backlog that was significant before the pandemic and has snowballed since the shutdown of many court services since the spring. The ongoing restrictions on social interaction have meant that holding trials continues to be a challenge.

There was a sharp decrease in April in the number of receipts recorded in the courts as the lockdown reduced criminal activity. In some respects the backlog is showing tentative signs of easing: from a peak of 525,000 outstanding magistrates' court cases at the end of July, that figure has fallen every week since. Throughout every week in August there were more disposals than receipts. But the backlog in the Crown court by 23 August was high as ever post-lockdown. While there were 2,181 receipts, there were also just 1,691 disposals, with 55 trials completed during the previous week.

Simon Davis, president of the Law Society, said the government needs to build court capacity by significantly increasing the number of Nightingale courts, making maximum use of normal court hours and the existing court estate, and avoiding any restrictions on judges sitting while there are court rooms (real, virtual or Nightingale) available. 'With outstanding cases in the Crown court continuing to creep up, it is vital the additional capacity is used appropriately to prevent these backlogs from growing. Investing in legal aid for early advice and legal representation will ensure judicial time is used as efficiently as possible in cases which do go to court. We are also calling on the chancellor to ensure that our justice system is equipped with the funding it needs to face the challenges of the future.'

Reflecting on the figures, a Ministry of Justice spokesperson said: 'The new video technology we rolled out earlier this year has been used in thousands of trials and we're already seeing the number of outstanding cases in the magistrates' courts falling as a result. 'This is a huge step in getting the justice system back up to speed, but we accept that there is still work to boost capacity and to reduce delays.' The department says that opening more Nightingale Courts, rolling out Plexiglass in courtrooms and extending operating hours will help to deliver speedier justice. Last week the MoJ unveiled plans to employ 1,600 new court staff and increase custody limits from 182 days to 238 days. So-called 'Covid operating hours' are also being explored to see whether court buildings can be used for trials outside the standard weekday times of 10am to 4pm. In March, almost half of all courts were closed and jury trials paused in response to the coronavirus pandemic, but 90% of courts are now open again, and HMCTS aims to have opened 250 rooms suitable to hear jury trials by the end of October.

HMP Preston – Needed to Increase Pace of Recovery From Severe COVID-19 Restrictions

HMP Preston, a local men's prison in Lancashire, was found by inspectors from HM Inspectorate of Prisons (HMI Prisons) to be severely overcrowded, with most prisoners locked in cells for most of the day and none having been released early in the COVID-19 period. Inspectors visited the prison in August 2020, using the scrutiny visit methodology which HMI Prisons has developed to assess how prisons are recovering from the severe restrictions of the early COVID-19 pandemic. Peter Clarke, HM Chief Inspector of Prisons, said: "While the population was lower than at our previous inspection in 2017, the prison was still severely overcrowded. As we have found elsewhere, the **early release schemes brought in to relieve pressure on places during the pandemic had been ineffective, with no prisoners released** following assessment." **Prisoners isolating to protect others from the virus were allowed out of their cells for only 15 minutes a week to showe**r. Some accommodation in the 18th-century prison was deteriorating or, as in the case of the very cramped reception area, barely fit for purpose. In such areas, Mr Clarke said, "social distancing was all but impossible, and it was difficult in much of the rest of the prison […] We saw few attempts by staff and prisoners to socially distance even where it was achievable."

Inspectors found that most prisoners had understood the reasons for the restrictions imposed in March 2020, but many were now confused and concerned about the possible next steps. Nearly all prisoners received the restricted regime reliably, including daily access to telephones and showers, and exercise in the open air six days a week. However, most were still locked up for 22.5 hours a day, usually in shared cells that were not designed to hold more than one prisoner. Prisoners isolating to protect others from the virus were allowed out of their cells for only 15 minutes a week to shower. Mr Clarke added: "This was unacceptable and, given that there was only one such prisoner during our visit, wholly avoidable." The single isolating prisoner told inspectors he had been hot and short of breath in the previous few days when outside temperatures were high: "If they could just let me have 10 minutes every day for a shower and to let some air in, that would make a big difference."

