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Chris Kaba: One year on, Family Demand a Decision on Charges

INQUEST: Chris Kaba, 24, was fatally shot by a firearms officer from the Metropolitan Police one year ago on 5 September 2022 in Streatham, London. The family are still waiting for answers and a charging decision from the Crown Prosecution Service (CPS). Five months ago, in March, the police watchdog, the Independent Office for Police Conduct (IOPC), announced the conclusion of its homicide investigation and confirmed that it had passed the file to the CPS to consider potential criminal charges. The IOPC homicide investigation considered the actions of the police, and in particular the actions of the shooter, known only as NX121.

Since 1990 there have been 1,869 deaths recorded by INQUEST in or following police custody or contact in England and Wales. In that time there has only been one successful prosecution of a police officer for manslaughter in 2021, and none for murder.

In a joint statement, the family of Chris Kaba said: "We demand a charging decision without further delay. Throughout the last year there has been a lack of urgency. Our family, alongside the community who have supported us over the past year, have been consistent in our call for accountability. We believe that it was possible within six months of Chris being killed both for the IOPC to complete a well-resourced and effective criminal investigation and for the CPS to provide us with a charging decision. It is almost unbelievable that a year on we still wait for answers. It is agonising not knowing the CPS decision. It is unacceptable that we have been failed by the CPS, which has not completed its task urgently or in a timely fashion. We very much hope that the CPS decide in days (not weeks or months) from now in favour of a prosecution and that the truth will emerge, without further delay, through criminal proceedings. Our family and community cannot continue waiting for answers. Chris was so loved by our family and all his friends. He had a bright future ahead of him before his life was cut short. We must see justice for Chris."

Deborah Coles, Director of INQUEST, said: "Chris Kaba's death has generated significant public concern at a national and international level about how the state and its agents are held to account when they use lethal force. It is simply unacceptable we do not yet have a charging decision. This exacerbates the family's trauma and grieving process. Delay, denial and defensiveness is institutionalised within the investigation system and shows how police officers are treated differently than civilians. The fundamental question remains as to how and why another unarmed Black man can be shot dead on the streets by police?"

Daniel Machover of Hickman & Rose, who represent the family, said: "I am appalled that, after the IOPC took almost seven months to complete its investigation, the CPS has failed to complete its task within a further five months. In what other comparable suspected homicide case involving firearms discharged by a civilian does the CPS consider it appropriate to take so long to make a charging decision? CPS decision making when police officers are suspects is too slow and cumbersome. It is also worth pointing out that, just as many of the IOPC's most serious criminal investigations of police officers remain under-resourced and far too slow. The public interest demands that the CPS makes faster charging decisions in all cases involving police suspects, and that it notifies the family of this particular charging decision without further delay."

Less than £1.5m Compensation to Victims of Miscarriages of Justices in Three Years

Jon Robins, Justice Gap: Over the last three years, the Ministry of Justice has paid out less than £1.5m in compensation to victims of miscarriages of justice for 13 successful applications – this follows a two-year period when the government didn't appear to pay a penny following a controversial change in the law in 2014 requiring applicants to prove their innocence.

The overturning of Andrew Malkinson's conviction last month prompted widespread outrage in the media about the compensation arrangements. The coverage followed a powerful interview on the BBC in which Andrew Malkinson said a charge for prison board and lodging would be deducted from any compensation he recovered. It was 'jaw-dropping that an unjustly imprisoned person can be charged in this way for their own wrongful imprisonment', the Guardian added.

Such was the alarm that the lord chancellor, Alex Chalk, moved quickly to scrap the rules which allowed for such deductions. 'It is not right that victims of devastating miscarriages of justice can have deductions made for saved living expenses,' Chalk said. 'This commonsense change will ensure victims do not face paying twice for crimes they did not commit.' However the MoJ press office confirmed to the Justice Gap that it had not actually paid a penny for such deductions.

The furore obscured 'the bigger scandal', as Private Eye put it in its August 11 issue, most victims of injustice no longer qualify for any compensation at all. 'A controversial law change made under Chris Grayling's disastrous stint as justice secretary means there's no guarantee Malkinson will receive compensation for the wrongs he has suffered.' As a result of a 2014 change in the law, victims of miscarriages of justice are now required to prove their innocence 'beyond a reasonable doubt' as has been widely reported on the Justice Gap.