Following an initial reduction, the incidence of violence was now starting to increase. Use of force by staff had increased in May and June 2020 to levels above those before the regime had been restricted, though it had started to reduce again. Self-harm was at a similar level to that before the restricted regime was imposed. Case management for prisoners at risk of suicide or self-harm was generally reasonable. Two-thirds of Preston prisoners said they had mental health problems and 11 were waiting to be transferred to a secure hospital. Mr Clarke added: "Some prisoners we interviewed described a decline in their mental well-being dur-

ing the restricted regime." Inspectors observed generally good staff-prisoner relationships and the prison was clean and additional cleaning was being carried out daily. Social visits had been reintroduced but were suspended shortly after as a result of local area restrictions.

Overall, Mr Clarke said: "Managers and staff at Preston had shown considerable resilience in managing the changing demands of the COVID-19 period. Prisoners had shown similar fortitude, although the costs to their mental health of such an extended period of restriction were increasingly evident. There were some obvious changes that the prison should have made to improve matters, such as ensuring that prisoners in protective isolation had more time out of cell. More ambition in general would also have improved the pace of recovery and alleviated the evident and growing strain on prisoners. This is partly a matter for local managers, but there was no doubt that they needed to feel they had the autonomy from HM Prison and Probation Service (HMPPS) to innovate."

Justice for Oliver Campbell

Zaki Sarraf, Justice Gap: Over 84,000 have signed a petition to overturn murder conviction of a man who spent 11 years in prison. 'Much of the police questioning was misleading and unfair,' said his lawyer Michael Birnbaum QC. In July 1990, a shopkeeper was shot and killed during a robbery of an off-licence in Hackney, East London. Testimonies from witnesses corroborated that the two men that carried out the attack were black and around 5 ft 10. Oliver Campbell, standing at 6 ft 3, was arrested after witnesses recalled one of the men was wearing a distinctive baseball cap. According to his legal team, the prosecution cases rested on three pillars: that the gun man won Campbell's hat; an identification and admissions made by Campbell to the police. They argue that the identification was 'very weak', there was no forensic evidence and unidentified hairs in the hat could have been chosen of the real gunman.

His lawyers also argue that the trial was unfair. Campbell's co-accused, Eric Samuels, admitted that Campbell was not involved with the murder. The jury that found Campbell guilty was never told this. Post trial, Samuels exonerated Campbell top two other people including a BBC journalist who filmed the interview. Police officers questioned Campbell for several hours without the presence of an appropriate adult or lawyer. Campbell has severe learning difficulties after suffering a brain injury as a child, and so was highly suggestible and had a low IQ.

In July 2019, Ipswich MP Sandy Martin told parliament that Campbell 'simply was not capable of carrying out such a crime.' 'There was no forensic evidence linking him to the baseball cap nor the scene of the crime. None of the fingerprints or hairs that had been recovered from the scene or from the cap match those of Oliver.' Martin continued. After half an hour of persistent suggestion from the police, Campbell confessed to the murder. Shortly after, Campbell's lawyer was called into the station and the confession was hastily retracted. Campbell was convicted solely on that confession and his ownership of the distinctive baseball cap.

Campbell's solicitor, Glyn Maddocks and barrister, Michael Birnbaum QC, have now submitted an application to the Criminal Cases Review Commission for the case to be reheard in the Court of Appeal. A previous application was made in 2002 and the subsequent rejection was challenged in a judicial review. However after recent pressure and the intervention of Campbell's MP Sandy Martin the CCRC has agreed to review the case and as a result of that new submissions were made in July this year. Campbell's lawyer that a change in the law to the Police and Criminal Evidence Act code of practices would now allow Samuel's admissions. Campbell served 11 years in prison and is now on licence requiring him to be monitored by the police and necessitating him to stay in the country. 'I went into prison innocent,' he told the East Anglian Daily Times. 'I came out innocent and I've been innocent all the way through.' 'I could've had a full-time job, a relationship, had kids, a family life and travelled the world. I've lost all that.'

The Right to My Opinion (Free Speech I)

Benjamin Bestgen takes a timeous look at freedom of expression. Evelyn Hall, the author of The Life of Voltaire, famously acquainted us with a summary of Voltaire's belief in freedom of speech: "I disapprove of what you say, but I will defend to the death your right to say it." Voltaire's apparent willingness to become a martyr for free speech represents the social and political atmosphere he lived in: speaking one's mind without fearing religious censorship or political and judicial consequences was even trickier in his time than it is today.

Freedom of speech, more accurately, freedom of expression, is an important right that tells us plenty about the society we live in: it informs about a society's taboos and sensitivities, its liberties and standards of education and discourse. It also indicates who in that society gets to have a voice and what topics are pushed to particular prominence – and who is being silenced, marginalised or excluded. In this and two further primers, we will consider points that come up repeatedly in the climate of our current debates:

T*he Right to Your Opinion.* We probably all know somebody who has terminated a conversation by saying "let's agree to disagree" or "I'm entitled to my opinion". This is usually an unsatisfying response: leaving an issue in a state of disagreement doesn't resolve it. Likewise, your perceived entitlement to an opinion is irrelevant when considering the truth or falsity of an argument or assertion. But what is an opinion? And what does it mean to be entitled to one? Philosopher Patrick Stokes notes with reference to Plato that we can distinguish ordinary, everyday beliefs from more certain knowledge, scientific theory or expert opinion. For example "Most men look good in suits" is a different statement than "The earth isn't flat" or "Viruses and bacteria are different things".

Our ordinary opinions contain a fair degree of subjectivity, guesswork and uncertainty. For some situations that's fine: if you like cheese and I don't, it makes no sense trying to argue about whose taste is better. But such a lack of epistemic standards won't do for matters which require technical expertise (like medicine or climate change science) or at least a degree of knowledge and prudent judgement, like politics or economics. "Just having opinions" isn't good enough for doing law or philosophy either. Insisting on offering valid reasons, sound arguments and credible evidence for one's opinion is important for any meaningful, constructive discourse that goes beyond uneducated speculation or personal taste and prejudice. Stokes therefore clarifies for his students that in his classroom they are not entitled to their opinion. They are only entitled to what they can reasonably argue for.

Respectable Opinions: Legally we are entitled to have all kinds of opinions, including believing clearly disproven things like, for example, that the earth is flat or that vaccines cause autism. But Stokes notes that "being entitled to my opinion" is true but trivial if it only means that nobody can stop me thinking or saying whatever I please. The problem is when people with little or no expertise demand that their opinion should be just as legitimate and acceptable as an expert's or the view of somebody who is offering evidence and proper arguments. Author Isaac Asimov complained that thanks to a streak of anti-intellectualism in US-American public life, the right to one's opinion seems to mean that "my ignorance is just as good as your knowledge". But if we want our opinions to be considered candidates for serious analysis and truth, we need to make them respectable. Offering credible evidence, sound arguments, debating with intellectual honesty and in good faith helps generate trust and respect for expertise, distinguishing it from "just my opinion".

Right to Argue: Having the right to argue is not the same as having a right to have one's opinion respected: some opinions are plainly nonsensical, false or made in bad faith and therefore unworthy of respect or consideration. But of course you are still allowed to hold them. Our

time, attention and platforms from which to debate important matters are precious public resources. So is public education and access to the best-supported arguments we know which should not be drowned out by bullshit. Having a keen interest or strong feelings about a topic does not make one an expert and does not entitle that person to have their views placed on the same platform as an expert's. A known former actress' views on female health and hygiene does not make her a gynaecologist. A politician believing climate change is a hoax is not a climate scientist. Michael Gove MP famously claimed that people had enough of experts. But if we take any opinion to be just as good as the next, we end up with people in powerful positions who can force their opinions on us, without the necessity of having to give reasons, being right or having their views subjected to expert scrutiny. So maybe Mr Stokes' classroom rule should be extended to our wider public sphere? Imagine we are not entitled to advocate just any opinion – at a minimum it must be one we can reasonably argue for.

Louisville to Pay Family $12m Over Police Shooting

BBC News: Officials in Louisville, Kentucky have agreed to pay $12m (£9.3m) to the family of Breonna Taylor, a black woman who was killed in her home by police. Taylor was 26 when she was shot at least five times and killed on 13 March during a mistaken drugs raid. Her name has featured prominently in anti-racism protests in recent months. Lonita Baker, a lawyer for Taylor's family, called the settlement just one "layer" in the effort to seek justice, and praised new police reforms. "Justice for Breonna is multi-layered," said Ms Baker at a press conference on Tuesday alongside Louisville Mayor Greg Fischer. She called the agreement "tremendous, but only a portion" of what the family hopes for, including the arrest of the officers involved in her death. "Today what we did here was to do what we could do to bring a little bit of police reform and it's just a start," continued Ms Baker. "But we finished the first mile in the marathon and we've got a lot more miles to go to until we achieve and cross that finish line."