In answer to a parliamentary question posted by Barry Sheerman MP, chairman of the All-Party Parliamentary Group on Miscarriages of Justice, justice minister Edward Argar confirmed that ministers had paid out a total of £1.42m in the last three years (2019 to 2021), an average of £110K for each successful applicant. This compares to more than the £42m that was paid out for a three year period 30 years ago (1999 to 2001). The collapse in payouts reflects two significant legislative changes: in 2006, New Labour's home secretary Charles Clarke scrapped the discretionary ex gratia compensation scheme under which larger sums were paid out (leaving a very restricted and ungenerous statutory scheme). It was under this more generous scheme that deductions for board and lodging were made – this was challenged in 2007 by Michael O'Brien of the Cardiff Newsagent Three and Vincent and Michael Hickey of the Bridgewater Four. You can read Kate Maynard and Toby Wilton of Hickman Rose who are representing Andrew Malkinson in his compensation claim on the Justice Gap here; and a history of the long-running scandal of miscarriage of justice compensation here.

The second change was has blocked successful applications was Grayling's 2014 change in the law which further restricted the statutory scheme. The Ministry of Justice's press office confirmed that there had been no deductions for bed and board in 'the MoJ's history' (the department was setup in 2007 after the ex gratia scheme was scrapped). The press office explained that it could be that the independent assessor, Dame Linda Dobbs, 'takes into account tax someone hasn't paid as a result of being in custody or savings they have made in terms of living costs – but critically there is never any consideration of the cost of holding the individual in custody.' For two years not a penny was paid out (2017 and 2018) – according to a response to a Freedom of Information request made by the Justice Gap in one two-year period there was not a single successful applicant (and only £10,000 paid out). The MoJ press office said that there had been no change of policy to account for the subsequent successful referrals.

MPs Inquiry Into The State of Welsh Prisons

MPs are launching an inquiry into the state of Welsh prisons – and they would like to hear from anyone who is in one, or has been recently. The all-party Welsh Affairs Committee is asking questions including "Is the Welsh prison estate fit for purpose in terms of living conditions, overcrowding and safety?" The MPs also want to know about education, rehabilitation, availability of drugs and weapons, and use of the Welsh language in jails. The committee's chairman, Stephen Crabb, says he wants to "identify what steps can be taken to improve the situation facing offenders and prison staff alike." There are five prisons in Wales, all male: Cardiff, Swansea, Parc, Usk/Prescoed, and Berwyn. Your response could influence the MPs' report and lead to changes in the system. Submissions may be handwritten and should be sent by October 13 to: Welsh Affairs Committee, House of Commons, London, SW1A 0AA.

Acquittals Regarding £5m Money-Laundering Conspiracies

Benjamin Newton KC and Kate O'Raghallaigh were instructed by Ruth Harris of Hodge Jones & Allen to represent FA, a forty-year-old woman of good character. She had worked as the Personal Assistant to the principals of two sophisticated schemes through which the proceeds of substantial international fraud were laundered using shell companies and bank accounts set up for 'mules' brought into the country from Scandinavia and Eastern Europe. At the conclusion of an eight-week trial FA was found not guilty of involvement in either conspiracy, and of a substantive count of acquiring criminal property. The prosecution subsequently offered no evidence in relation to a further count of attempting to convert criminal property upon which the jury had been unable to reach a verdict.

Acquittal of Retired Nurse Accused of Sending Threats to Members of the Lords

The defendant had sent letters to Lord Sandhurst and Baroness Chisholm in October 2021 asking them to support the Assisted Dying Bill, those letters having allegedly contained a white powder (sucrose) intended to be mistaken for anthrax. Malaysian-born Chek-Min Ong, 74, who lives in the UK's first LGBTQ retirement block opposite the Houses of Parliament, denied having put any powder in the envelopes, and Dr Waleed Fawzi gave evidence for the defence that he was in any event likely to have been suffering from a dissociative disorder at the time due to the overwhelming stress of caring for his terminally ill partner. This could explain significant gaps in his recollection and rebut the alleged purpose of causing anxiety or distress.