The settlement includes a series of police reforms in the city, including a requirement that all search warrants be approved by a senior officer and giving a housing credit to officers who move to low-income neighbourhoods they patrol in the city. In a short statement, Taylor's mother Tamika Palmer called for criminal charges against the officers and asked people to continue to say her daughter's name publicly in advocacy for police reforms. The settlement is the largest financial sum paid in a police misconduct case in the city's history, according to the Louisville Courier Journal. Taylor's killing was propelled into the spotlight once again with the death George Floyd, an African-American man who died after a police officer knelt on his neck for minutes during an arrest in Minneapolis, Minnesota, in May. Floyd's death sparked global anti-racism protests and brought renewed focus on police brutality.

Shortly after midnight on 13 March, three officers entered Taylor's apartment by executing a no-knock search warrant - a court document that authorises police to enter a home without warning. Taylor and her partner, Kenneth Walker, were reportedly asleep as the commotion began. The officers exchanged fire with Mr Walker, a licensed gun owner who called 911 in the belief that the drug raid was a burglary. The officers - who fired more than 25 bullets - said they returned fire after one officer was shot and wounded. During the exchange, Taylor, an emergency medical technician, was shot eight times and later died. No drugs were found on the property.

The lawsuit filed by Taylor's family accuses the officers of battery, wrongful death, excessive force and gross negligence. It also says the officers were not looking for her or her partner, but for an unrelated suspect who did not live in the complex. Her family has also accused police of leading the raid as a plot to gentrify her neighbourhood. The city's mayor dismissed the allegation as "outrageous"

and "without foundation or supporting facts". One of the officers involved in the raid, Brett Hankison, was fired in June. The other two - Jonathan Mattingly and Myles Cosgrove - were placed on administrative leave. The city's police chief was also fired in June after a separate police shooting.

A grand jury could soon decide whether criminal charges should be filed against any of the officers. Until Freedom, a social justice organisation that has held rallies for Taylor, released a statement saying: "No amount of money will bring back Breonna Taylor." "True justice is not served with cash settlements," the group added. "We need those involved in her murder to be arrested and charged. We need accountability. We need justice." Earlier this year, Louisville's city council voted unanimously in favour of banning no-knock warrants. Similar legislation that would ban the warrants nationwide was introduced in the US Congress.

Sentencing White Paper

Secretary of State for Justice: The first duty of any Government is to protect their people, but the complex system of sentencing in England and Wales does not always command the confidence of the public. At one end of the spectrum of offending, there are serious sexual and violent criminals who, by automatic operation of the law, leave prison halfway through their sentence. We are going to ensure that more of these serious offenders stay in custody for longer.

There are also criminals who, while serving time for their offence, may become a danger to the public but who currently would be eligible for automatic release. We are acting to prevent fewer of these offenders from leaving prison without being assessed as safe by Parole Board experts. These measures will keep offenders who pose a risk to the public off the streets for longer and help to restore public confidence that robust sentences are executed in a way that better reflects the gravity of the crimes committed.

At the other end of the spectrum, protecting the public from the effects of lower-level offending means finding new ways to break cycles of crime—to prevent a revolving door of short custodial sentences that we know offer little rehabilitative value. Criminals in that category often have chaotic lifestyles and their offending can be driven by substance misuse, poor mental health or learning difficulties. They often have limited education, few job prospects and experience generational patterns of offending.

Rather than continuing to send them back and forth to prison—doing the same thing but expecting a different result—we instead want to empower the sentencing system to use more effective community sentencing to get them off drugs and into the jobs that we know can lead them to a better life. We will do that by better identifying individual needs, providing treatment options where appropriate and utilising technology, such as sobriety tags, to drive compliance. These measures will support offenders to change their lifestyles for good and, in the process, protect the public from the ongoing effects of their crimes.