Missing Evidence Led to 16 Homicides In England and Wales Not Going to Trial

Hannah Devlin, Guardian: Figures for 2021-22 raise concerns about police handling of crucial material used to prosecute the most serious crimes. Prosecutions involving more than a dozen homicides and more than 100 sexual offences collapsed before trial in England and Wales last year as a result of lost or missing evidence, the Guardian has learned. The findings, obtained by a freedom of information (FoI) request by criminal justice researchers, raise concerns about police handling of crucial evidence used to prosecute the most serious crimes, such as DNA samples, CCTV footage, weapons, drugs and mobile phone data. The figures show that lost or unavailable materials were responsible for the pre-trial collapse of 7,316 cases between September 2021 and September 2022 in forces across England and Wales, including 16 homicides (1.3% of the total number of homicides) and 123 sexual offences (1%). In the previous three years, between October 2018 and August 2021, 20,838 cases were dropped, including 42 homicides (1.1% of the total) and 364 sexual offences (1.2%).

"This is the stark reality of a criminal justice system with massive holes in it," said Prof Carole McCartney, a criminologist at the University of Leicester. "If you've lost the evidence, you can't prosecute people, you can't appeal if you're wrongly convicted, you can't solve a cold case." The figures, obtained by McCartney and Louise Shorter, an independent criminal justice researcher, come as the police and the Criminal Cases Review Commission (CCRC) face intense criticism over the handling of scientific evidence in the Andrew Malkinson case.

In response to the findings, the National Police Chiefs' Council noted that the data related to cases in which evidence was "lost" and a range of other scenarios in which evidence that could include expert witness statements or social services material was "unavailable" to police or the Crown Prosecution Service (CPS). In March, the damning Casey report on standards and culture in the Metropolitan police highlighted the "dire state" of scientific evidence storage, describing "overstuffed, dilapidated or broken fridges" and a freezer breaking down in the 2022 heatwave, resulting in all the evidence within being destroyed and associated rape cases being dropped.

In anonymised interviews with current and former officers, due to be published in the International Journal of Police Science and Management, McCartney and Shorter heard of problems in police forces across England and Wales. One officer likened police forensic evidence storage to a bargain retailer, saying: "I suppose it's like dealing with Primark … everything's just stacked really high and something will get lost somewhere along the line. If you went to a more high-end store, they've got very few things and everything's meticulously audited." Other incidents described by officers included: A kilogram of heroin being left unsecured on an office desk for several days until the officer responsible returned to the office. Exhibits being left unsealed in drawers and under desks. Freezers so critically overloaded that they "were acting more as storage facilities rather than frozen storage". "The Met's problems are replicated across the country," said McCartney. "This is all going on behind closed doors. The police [custody of forensic scientific evidence] is not monitored, they aren't regulated, nobody inspects this. It's critical to the criminal justice system, yet nobody is paying any attention."

Shala v Italy - Violation of Article 6

1. The issue in the case is whether the applicant - who was declared to be a -fugitive- (latitante) and tried in absentia - had a fair trial according to Article 6 §§ 1 and 3 of the Convention, given that, in the proceedings that were reopened after his arrest, he was denied the opportunity to exercise certain rights of defence.

2. On 4 October 1999, in the context of criminal proceedings against the applicant for drug offences, the judicial authorities ordered his pre-trial detention. Since the applicant - who was already listed in the investigation documents as living at an unknown address in Bratislava -was considered untraceable, on 25 October 1999 he was declared to be a fugitive and assigned an officially appointed lawyer.

3. He was tried in absentia and sentenced to twenty-six years imprisonment by the Milan District Court by a judgment of 24 October 2001, which became final on 26 March 2002. All procedural documents, including the judgment, were served on the applicants lawyer.

4. On 28 August 2013, after being arrested by the Albanian police, the applicant was extradited to Italy. He applied under Article 175 § 2 of the Code of Criminal Procedure, as applicable at the material time, for leave to appeal out of time against the judgment.

5. Having obtained it, he lodged an appeal against the judgment. He requested, inter alia, that the proceedings be reopened ab initio, since he had been declared a fugitive even though he was not aware of the proceedings and had not voluntarily escaped them. He further contested the territorial jurisdiction of the courts of Milan and he requested, in any event, that the summary procedure be adopted.

6. In a judgment of 27 October 2014, the Milan Court of Appeal upheld the first-instance conviction, rejecting all of the applicants claims. It held that the applicants voluntarily evasion of the proceedings had been proven (he had no fixed address; some wiretaps had shown that he was aware that others involved in drug trafficking had been arrested and that he feared that he might also be arrested) and that he was not entitled to have the proceedings reopened ab initio. It further considered that the applicant was no longer within the time limit to request the adoption of the summary procedure and that the officially appointed lawyer should have challenged the territorial jurisdiction in the first-instance trial.

7. In a judgment of 10 May 2016, the text of which was deposited with the registry on 1 June 2016, the Court of Cassation upheld the Milan Court of Appeals judgment.

8. The applicant complained, under Article 6 §§ 1 and 3 of the Convention, that he had been convicted in absentia without having had a genuine and effective opportunity of presenting his defence before the Italian courts. Despite the fact that he had become aware of the proceedings only when he was arrested, he had been refused the possibility to have the proceedings reopened ab initio. He further complained that, in any event, he was not heard personally and he was denied the right to contest the territorial jurisdiction and to be tried under the summary procedure.

9. The Government submitted a unilateral declaration which did not offer a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (Article 37 § 1 in fine). The Court rejects the Governments request to strike out the application and will accordingly pursue its examination of the merits of the case (see Tahsin Acar v. Turkey (preliminary issue) [GC], no. 26307/95, § 75, ECHR 2003-VI).

10. The relevant domestic law and practice (in force at the relevant time) have been summarised in Huzuneanu v. Italy, no. 36043/08, §§ 27-32, 1 September 2016.

11. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

12. The Court refers to its judgments in the case of Sejdovic v. Italy [GC], no. 56581/00, §§ 81-95, ECHR 2006-II, and Huzuneanu, cited above, §§ 47-48, for a summary of the relevant principles applicable in the present case.

13. In application of those principles, the Court notes that it was not contested that the applicant had been tried in absentia and that before his arrest he had not received any official information about the charges or the date of his trial. It is also not disputed that already during the preliminary investigation he was found to be living outside Italy, in an unspecified place in Bratislava. Moreover, contrary to what the Government argued in their observations, there are no elements in the case file unequivocally showing that the applicant was aware of the proceedings against him and that therefore he waived his right to appear in court or sought to escape trial. In fact, the arguments relied on by the domestic courts in order to uphold the validity of the fugitive decree - i.e. the applicants awareness of the arrest of others involved in drug trafficking, the mere fear of the possibility of being arrested himself, and the fact thathe had no fixed address - cannot be deemed sufficient in order to prove, in an unequivocal manner, that the applicant sought to escape trial or waived his right to appear at the trial (see Sejdovic, cited above, § 87).

14. Having so established, the Court is therefore called up to examine whether the applicant, convicted in absentia, subsequently had an effective opportunity of obtaining a fresh determination of the merits of the charges against him by a court which had heard him in accordance with his defence rights.

15. In the instant case, the applicant did not have the opportunity to have the proceedings reopened ab initio, but only to appeal against the first-instance judgment, with all the limitations inherent in appeal proceedings. It does not appear from the case file that there was any evidence-taking activity before the Court of Appeal, nor that the applicant was heard personally by that court. He was denied the rights to contest the territorial jurisdiction of the courts and to obtain to be tried under the summary procedure, that he could have exercised, if he had been present, in the first-instance trial, when indeed he was absent and represented by an officially appointed lawyer.

16. The Court reiterates that being represented by an officially appointed lawyer in proceedings held in absentia is not of itself a sufficient guarantee against the risk of unfairness (see Huzuneanu, cited above, §§ 47-49). Moreover, being tried by a court having jurisdiction in accordance with the domestic law is a relevant issue in order to establish the overall fairness of the proceedings under Article 6 § 1 of the Convention .

17. These considerations are sufficient to conclude that the overall fairness of the proceedings was vitiated and that, contrary to the Government-s view, the applicant did not obtain an effective fresh determination of the merits of the charges against him in accordance with the requirements of Article 6.

18. There has accordingly been a violation of Article 6 of the Convention.

19. The applicant did not submit a claim for damage, considering the reopening of the trial as adequate just satisfaction. However, he claimed 15,387.28 euros (EUR) in respect of costs and expenses incurred before the Court, and 10,636.98 euros (EUR) in respect of costs and expenses that would be incurred before the domestic courts in case of reopening of the trial. He requested that the sums to be awarded to him by the Court be paid directly to his lawyer, the latter having advanced them.

20. The Government submitted that the amounts claimed were excessive and requested that they be largely reduced.

21. Since the applicant has made no claim for damage, the Court does not make an award.

22. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 7,000 for the proceedings before the Court, plus any tax that may be chargeable to the applicant. This sum should be paid directly to the applicants representative.