The reforms will not work unless they are underpinned by a world-class probation system that can understand and implement sentencing properly, backed up by a high-quality probation workforce. I pay tribute to the probation service and everyone who works within it to supervise offenders. We have set ourselves an ambitious target to recruit 1,000 new trainee probation officers in 2020-21, and over the next few years we are determined to invest in the skills, capability and ways of working that probation officers need to do their job to the best standard.

Within the new probation arrangements, we will unify sentence management under the National Probation Service to further grow confidence between probation and the courts, with which there is a much closer relationship than under the old model. The 12 new probation regions will have a new dynamic framework, making it easier to deliver rehabilitation services through voluntary and spe-

cialist organisations. We will legislate to give probation practitioners greater flexibility to take action where offenders' rehabilitative needs are not being met or where they pose a risk to the public. These measures will empower probation services to be more effective at every juncture of the criminal justice system. The White Paper also contains measures to reduce stubbornly high reoffending rates by utilising GPS technology to drive further compliance, and to make it easier for offenders to get jobs by reducing the period after which some sentences can be considered spent for the purposes of criminal records checks for non-sensitive roles. In the youth system, it puts flexibility into the hands of judges to keep violent young offenders in custody for longer, while at the same time allowing courts to pass sentences that are tailored to the rehabilitative needs of each young person.

The White Paper builds on the current sentencing framework to create a system that will be much better equipped to do its job effectively, and throughout this document there are contributions from other ministerial colleagues right across Whitehall. That is an acknowledgement of the cross-Government approach that will be required if we are going to make a success of these reforms. We have got to come together to fulfil our manifesto commitments, to bring in tougher sentences, to tackle drug-related crime, to treat addictions, to improve employment opportunities for offenders, to review the parole system and much more. A smarter approach to sentencing will grow confidence in the criminal justice system's ability to deal robustly with the worst offenders and reduce the risk of harm to the public. It will also be smart enough to do the things that will really bring down crime in the longer term. I look forward to bringing its various measures through Parliament. I commend the White Paper and this statement to the House.

Uganda Jail Break: More Than 200 Prisoners Escape Moroto Facility

BBC News More than 200 prisoners have escaped from a jail in north-east Uganda, officials say, bringing the local town to a standstill while security forces try to track them down. The inmates reportedly killed a soldier after they broke out of the facility in Moroto before heading for the hills. The army and prison officials are pursuing the escapees, who reportedly made off with 15 guns and ammunition. An army spokesperson said two inmates had been captured and two killed. The prison facility is built on the foothills of Mount Moroto, on the edge of the town. According to an Associated Press report, the inmates took off their distinctive yellow prison uniforms and fled naked into the hills to avoid detection. Local reports say the shoot-out has brought business in Moroto to a standstill. Moroto is the biggest town in Karamoja, a restive region with a history of cattle rustling and gun violence, the BBC's Patience Atuhaire reports from Kampala. A government disarmament programme in the early 2000s took most of the guns out of the hands of civilians, but sporadic clashes between different communities have continued to happen, our correspondent notes.

HMP Hewell – 70% of Prisoners Reported Problems With Their Mental Health

Inspectors returned to Hewell in August 2020 for a scrutiny visit (SV) – designed by HMI Prisons to assess the recovery of prisons from severe early COVID-19 restrictions. Peter Clarke, HM Chief Inspector of Prisons, said that some findings were a concern: Almost a third of prisoners felt unsafe. In part, these perceptions reflected the lack of consistent attention to social distancing, but violence remained comparatively high, particularly against staff, and Hewell "could not be considered a safe prison:Care for particularly vulnerable prisoners was good but many still felt that they were not supported at their time of need: Though the severely curtailed regime at the start of the restrictions was understandable "there had been little progress in ensuring that prisoners had sufficient time out of cell or purposeful activity. This contributed to prisoners' frustration and potentially to a deterioration in mental and emotional well-being," Mr Clarke

said. "Prison leaders at both local and national level should take note of the fact that 70% of the prisoners we surveyed at Hewell reported problems with their mental health. One hour out of cell each day was simply not enough. The small number of prisoners with symptoms who were isolating could not have a shower regularly and sometimes had to wait for up to 14 days to do so. Some prisoners with impaired mobility had not had time in the fresh air for weeks and experienced particular difficulty in accessing showers regularly. This was wholly unacceptable.

Efforts had been made to ensure that prisoners could maintain some contact with their families in the absence of visits. In-cell telephones were greatly appreciated by prisoners. The reintroduction of visits had been a priority for the prison after nearly five months without any and this was also valued by prisoners. Mr Clarke noted that a new governor had arrived five weeks before the visit and had increased time out of cell from half an hour to an hour, opened a workshop for a small number of prisoners and introduced an outside exercise session for all prisoners once a week. Yet many workshops remained empty, classroom-based education was still not permitted and only 14% of prisoners were employed.

Overall, Mr Clarke said: "While we are acutely aware of the need to ease restrictions in a safe and measured way, we felt that progress had been too slow and the restrictions in place were no longer proportionate. Additional improvements could be made by the governor, but further progress was limited by rigid national procedures which prevented a creative leadership team from implementing credible and safe plans to improve the regime. The governor was realistic about the significant challenges that lay ahead. He described an optimistic vision for Hewell of delivering a more person-centred, purposeful and rehabilitative regime within the constraints of running a busy local prison The initial stages of the COVID-19 crisis had been managed well, and the challenge now will be to secure, as quickly as possible, a recovery plan that will enable the prison to fulfil its role safely and decently."

Doubts Cast on Fairness of Inquiry Into Reform of Judicial Review

Source: Scottish Legal News: Law firms have cast doubt on the fairness of an inquiry into reform of the judicial review system in the UK. Fundamental elements of the constitution are to be reviewed by a panel appointed by the UK government, with a view to reform. Announcing the review in July, the government said the panel of experts, chaired by Lord Faulks QC would examine if there is a need to reform the judicial review process. However, law firms Leigh Day, Bindmans, Irwin Mitchell, Bhatt Murphy and Deighton Pierce Glynn (DPG) say that, without an open call for evidence early in the process, it will not be possible for the review to be genuine and fair. In a letter sent last week, the group states: "Given the incredibly wide range of factors that the panel will have to consider, and the potentially major constitutional change that such reforms could bring about if adopted, those options must be subject to a full and proper consultation at a formative stage." The lawyers also voiced concern that the panel members "are not fully representative of those concerned about the future of judicial review". They have called on the government to consider expanding the panel to include practising lawyers with expertise in claimant law public law litigation and legal aid funded judicial review work so that the call for evidence will be better scrutinised. In a joint statement the law firms said: "For such a review to be credible, its terms need to be widened significantly, and the membership of the panel needs to more fully reflect the legal body that carries out judicial review work. If it is not, then any premise underlying this review, that judicial review is routinely abused by claimants, may go uncorrected."

Independent Advisory Panel on Deaths in Custody

What additional progress they have made towards implementing the recommendations of the Independent Advisory Panel on Deaths in Custody. The Department has continued to take steps to implement the recommendations made in this report, as well as others made by independent experts and scrutiny bodies, as part of its robust response to protect prisoners and prison staff from COVID-19. Progress has been reflected in the development of Exceptional Delivery Models which cover areas such as social visits, education and time in the open air. This forms an integral part of the National Framework for Prison Regime and Services Recovery which is currently being implemented. The recommendations made by the report note the importance of clear communication and ensuring that prisoners feel supported and listened to. The majority of establishments have now resumed social visits which are vital for maintaining family contact and prisoners' wellbeing. As we move to Stage 2 of the National Framework, prison governors will have more autonomy to shape their regimes in a way that responds to local dynamics and continues to keep staff and prisoners safe from COVID-19

Covid Court Delays: Weeds, Leaks, and Four-Year Waits For Justice

Clive Coleman, BBC News: 'Paul' was accused of committing a domestic burglary in June 2018. In early 2019 he was told by police that no further action would be taken against him. However, he was subsequently charged. Last week over two years since the alleged offence he appeared at Inner London Crown Court. But his barrister told the court that the Crown Prosecution Service (CPS) had still not served the sole evidence - DNA - in the case on the defence. Paul (not his real name) is on bail and had his trial put on provisional "warned" list - for December 2021. It means there is no guarantee it will take place at that time - just that it might. The judge explained apologetically that priority is being given to cases where defendants are being held in custody. So, three and a half-years from the date of the alleged offence, there has been no justice for the alleged burglary victim - or the accused.