23. The Court rejects the claim in so far as it concerns the costs and expenses that would be incurred in case of reopening of the trial, as they are merely hypothetical. For These Reasons, the Court, Unanimously, Rejects the Governments request to strike the application out of its list of cases under Article 37 § 1 of the Convention on the basis of the unilateral declaration which they submitted; Declares the application admissible; Holds that there has been a violation of Article 6 of the Convention; Holds (a) that the respondent State is to pay the applicant, within three months, the amount of EUR 7,000 (seven thousand euros), plus any tax that may be chargeable to the applicant, to be paid directly to the applicant-s representative, in respect of costs and expenses; (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Inmates Free 57 Ecuador Prison Guards After Stand-Off

BBC News: Inmates in six Ecuadorian prisons have released 50 guards and seven police officers they had taken hostage, the prison service (SNAI) has said. The 57 freed hostages are "undergoing medical evaluation" but appear to be in good health, according to SNAI. Officials say the kidnappings were coordinated by criminal gangs angry at attempts to curb their power. Two car bombs which went off near police buildings in the capital, Quito, have

also been blamed on the gangs. The authorities believe at least one of the incidents could be retaliation for a police search for weapons at one of the country's biggest jails.

Hundreds of police officers and soldiers carried out the search at Cotopaxi jail in Latacunga, about 55 miles (88km) south of Quito, as part of efforts to prevent further violence at the prison on Wednesday. Normal activities have now been resumed in the six facilities, including a young offenders unit which was badly damaged by an arson attack. Officials have not offered any details as to how or why the officers were released. The measures we have taken, especially in the prison system, have generated violent reactions from criminal organisations that seek to intimidate the state," President Guillermo Lasso said on X, formerly Twitter, on Friday night.

Ecuador is facing growing violence linked to drug-trafficking gangs, which has put a huge strain on the under-resourced and overcrowded prison system. Hundreds of inmates have been killed in deadly fights in Ecuador's overcrowded jails in recent years. Such is the influence of narco-politics in Ecuador, its prisons are places of power - it's where those involved in drugs offences get locked away. But they're also the control centres of many of the cartels and gangs now - so when inmates don't like what the authorities are doing, they make that known through violence and riots.

Prisons: Travellers

Baroness Whitaker: To ask His Majesty's Government what assessment they have made of the findings of The Traveller Movement's report Available but not Accessible Romany Gypsies and Irish Travellers: barriers in accessing purposeful activities in prison, published on 27 March.

Lord Bellamy: As part of the HMPPS Gypsy, Roma & Traveller (GRT) Strategy, we are committed to fully considering the Traveller Movement Report 'Available but not Accessible'. This activity is ongoing, and will include consultation with the Traveller Movement, and potentially, other GRT-associated third sector organisations. The associated action plan will be updated to incorporate necessary activity in association with further HMPPS evidence-based assessments also currently under consideration. The review is expected to be fully completed by Autumn 2023.

Germany Refuses to Extradite Man to UK Over Concerns About British Jail Conditions

Diane Taylor, Guardian: A German court has refused to extradite to the UK a man accused of drug trafficking because of concerns about prison conditions in Britain, in what is thought to be the first case of its kind. The decision has been described as a "severe rebuke" and "an embarrassment for the UK" by a member of the Law Society.

The case involves an Albanian man who lived in the UK. He was accused of trafficking approximately 5kg of cocaine and of laundering about £330,000. Westminster magistrates court issued an international arrest warrant, also known as an Interpol red notice, asking for him to be returned to the UK. He had travelled to Germany because his fiancee was seriously ill there. Karlsruhe higher regional court in south-west Germany made its decision earlier this year, and it has only recently been made public. A translation of the court report said: "The court decided that the extradition of the Albanian to Britain was 'currently inadmissible'. Without British guarantees, extradition is not possible in view of the state of the British prison system. There are no legal remedies against this."

The man was arrested by German police and held in extradition custody. His defence lawyer, Jan-Carl Janssen had studied in Glasgow and had written a thesis that looked at UK prison conditions. In court, Janssen cited his research about chronic overcrowding, staff shortages and violence among inmates in British prisons. On the back of this evidence, the

German court sought reassurances on two occasions from the UK authorities about prison conditions there. The court said guarantees from the UK of compliance with minimum standards in accordance with the European convention on human rights were required. In addition, the court asked the British authorities to specify which prisons the Albanian man was going to be detained in and what his conditions of detention would be in those prisons.

A police station in Manchester replied to the court's first request on the final day of the deadline for a response, saying 20,000 extra prison places were being built to deal with the problem of overcrowding. The second request for reassurance about UK prison conditions received no response from the UK.

While concerns have been expressed before about prisons in certain European countries, this is never thought to have happened previously in relation to UK prison conditions. Failing to receive the assurances it sought about UK prison conditions, the German court determined the extradition of the Albanian as "currently inadmissible".

Since the UK is no longer a member of the EU, the rules of the European arrest warrant no longer apply. The trade and cooperation agreement concluded between the EU and Britain in 2020 states that an arrest warrant can be subject to certain conditions, and "if there are reasonable grounds for believing that there is a real threat to the protection of the fundamental rights of the requested person, the executing judicial authority may, where appropriate, require additional guarantees".

Jonathan Goldsmith, a Law Society member, writing in the Law Society Gazette in a personal capacity about the case, said it was another severe rebuke for the British government's record on the administration of justice. He said: "This is an embarrassment for the UK. There have been similar court decisions before under the European arrest warrant framework, but in relation to member states whose records on prisons and human rights the UK would not wish to compare itself with." The Albanian man is not wanted for offences committed in Germany and the court determined that as it did not receive the assurances it asked for from the UK authorities, the man would not be extradited. He is currently free again.

The Ministry of Justice has been approached for comment.

'We Need to Push Back Against Criminalisation of Black Culture' Says Liberty

Jack Sheard, Justice Gap: A human rights charity has highlighted the racist use of 'gang' evidence such as drill music videos in a new application to the miscarriage of justice watchdog in an attempt to overturn the conviction of three black men.

Durrell Goodall, Reano Walters and Nathaniel "Jay" Williams were convicted of murder in 2016 under the common law doctrine of joint enterprise. They were part of a group of 11 black teenagers convicted for the death of Abdul Hafidah. They argue that their convictions were tainted by institutional racism in Greater Manchester Police and the CPS.

Their convictions relied upon evidence of alleged gang affiliation including a year-old rap video recorded with a youth centre and an apparent preference for the colour red. No similar evidence was presented for the teenager who actually delivered the fatal stabbing. Goodall, Walters and Williams have stated that the alleged gang was a 'music initiative' without any criminal element.

Liberty argues that this evidence of gang affiliation is used disproportionately against young black men. In particular, the use of rap and drill music is based on racialised stereotyping and cultural misunderstanding. In concert, this criminalises friendships, breaching the ECHR's right to a private life and undermines the possibility of a fair trial. 'Joint Enterprise' is a legal doctrine by which individuals can be convicted of murder even if they were only bystanders. It has been a source of controversy for over a decade as reported on the Justice Gap and has a dispro-

portionate effect on Black people. In 2012, the House of Commons' Justice Select Committee first requested that the CPS keep statistics on Joint Enterprise convictions, but it was not until earlier this year that, faced with a legal challenge by Liberty and the campaign group Jengba (Joint Enterprise Not Guilty by Association), the CPS agreed to record this data.

Emmanuelle Andrews, policy and campaigns manager at Liberty, said that young Black men are 'particularly likely to be targeted by joint enterprise prosecutions, which unfairly sweep people into the criminal justice system – often on the basis of dubious evidence that young people were "in a gang".' 'The increasing use of drill music videos as evidence of 'gang' affiliation is worrying, both because of the disproportionate impact it is likely to have on young Black men and boys, but also because it is likely to have a chilling effect on the freedom of young Black people to make art – particularly in a context where cuts to the arts have already made this kind of expression much harder. It's crucial that we resist the moral panic around 'gangs' which is used to justify the harmful policing and punishment of young Black men and boys. We must also push back against the criminalisation of Black culture.'

Police: Human Rights

Lord Moylan to ask His Majesty's Government what plans they have to ensure guidance developed by the College of Policing and the National Police Chiefs Council on buffer zones will protect the internationally recognised human rights of freedom of (1) conscience, (2) speech, (3) religion, and (4) assembly.

Lord Sharpe of Epsom responded: Ahead of the commencement of section 9 of the Public Order Act 2023, the College of Policing and the Crown Prosecution Service are updating relevant public order guidance and training to reflect the inclusion of the offence of interference with access to or provision of abortion services. In accordance with human rights obligations, the College of Policing and the Crown Prosecution Service are required to consider the rights provided under Article 9 of the European Convention on Human Rights (ECHR), including the right to freedom of thought, conscience and religion, which is an absolute right under Article 9 of the ECHR, Article 18 of the International Covenant on Civil and Political Rights and directly linked to freedom of opinion in Article 10 of the ECHR.

As an absolute right, there can be no legitimate justification on the part of the public authority to limit, interfere or otherwise penalise persons for their exercise of the right to freedom of thought. However, freedom to manifest religion or belief is qualified. It shall be subject only to such limitation as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of the public order, health or morals or the protection of the rights and freedoms of others. Public bodies must also consider Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) of the ECHR, recognising these are qualified rights, which can sometimes be infringed upon to uphold other rights.

Counsel in Attempted Murder Trial Secures Stay of Proceedings as Abuse of Process

SE was accused of attempting to kill the complainant over the course of two separate incidents of violence. At trial, and after cross-examination of the complainant, Jake mounted extensive legal arguments relating to the admissibility of evidence and the indictment.

During legal argument, Jake submitted that to prosecute the defendant in circumstances where he had been acquitted of inflicting grievous bodily harm with intent (by a previous jury, in an earlier trial where the jury had been hung on the attempted murder count) amounted

to an abuse of process of the court and fell afoul of the principle of autrefois acquit. The argument was based on the principle in Morrison [2003] 1 WLR 1859 where the Court of Appeal came to "the unhesitating conclusion to which we have come is that there can be no intention to kill someone without the intention also to cause grievous bodily harm".

Following detailed written and oral submissions, the judge found that "exceptional circumstances" existed such that to allow the prosecution of attempted murder "to proceed further in this trial… would be tantamount to this Defendant being tried again for in effect or substantially the same offence of which he has been acquitted" and the matter was stayed as an abuse of process.

Prosecution Offer No Evidence in Drugs Case

Police were called to a property where the occupant alleged DB had been forcing him to deal drugs. DB was arrested close to the property after police officers alleged they saw him run away. A phone found on him was analysed. A drugs expert alleged some of the recovered messages were indicative of involvement in drug dealing. DB was charged with being concerned in the supply of Class A drugs. DB's Solicitor challenged the identification evidence. For several minutes of the chase, when no police officer had sight of the person leaving the property. The foot chase was interrupted. The officers who alleged they saw DB leaving the property identified him at the scene of his arrest. No ID procedure was carried out. Omran also submitted an application to exclude the evidence of the drugs expert on the basis that they did not demonstrate sufficient expertise in the area and the evidence does not fall within the realm of admissible opinion evidence. Following receipt of the applications the prosecution offered no evidence against DB. The co-defendant pleaded guilty to possession with intent to supply Class A drugs.

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As an absolute right, there can be no legitimate justification on the part of the public authority to limit, interfere or otherwise penalise persons for their exercise of the right to freedom of thought. However, freedom to manifest religion or belief is qualified. It shall be subject only to such limitation as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of the public order, health or morals or the protection of the rights and freedoms of others. Public bodies must also consider Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) of the ECHR, recognising these are qualified rights, which can sometimes be infringed upon to uphold other rights.

Record Prison Overcrowding 'An Embarrassment for UK'

Samantha Dulieu, Justice Gap: The prison population in England and Wales has shot up by almost 6,000 prisoners over the last 12 months to a total of 87,124. According to the Howard League for Penal Reform's Prison Watch data, there are now 9,074 more prisoners than there should be under the Ministry of Justice's own 'safety and decency' criteria.

Concerns about overcrowding in UK prisons were cited by defence lawyers in Germany this week, who successfully argued that their client should not be extradited to the UK. According to a report in the Guardian, Westminster magistrates' court issued an international arrest warrant asking for a man accused of drug trafficking to be returned to the UK. Karlsruhe higher regional court in south-west Germany failed to receive the assurances it sought about UK prisons. It was reported that the court received a response from a prison in Manchester on the day of the deadline advising that the government were creating 20,000 new prison spaces to tackle overcrowding.

'This is an embarrassment for the UK,' wrote solicitor Jonathan Goldsmith the Law Society Gazette. 'There have been similar court decisions before under the European arrest warrant framework, but in relation to member states whose records on prisons and human rights the UK would not wish to compare itself with.' He also cited a recent similar case where a man was refused extradition from the Republic of Ireland to Scotland on account of his mental health needs and the poor conditions in Scottish prisons.

The Conservative government has committed to creating 20,000 new prison spaces through refurbishment and new building projects by the mid-2020s. They say the spaces will be filled on account of a 'crack-down on crime' and the recruitment of new police officers. This comes as prison sentences have also become significantly longer, with the average sentence rising more than a third from 2009 to 2019 alone. A Ministry of Justice spokesperson told the Guardian it was 'doing more than ever to deliver safe and secure prisons that rehabilitate offenders, cut crime and protect the public'. 'We continue to press ahead with delivering 20,000 additional, modern prison places and our £100m investment in tough security measures – including X-ray body scanners – is stopping the weapons, drugs and phones that fuel violence behind bars.'

Criminal Proceedings: Expert Evidence

Valerie Vaz: To ask the Secretary of State for Justice, what assessment he has made of the potential impact of shortages in the number of experts available to provide specialist evidential reports on (a) the criminal justice system and (b) conviction rates.

Mike Freer: We recognise that expert evidence is a key element of many cases and so are taking a number of steps to ensure the availability of experts. We have increased expert witness fees (including forensic science experts) by 15% in cases where legal aid is granted on or after 30 September 2022 to help ensure that the defence have access to a high standard of forensic services. We passed legislation in the Police, Crime, Sentencing and Courts Act 2022 so that remote hearings can continue to be used in criminal proceedings and are currently considering how we can support greater use of video links to secure attendance by expert witnesses. More broadly across the criminal justice system, the Forensic Science Reform Programme, led by the Home Office, aims to improve criminal justice outcomes through the delivery of world class forensic capabilities. In this financial year (2023/24), the Government has allocated £19.6m to improving standards and capability in the provision of expert scientific evidence.

Stay of Proceedings as an Abuse of Process in a Modern Slavery Drugs Supply Trial

Sean Summerfield represented AS who accepted that he had been dealing in heroin and crack cocaine, but claimed to have been a victim of slavery – forced by others and left with no choice but to deal in drugs. A National Referral Mechanism (NRM) referral had been made in January 2023 but by the first day of trial a decision by the Single Competent Authority (SCA) was still pending. The Prosecutor accepted that CPS Guidance required consideration of any SCA decision before a decision to proceed could be taken, and applied to adjourn trial on the basis that the Crown were not ready. Despite being supported by the defence, the application to adjourn was refused by the trial judge. With the application to adjourn refused, the Prosecutor took instructions and informed the court that the Crown were in fact trial ready. Sean raised abuse of process, inviting the trial judge to stay the indictment. During legal argument, Sean submitted that (1) the defendant could not have a fair trial based on the failure to await and disclose the SCA's decision; and (2) it would not be fair to try him based upon the Prosecution's change of position in relation to whether a fair trial was possible. Following detailed written and oral submissions, the judge ruled that it would not be fair to try the defendant, asking of the Prosecution how it could be said, in effect, that a fair trial would not be possible because there might be further material forthcoming that might affect the decision to prosecute; and then, once the application to adjourn had been refused, that a fair trial would be possible? Quoting from Sean's written submissions, the trial judge held that "the Prosecution cannot assert that it is not ready to proceed for the purposes of securing an adjournment, only to revisit that decision when the application is refused in order to avoid the consequences that flow from it." Consequently, the case was stayed as an abuse of process.

Localising Criminal Justice Services in England and Wales

Our criminal justice system in its current form is unsustainable. Long court backlogs, few crimes resolved, probation staff shortages. An ever-rising prison population despite prisons costing a disproportionate amount of taxpayer money and not working to reduce reoffending. One problem is that our criminal justice services – prisons, probation, courts, prosecution, and to some extent policing – are incredibly centralised. There is a lack of local ownership for crime prevention and reducing reoffending. Local agencies go cap in hand to central government for funding, rather than fostering and supporting innovative solutions locally. We can reduce crime and make our communities safer by giving local leaders the right levers and incentives to tackle crime at a local level – by localising justice services and budgets. This paper sets out how localising criminal justice services will reduce crime, reduce waste in criminal justice system spending, increase trust and confidence in the criminal justice system, and improve the experience of victims.

Fires in Prisons: Latest Data

Fires have claimed many lives in detention facilities around the world: Last month Justice Secretary Alex Chalk told MPs that "One of the last things that a Prisons Minister or Lord Chancellor worth their salt thinks about as they go to bed is fire. It is important that we do what we can on that to bear down on it, quite apart from the fact that there is a statutory requirement on us". Latest figures show that Fire and Rescue Services attended 1,012 incidents in English prisons in the last financial year up 20% on 2021/22. 21 incidents were also recorded in what are referred to as Young Offender Units, up from 11 the year before. Home Office data is detailed but not as informative as it could be about the seriousness of the incidents.