Paul's was one of a number of cases I saw on a visit to Inner London with the chair of the Criminal Bar Association (CBA) James Mulholland QC. He told me it was typical. "This is justice 2020, but it has been like this for the last 10 years, delay after delay, inbuilt into the system. These cases are being pushed back continuously. "Lack of investment is at the heart of it and government needs to understand that you don't create a proper justice system without proper investment. What we are seeing here are the fruits of a lack of interest." That apparent "lack of interest" is reflected in the state of some court buildings. Outside Inner London I saw a dead pigeon decaying on netting, vast weeds growing up the side of the building and old pipes leaking water.

Meanwhile, a court official told me that some court centres are now listing trials for 2023. The delays are caused by a range of factors. Lawyers point to huge cuts to the police, CPS and other agencies such as probation. There are a range of things malfunctioning within the system. They include long initial delays caused by police "releasing suspects under investigation" - sometimes for years - before a charging decision is made. Systemic problems continue with the CPS serving evidence late on the defence, meaning lawyers cannot advise their clients in a timely manner. And perhaps most significantly - the decisions by government to cut thousands of crown court sitting days. That has meant that courts have been mothballed while trials stack up in a growing backlog. None of these problems are caused by the coronavirus pandemic and lockdown, but they are of course exacerbated by it. Pre-lockdown the crown court backlog in England and Wales stood at some 37,000. It is now over 46,000.

Ireland: Voluntary Assisted Dying with Dignity Legislation to be Introduced

Gino Kenny, Irish Legal News: A private member's bill allowing for terminally ill people to seek assistance to end their own lives is set to be introduced in the Dáil today. The Dying with Dignity Bill, to be introduced by People Before Profit TD Gino Kenny, is expected to win support from Sinn Féin, the Social Democrats and the Labour Party. Mr Kenny was joined by cervical cancer campaigner Vicky Phelan, the late Marie Fleming's partner Tom Curran and Gail O'Rourke at the launch of the bill today. He said: "At the heart of this legislation is compassion, humanity and empathy. Where somebody finds themselves in extremely difficult circumstances in relation to a terminal illness, I think they should have a choice in relation to that particular time of their terminal illness. "By any means, it's not mandatory but it should be a choice and where other jurisdictions that voluntary assisted dying has been implemented, it has worked very well, there hasn't been – no evidence of it being abused by any means."

Scottish Police Officers Lose Disciplinary Fight Over Racist Messages

Severin Carrell, Guardian: Ten police officers accused of sharing racist, antisemitic and sexist WhatsApp messages have lost a battle to prevent Police Scotland taking disciplinary action against them. The officers claimed that their rights to privacy had been breached after senior officers uncovered two private WhatsApp groups during an investigation into another officer's alleged misconduct. The messages allegedly included an antisemitic joke, as well as the sharing of images from crime scenes in live investigations. Their attempts to block disciplinary action were rejected on Wednesday by three appeal judges at the court of session, who ruled an earlier hearing had correctly found all 10 officers could be subject to Police Scotland disciplinary proceedings. Lady Dorrian, the lord justice clerk and Scotland's second most senior judge, said Lord Bannatyne had found last year "a reasonable person having regard to the content of the messages would be entitled to reach the conclusion that they were sexist and degrading, racist, antisemitic, homophobic, mocking of disability, and included a flagrant disregard for police procedures by posting crime scene photos of current investigations. "The messages also included pictures of a police shift pattern and a police bulletin." One of the private groups was called Quality Polis and the other group was called PC Piggies. Bannatyne ruled that the messages could undermine public confidence that police in Scotland were unbiased, and respected people's race, sexuality and disabilities. The 10 officers had signed up to the force's regulations and standards, and sworn an oath to act with "fairness, integrity, diligence and impartiality [and] uphold fundamental rights and accord equal respect to all people, according to law". Their messages were found while professional conduct detectives were investigating sexual misconduct complaints against another officer.

Serving Prisoners Supported by MOJUK: Walid Habib, Giovanni Di Stefano, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan.