for the Finucane family pressed for complete disclosure of notes or recordings from a series of ministerial meetings. They want the material as part of their legal challenge to the British government's refusal to order a full, independent probe into the 1989 assassination. A review carried out by lawyer Sir Desmond de Silva QC and published in December confirmed agents of the state were involved in the murder and that it should have been prevented.

Deaths, Self-Harm In Prison Custody

For the 12 months ending September 2012 there were:

194 deaths in prison custody, compared with 198 in the previous 12 months - a fall of 2%

56 self-inflicted deaths, compared with 58 in the previous 12 months - a fall of 3%

11 'other' deaths (six per cent of all deaths) - compared with 14 in the previous 12 months.

126 Natural cause deaths, highest in any 12 month period to September over last 10 years.

Annual numbers of deaths are volatile and rises or falls from one year to the next are not a good indicator of underlying trend. The mortality rate was 2.2 deaths per 1,000 prisoners down from 2.3 per 1,000 prisoners for the previous 12 months;

Self-inflicted death rates have fallen from 1.4 deaths per 1,000 prisoners in the 12 months ending September 2004 to 0.6 deaths per 1,000 in the 12 months ending September 2012.

Self-harm: For the 12 months ending September 2012 there were:

23,134 self-harm incidents, compared with 25,166 incidents previous 12 months – a fall of 8%

6,956 self-harmed, compared with 6,868 individuals previous 12 months – a rise of 1%

Rate of female individuals who self-harmed fell by over 10% from 313 individuals per 1,000 prisoners to 278 individuals per 1,000 prisoners in the 12 months ending September 2012.

Trends for male and female self-harm are best considered separately:

Male self-harm rates have increased over the last five 12 month periods ending September, from 153 self-harm incidents per 1,000 prisoners in 2008 to 195 per 1,000 prisoners in 2012;

Female self-harm rates have fallen over the same period, particularly over the last 3 years, from 2,746 incidents per 1,000 prisoners in 2008 to 1,678 incidents per 1,000 prisoners in 2012.

Changes in the relative numbers of repetitive self-harmers: Numbers of female prisoners self-harming more than 20 times during a year fell from 126 in 2010 to 84 in 2011 compared with an increase for males from 53 to 69 over the same period;

Changes in the average number of times each individual self-harms: Average number of incidents per female self-harmer fell from 10.1 in 2010 to 7.1 in 2011 compared with males which increased from 2.7 to 2.8 over the same period;

A reduction in the number of female prisoners, who now form a smaller proportion of the overall prison population: 6.1 per cent in 2002 down to 4.9 per cent in 2011.

Hostages: Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Alvin Black, Eddie Hampton, Tony

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MOJUK: Newsletter 'Inside Out' No 411 07/02/2013)

ECtHR Rule Delay in Parole Board Review of Prisoner's Detention Unlawful

Judgment in the case of Betteridge v. the United Kingdom (application no. 1497/10), which is not final the European Court of Human Rights held, unanimously, that there had been: a violation of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) of the European Convention on Human Rights.

The case concerned Mr Betteridge's complaint about the delays in his case being heard by the Parole Board. The Court noted in particular that, even though the national courts had acknowledged in June 2009 that there had been a violation of Mr Betteridge's right under the European Convention to a speedy review of his detention, the Parole Board hearing in his case had still not taken place for some eight months after that. Furthermore, although steps had been taken by the authorities to try and address the systemic delays in Parole Board hearings by the time of the judgment in Mr Betteridge's case, the fact remained that the authorities had failed to anticipate the demand which would be placed on the prison system following the introduction of the IPP sentencing scheme (indeterminate imprisonment for the public protection) and that it was for the State to organise its judicial system in such a way as to enable its courts to comply with the requirements of the Convention.

Principal facts: The applicant, Samuel Betteridge, is a British national who was born in 1954. He was convicted of rape in 2005. At the time of lodging his application he was serving his sentence of imprisonment for public protection ("IPP") at HM Prison Whatton, Nottingham (England), an indeterminate sentence, with a tariff of three and a half years (less 98 days spent on remand).

Mr Betteridge's tariff expired on 18 December 2008. A few months prior to that, the Parole Board gave a pre-tariff advisory opinion on his case. The Board did not recommend that his security category be downgraded to open prison conditions as it was not satisfied that he did not represent a risk of re-offending.

No Parole Board review had taken place by the time the tariff expired. A hearing was initially planned for May 2009, then rescheduled for September 2009.

In the meantime, Mr Betteridge brought judicial review proceedings challenging the delays in fixing a Parole Board hearing in his case. The High Court handed down its judgment in June 2009 and, acknowledging that the delays in Mr Betteridge's case had been caused by lack of man power in the Parole Board, found that there had been a violation of Article 5 § 4 of the European Convention. It refused, however, to order the case to be heard as it considered that it would be inappropriate for Mr Betteridge to jump the queue at the expense of those who had not sought judicial review. Noting that the Parole Board hearing was scheduled some two or three months later, it also found that there was no conceivable claim for damages as the pre-tariff hearing had made it clear that there was no chance of Mr Betteridge being released upon expiry of the tariff.

Mr Betteridge did not appeal as his counsel advised that the COA was bound to conclude that it could not prioritise any individual case, given evidence of a systemic lack of resources.

The Parole Board hearing fixed for September 2009 was subsequently cancelled. At the rescheduled Parole Board hearing on 13 January 2010 the Parole Board recommended that Mr Betteridge be moved to open prison conditions.

Complaints, procedure and composition of the Court

Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) and Article 13 (right to an effective remedy), Mr Betteridge complained that he had not had a speedy review of his detention after expiry of his tariff due to delays in his case being heard by the Parole Board. The application was lodged with the European Court of Human Rights on 23 December 2009.

Decision of the Court: The Court accepted that it would have been unfair and impractical to fast-track prisoners, such as Mr Betteridge, who had pursued judicial review proceedings to the detriment of prisoners who, also entitled to a speedy review of their detention under Article 5 § 4 of the Convention, had not. It also acknowledged that, by the time of the High Court's judgment in Mr Betteridge's case, steps had been taken by the authorities to try and address the systemic delays in Parole Board hearings.

However, it could not accept the Government's argument that as the delay had been admitted by the relevant judicial institutions and redressed under domestic law, there had been nothing left for the European Court to adjudicate in Mr Betteridge's case. The violation of Article 5 § 4 had been accepted from 18 December 2008 (when the tariff expired) to September 2009 (when the Parole Board hearing was scheduled to take place). Following the cancellation of the September hearing, the delay in the case continued until 13 January 2010. There was nothing to distinguish that period of delay from the initial period for which the national courts had found a violation. Therefore the failure to implement Mr Betteridge's rights under Article 5 § 4 had continued for some eight months after the High Court ruling.

Furthermore, the fact remained that the delay in reviewing Mr Betteridge's case was the direct result of the failure of the authorities to anticipate the demand which would be placed on the prison system following the introduction of IPP sentencing and that it was for the State to organise its judicial system in such a way as to enable its courts to comply with the requirement under the Convention of a speedy hearing to review the lawfulness of detention.

The Court therefore concluded that there had been a violation of Article 5 § 4 as concerned the delay of more than 13 months in Mr Betteridge's Parole Board review. As to the applicant's Article 13 complaint, the Court considered that Mr Betteridge's complaint about being unable to obtain a date for his Parole Board review through litigation had already been examined and therefore found that no separate issues arose. Just satisfaction (Article 41) The court held that the United Kingdom was to pay Mr Betteridge 750 euros (EUR) in respect of non-pecuniary damage. It also awarded EUR 2,000 for his lawyers' costs and expenses.

MPs Slam 'Woeful' Watchdog For Failure On Police Corruption

IPCC unable to root out wrongdoing because of lack of funding and inadequate powers, report reveals. *Paul Peachey, Independent, Friday 01 February 2013*

The existing system to root out police wrongdoing is being undermined by poor-quality investigations and lacks the powers and resources to get to the bottom of serious cases of corruption and misconduct, according to a damning report published today. The body set up to investigate police misconduct since 2004, the Independent Police Complaints Commission (IPCC), is not yet capable of being the powerful watchdog it should be, according to a committee of MPs. While a series of incidents have tested the public's confidence in police – including the death of Ian Tomlinson in 2009, the Hillsborough tragedy cover-up and the continuing probe into conspiracy claims against former Government chief whip Andrew Mitchell – the report found that the IPCC too often made public mistrust of police worse, not better.

Sentencing Council intended that 'sole or primary carer for dependent relative' should include impact upon both offender and dependent relatives. The consequences to both children and defendant of separation through imprisonment should therefore become far more relevant. A pre-sentence report would assist the court to assess familial impact. The difficulty about impact in practical terms is that its full extent may not be known at the time of sentencing. Defence solicitors will need to be astute to changes in circumstances which might assist a late appeal against sentence on the basis of fresh evidence. Arguments regarding the impact and the proportionality of the sentence may also assist given that the new sentencing regime has proportionality rather than deterrence as a primary aim.

It is now more important than ever that defence solicitors provide to sentencing judges as full a picture as possible of background circumstances so that both role and mitigation of drug couriers can be properly assessed. It has to be recognized that many couriers do not disclose their circumstances in the early stages of the judicial process because of disorientation, cultural differences, shame or the need to protect others who were under threat or lack of trust. It will be necessary to find ways to address these difficulties so as to assist courts to arrive at more proportionate sentences than before.

Reducing Delays in Family Courts

New measures have been introduced to ensure child care cases are dealt with more quickly and effectively in family courts. This is so children and families are spared unnecessary delays and the cost to taxpayers is reduced. The family courts will now be required to: Restrict expert evidence to that which is only necessary to resolve the case; Take account of specified factors before agreeing to expert witnesses reports, currently, no factors are specified. In care cases, these include the impact on the welfare of the child; the impact on the timetable for proceedings and whether the evidence which is needed is available from another source such as the local authority; and To approve the questions that are to be put to the expert to ensure they are focused on the determinative issues for the court. Until now multiple reports have been commissioned in many cases which can lead to delays of several weeks. The reports are typically commissioned from expert witnesses, for example doctors or specialist psychologists.

Family Justice Minister Lord McNally said: 'We are taking action to tackle the unacceptable delays in our family courts.The number of expert reports being commissioned at the moment is far beyond what is actually needed to make a considered decision - and is causing delays which can ultimately harm children.The new rules mean expert evidence will only be used where necessary and reports will be commissioned more sensibly and sparingly.' Changes are the latest steps in the Government's commitment to ensuring family cases are dealt with within 26 weeks, following a recommendation by the Family Justice Review conducted by David Norgrove.

Pat Finucane killing: "Far Worse Than Anything Alleged in Iraq or Afghanistan"

One of David Cameron's closest advisors described the murder of Belfast solicitor Pat Finucane as far worse than anything alleged in Iraq or Afghanistan, the High Court has heard. Sir Jeremy Heywood also questioned whether the prime minister believed it was right to "renege" on a previous administration's commitment to hold a public inquiry into a killing. His family are challenging that decision, Mr Finucane was shot dead in 1989.

On Thursday, Mr Justice Stephens heard how Mr Heywood, now cabinet secretary, referred to Mr Finucane's murder as "a dark moment in the country's history". Details of emailed correspondence between the top civil servant and another senior Downing Street official were revealed as lawyers

based on a single indicative quantity is then indicated. This can be adjusted by aggravating or mitigating factors from a non- exhaustive list reflecting the context of the offence and personal factors. Role and mitigation are now far more influential in determining final sentence.

In R v Boakye, Alleyne, Nwude, Nasri, Latchman & Jagne [2012] EWCA Crim 838, 3rd April 2012, Hughes LJ stated that the Sentencing Council (SC) had expressly made clear that in most respects the new guideline was expected to produce sentences broadly in line with existing practice except for a sub-class of courier known as "mules" for whom sentences would be shorter than under the previous Aramah guidelines, sometimes significantly so. He made three important observations about the new sentencing structure under the guideline:

(1) Role should be determined according to the factors set out in Step One. Not all couriers will fall into the same role. Therefore, each must be assessed according to harm (ie: quantity and type of drug) and culpability. A list of factors assists to distinguish between roles. A third world offender exploited by others would be likely to be assessed as having a lesser role by reference to "performs a limited function under direction", "engaged by pressure, coercion and intimidation" and "involvement through naivety, exploitation". Therefore, not all couriers are to be treated the same. Step 2 required an assessment of aggravation and mitigation where not already taken into account under Step 1 in the determination of role.

(2) Sentence starting points under the new guideline, unlike Aramah, are based on gross weight of drug as opposed to weight measured at 100% purity. Purity may be relevant to mitigation.

(3) The indicative quantity of drugs upon which the sentence starting point is based is a mid-point not a threshold. Weight is an indication of a general region which goes into the relevant category. It is not exclusively an arithmetical process.

Practitioners will need to pay attention to the following specific issues:- Step 1 Role

Nationality: Hughes LJ emphasised that mules would come particularly from third-world countries (para 9). It is important this does not exclude mules from advanced countries for there is no such limitation in Step One of the guideline. The characteristics of so many mules (pressure, coercion, intimidation, naivety/exploitation) are not unique to third world drug couriers. Health and addiction issues may also be relevant.

Financial reward: Hughes LJ appeared to imply that a mule must have acted through financial desperation (para 46). Again, there is no such limitation in Step One. The Sentencing Council's draft guideline referred to "relatively small reward." Of course, the financial inducements for mules will be relatively small compared to the high profits of organisers. Poverty is not unique to mules from third world countries and it is possible that financial need or impoverishment might arise where a defendant is in an exploitative, coercive or violent relationship with no or little money of their own or suffers from addiction or other health issues.

Step 2 Mitigation: The guideline aims to structure previous practice by providing 14 specific factors related to personal mitigation including: coercion falling short of duress, supply of drug to which offender is addicted, no previous or relevant or recent convictions, good character, exploitation of vulnerability, age/lack of maturity, mental disorder or learning disability, sole or primary caring responsibilities. The absence of guidance on their relative weight, significance or impact on the custody threshold is problematic especially in cases where there is an imbalance between culpability and harm, as may be the case in many drug courier offences.

Mitigation now applies to all drug offences, including the more serious. It is no longer only confined to cases on the custody threshold. Therefore, attention will now need to be paid to the background of the defendant and the consequences of imprisonment. In particular, the

IPCC inquiries into alleged police wrongdoing start too late and take too long, according to the Home Affairs Select Committee. The finding came as the IPCC conducts an inquiry into the Hillsborough tragedy – its biggest ever – which will involve analysing the roles of some 2,000 people. The IPCC, which has seen its budget cut by 13 per cent over four years, is "woefully underequipped and hamstrung" in achieving its objectives, with less funding than the professional standards department of the Metropolitan Police. The report said the law should be changed so that officers are routinely questioned after a death involving police. "It has neither the powers nor the resources that it needs to get to the truth when the integrity of the police is in doubt," the report said.

The inquiry highlighted claims that the IPCC failed to locate evidence and uncritically accepted police explanations for missing evidence, lacked the skills and experience of qualified lawyers and prosecutors, and was too slow in responding to complaints and conducting investigations. The IPCC has been criticised by campaigners including Doreen Lawrence, the mother of the murdered black teenager Stephen Lawrence, who said she had "no confidence whatsoever" in it. The organisation has faced calls for it to be scrapped, but the MPs said it should instead be given more money and greater powers to investigate other agencies. Deborah Coles, co-director of Inquest which works with families of those who have died in custody, said: "The IPCC systematically fails to hold the police to account for wrongdoing."

MPs extended their damning indictment of the IPCC's abilities to that of police forces' own disciplinary units. When the IPCC investigated appeals from the public into the way that forces had handled their complaints, it found that police had been wrong in 31 per cent of cases. The Police Federation – which represent officers up to the rank of inspector – told the inquiry that the IPCC failed to intervene in cases where professional standards departments had "allegedly conducted a poor, biased or even corrupt investigation". "A strong watchdog is vital to get to the truth but the IPCC leaves the public frustrated and faithless," said committee chairman Keith Vaz.

Dame Anne Owers, chairwoman of the IPCC, said: "This report recognises that we do not yet have the resources or powers to do all that the public rightly expects and needs from us." The Home Office said it would shortly announced plans to improve public trust in the police. "Improving police professionalism and integrity are at the cornerstone of the sweeping reforms we are making," it said.

Joe McCann Shooting was Murder by the Army *BBC News, 29 January 2013*

A new report has found that the Army was not justified in shooting dead an Official IRA man in Belfast during the Troubles. Joe McCann was shot by soldiers in disputed circumstances in Joy Street in the Markets area close to his home on 15 April 1972. The review team's report said: "Joe's actions did not amount to the level of specific threat which could have justified the soldiers opening fire in accordance with the Army rules of engagement." The Historical Enquiries Team has carried out an investigation into his death.

Members of the Parachute Regiment shot Joe McCann several times as he ran away from police in Belfast, a team of detectives said. He was unarmed at the time.

The report also stated that the review team was unable to question the officers present on that day. "The lack of access to their identities has been a major inhibitor in being able to provide a full and comprehensive review of all the circumstances of Joe's death."

At the inquest into his death, soldiers said they had expected him to be carrying a weapon. He was unarmed when shot. It is also thought that he had disguised his appearance.He was one of the Official IRA's most prominent activists in the early days of the Troubles

Mr McCann's daughter Aine said that the failure of the the PSNI to reveal the identity of the

police officers involved on the day was 'shameful': "It has not been possible to question the Special Branch version of events because, incredibly, the RUC then and the PSNI now, claim not to be aware of the identities of the two Special Branch officers that were following Joe that day." Her sister, Nuala, said: "The shooting of our father was not justified. It was unjustified."

The HET is a unit of the Police Service of Northern Ireland set up in September 2005 to investigate the 3,269 unsolved murders committed during the Troubles (specifically between 1968 and 1998). The team aims to bring closure to many bereaved families who still have unanswered questions about the death or disappearance of their loved ones.

[Circa April 2012: Work of Historical Enquiries Team to be reviewed. Independent inspectors are to review how the Historical Enquiries Team investigates killings by soldiers during the troubles. The Chief Constable Matt Baggott has asked Her Majesty's Inspector of Constabulary to carry out the review following criticism in a University of Ulster report. The report, by Dr Patrica Lundy, claimed the HET gives former soldiers preferential treatment and does not properly investigate deaths caused by the military. The HET rejected the claim.]

Justice for Victor Nealon

The CCRC have referred Victor's case to the Court of Appeal based on the new information on the unreliability of the DNA evidence. Independent tests have clearly shown that the DNA found on the victims clothing is not that of Victor Nealon- but of "another " assailant. The police built a case around unsubstantiated evidence and make the facts fit their decision- it was conviction by design and both the CPS and the police know it. Now the challenge is about the possibility of transfer of DNA. There is also concern that the CCRC referral failed to consider the other compelling evidence available to them when referring the case to appeal these are:

1) The deliberate withholding of critical forensic evidence - the failure of the Police to actually test the clothing of the victim and misleading the court that they had.

2) There is clear evidence that at the ID Parade the Police influenced the views of at least one those present who claimed to have seen Victor at a dance on the night in question. Yet the victim and her friend - who may have been present soon after the alleged assault - did not pick out Victor at the ID Parade. The identification relied on a skin mark that Victor was supposed to have - new medical evidence now makes this identification marker unreliable and such a skin condition was not there at the time of arrest and later at the ID parade.

3) A now clear evidence of failure on the part of the defence to challenge the evidence.

4) Most disturbing of all is the fact that at previous appeals to the CCRC for referral no real investigation of the facts or of the forensic evidence was taken on board. This process of desk top reviews by the CCRC has resulted in a case of miscarriage of justice not being referred to appeal.

Add this to the endless stories of other cases of miscarriages and the call for reform of the CCRC is increasing. Its abolition and replacement should be a fundamental part of any reform of the Criminal Justice System. The need to continue the campaign for the reform of the CCRC becomes compelling and now the need for further and more widespread reform into other areas is spreading to include the reform of the Court of Appeal.

Over the recent years the Public Sector Services have seen many reorganizations, reforms and reshaping but the wind of change appears to have missed key areas of the Criminal Justice System in particular the CCRC and the Appeal Courts. It is time to refresh and bring these two areas into shape. We call for your support for our case and for all to continue to

well between you and your partner, Teri Arnull; your mother had been desperately unwell for a significant period of time; there was talk of redundancies at work; you were hopelessly addicted to the powerful type of cannabis known colloquially as “skunk”; and you were living a significantly withdrawn existence – spending most of your time when not at work in your room – in the same house as your hugely popular and outgoing sister.

That said, instead of exercising a normal degree of fortitude and resilience, you followed your emotions and battered your sister at least twice on the head, sufficiently hard to depress her skull. Although the prosecution put the case against you on the basis that you may only have intended to inflict really serious bodily harm, given the severity of the injuries to GM’s head I am of the view that the difference between that and intending to kill her is not as great as it is in other cases. These were very bad injuries at one of the body’s most vulnerable sites. You must have used a hard, flat surfaced weapon in order to kill GM, within her own home.

This crime, extremely grave when viewed in isolation, was significantly aggravated by your actions afterwards. Over a large number of hours you set about, in an utterly cold-blooded and determined way, to try to hide what you had done and, moreover, you sought to point the finger of blame at others. You dismembered Gemma, cutting off all her limbs and her head, and having first tried and failed to do this with a knife, you must have left the flat to buy an implement similar to a meat cleaver, which has never been found. You then went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains.

Your hope must have been that she would never be found and you diverted, and attempted to influence, the police investigation by controlling the release of information and by giving information about one or more individuals who you knew were wholly innocent, such the individual with the initials BM. You concealed a number of items, including most particularly her mobile telephone.

I note additionally that in this trial you have made a sustained attempt to destroy at least part of the reputation of your sister, and the effect Gemma’s death has had on your family, and perhaps most particularly your mother, has been profound. As the letters I have read make clear, the laughter and enjoyment in life for them has simply gone.

In your favour is your good character save for the three cannabis matters; your record of continuous employment; the lack of any significant premeditation; and (to a limited extent only for the reasons I have already expressed) that you may not have intended to kill her. Additionally, there were no previous indications that you harboured violent intentions towards your sister.

The starting point for the period you must serve before parole in your case can even be considered is 15 years. Having considered the authorities that have been brought to my attention and bearing in mind the facts I have rehearsed, together with the aggravating and mitigating factors, and particularly the appalling way you acted after the murder, the minimum term will be 20 years imprisonment. Once that period has passed, it will be for the parole board to determine whether you are to be released, and if so, when. Deduction of time served to date is automatic.

R v De Leon - Determination of Culpability (Role) and Harm (Quantity of Drug)

Sentencing under the new Definitive Guideline requires a structured approach based on eight steps in five categories of offence. In general, this involves a determination of culpability (role) and harm (quantity of drug). A sentence starting point is indicated for each ‘offence category.’ This is determined by reference to classification of drug, category of quantity and role, whether leading, significant or lesser. Within each offence category, a sentencing range

what the witness has said or deposed on other occasions; (4) the credit of the witness in relation to matters not germane to the litigation. (5) the demeanour of the witness.

But it is number (5) that one has to be a little careful about. “I just know he is lying” is something people say all the time – “he just looks shifty – I can tell” Or can we? Are we just projecting our own preconceptions onto other people, derived from our own culturally specific ideas of what appears to be frankness or shiftiness.

The whole issue was summed up beautifully by the judge in this case: Contemporaneity, consistency, probability and motive are key criteria and more important than demeanour which can be distorted through the prism of prejudice: how witnesses present themselves in a cramped witness box surrounded for the first time with multiple files can be distorted, particularly elderly ones being asked to remember minute details of what happened and what was said, and unrecorded, nearly 4 years later as here. Lengthy witness statements prepared by the parties’ lawyers long after the events also distort the accurate picture even though they are meant to assist the court. Well said. “The prism of prejudice” encapsulates the dangers of thinking we just “know” who is telling the truth, without analysing why we say so. And, whilst the witness box does indeed prove to be the undoing of many liars, it can be an artificial environment in which to make an assessment of credibility.

Raymond Gilbert [Reasons Continued Imprisonment] *Lords/ 29/01/13 : Column WA322*

Lord Hylton to ask Her Majesty's Government what are the reasons for the continued imprisonment of Mr Raymond Gilbert, convicted of murder in 1981.

Lord McNally: It is for the independent Parole Board to determine whether indeterminate sentenced prisoners should be released from custody on licence. Such prisoners may be released only once the minimum period of imprisonment (the tariff) has expired and the independent Parole Board is satisfied that the risk of harm the prisoner poses to the public is such that it may be effectively managed in the community. There is nothing automatic about release on tariff expiry. It is not appropriate for me to comment upon an individual case, other than to confirm that Mr Gilbert has had his detention regularly reviewed by the Parole Board, and it has declined to direct his release.

R v Tony McCluskie - Sentencing Remarks of Mr Justice Fulford

I have no doubt you killed your sister because she was furious with you for letting the sink overflow in the bathroom of your mother’s flat on 1 March 2012, against a background of the longstanding family relationships. I accept that Gemma expressed anger at you early that morning and warned you that if you did not treat your mother’s home with more respect in the future, you may have to leave, but that said I unhesitatingly reject your account, as given by you in evidence in this trial, that she had used significant foul language towards you, or that she had belittled or threatened you, in the past.

Your accounts to the police in early March contain none of the matters you were later to allege against her, and I consider the way you described your relationship in the significant interview on 6 March and in your witness statement is determinative of this issue.

Gemma was, on the compelling descriptions the jury heard during this trial, a young woman with a huge zest for life; she was a warm-hearted woman who was loved dearly by a great many people. She will be greatly missed. Your sister may well have been fiery on occasion and no doubt expressed herself forcefully but in my view she did not in any sense do anything that even begins to justify what you did to her.

I accept that this was a particularly challenging period in your life: things were not going

campaign for reforms of the Criminal Justice System. *Leo O'Toole, Victor Nealon Support Group*

Prison Writings - Letter From Simon Hall

It's been a long time since I have spoken out about anything, but with my recent move to open conditions after achieving category D status, the CCRC still investigating my case, speculation and hearsay about my alibi appearing online and endless abuse of my wife for years, this is long overdue.

I achieved category D status on the 1st November 2012 after being given a Guittard hearing. I was ill in bed at time my offender manager came to bring me the good news. I was chuffed to bits and so pleased that the parole panel had realised what I have known all along, that I am not a risk to the public. I expected a long wait for my move to Hollesley Bay due to a lack of spaces and I had witnessed other guys waiting a year for a space to come up. However, I found myself on the sweat box on the 30th November 2013 heading back to East Anglia after years of being so far away from home. It took 4 days to get here though! When I was about an hour away from the prison , I was told I would have to spend the weekend in HMP Chelmsford because we had been travelling for too long and there were 2 of us on the bus and only one space available at Hollesley Bay.

I found myself in the cell nextdoor to the cell I was in when I was on remand in 2003, just before my trial, which freaked me out and took me back all those years, reminding me of all the fears, anxiety and trepidation I felt as a 25 year old. It hadn't changed much, 22-23 hour bang up and I was treated like an animal, although the other prisoners seemed a lot younger.

To cut a long boring and a little surreal weekend story short I am here at Hollesley bay. No walls, no gates, just an imaginary fence marked out by a few 'no inmate beyond this point' signs. Yes I could just walk off if I wanted to, but why would I do that and ruin all the hard work I've done to get here? Lets not forget I'm an appellant and I got here well before my next parole date. Most lifers do over tariff, most of the lifers who are maintaining innocence do well over there tariff. I wonder how many other people in my position progress through the system as successfully as I have. I wouldn't mind finding out actually. All the screws in this prison tell me I have done well to get here this early. Its so much easier for Stephanie to get here too, so that's a big worry off my mind. I don't think people realise that is use to take her 4-5 hours to get to Portsmouth and sometimes much longer to get back home. I don't know how many times she made that journey for me but she kept on making it. Now I am only 17 miles away and I am so glad she doesn't have to go through all of the hassle of travelling. I wont say anymore about this prison because that is not why I am writing. I want people to see how I am doing and how I am feeling not my critique of HMP Hollesley Bay.

Most of you will be aware that the CCRC are still investigating my case. They have been for quite a few years now. What most people don't know is that communication between the CCRC and me, Stephanie, Dr Naughton @ the University of Bristol and Gabe Tan aren't brilliant. I don't really want to criticise the CCRC and their protocols and procedures, because that could be seen as biting the hand that feeds you, but dealing with the CCRC is like banging your head against a brick wall.

There is no transparency, no real information, progress reports don't tell us anything except that they cant tell us anything and they will contact us in due course. Stephanie has made submission after submission to the CCRC, after countless long days of constant investigation and study of the thousands of documents that make up the case papers (although Suffolk police clearly failed to disclose all documentation) all of it relevant, all of it missed or ignored by everyone else who has worked on this case. Some of it relates to crucial evidence that easily renders the fibre evidence invalid

(for the second time) but the CCRC seem reluctant to act upon it and I don't get it.

When we ask questions we are told that the CCRC don't give information on a piecemeal basis. What? Why? I have been sitting in prison for over 10 ? years for a crime I did not commit and you say you are helping but you wont tell me what is going on…….

We also can't get statements, CCTV and access to evidence until the CCRC have made their decision. It doesn't make sense. Stephanie's endless work on this case is so close to fruition regarding the alternative viable suspects but now the CCRC are working on it, who can get the CCTV, statements and evidence, you would think they would share the information and we could all work together. Not happening.

Fibre experts in America who have also shared concerns about the fibre evidence were ready and willing to work on this case and we told the CCRC that, but they did nothing and the experts could have been finished by now. There is still possible DNA that is definitely not mine that has yet to be tested. I just don't get it!

Some people would think I am being foolish for openly criticising the CCRC, but if you were in my position you would be tearing your hair out too. At times you have to make decisions that can be perceived differently by different people, depending on your outlook on life.

That leads me nicely to what I am going to talk about next. There has been a small amount of speculation about me changing my alibi recently and lying to police. Not true. I'll tell you about it now.

On the morning of 16th December 2001, while I was in Ipswich, sobering up with my mate, we came across an open window, at a company he used to work for, so we thought it would be a laugh to look around inside. I don't know why I decided to pick up a couple of little CD players but I did along with a little locker. It was supposed to be a bit of fun but it was a stupid thing to do and I regret it. When I was interviewed by police and I was asked about my whereabouts I told them I was hanging around sobering up with a pal at Majors corner in Ipswich, from where I left a message on my parents answer phone at 5.01am, to say don't worry I will be back in time for the journey to Grantham for our Christmas dinner with the extended family. Majors corner is nearby to the building I am referring to and is on my described route home so my alibi has not changed.

If you are wondering why I did not tell this to the police, well put yourself in my shoes for a minute - you have been arrested for murder as part of a 'burglary gone wrong' to mention that is to give the police motive and would be a prosecutors dream. In any case, they were trying to solve a murder that I did not commit and I really did not think I would be charged, prosecuted and found guilty. This was never linked to Joan Albert's murder. Our fingerprints would have been everywhere because we were drunk and just messing about. I should now point out that the building I entered was fibre taped and no black flock, or polyester fibres were found there. Just like no fibres were found at the Old Rep & the Woolpack public houses and the chair (stool) I sat on when I got home. In fact, no fibres were found anywhere that I had been that night. Lets not forget than none of the witnesses who saw me that night said I was wearing black. Even Judith Cunnison, the prosecutions fibre expert said that the fibres in my cars were from secondary contact, not direct contact, so by her own admission I wasn't wearing anything made from these fibres. Is this why the police have always been reluctant to hand over the CCTV evidence? My personal theory is that the fibres in the wardrobe at my parents house had been there for years and my clothing had simply picked them up….. secondary contact.

Anyway I digress. In the eyes of the law I committed a commercial burglary that night, but I didn't break in and I had no intention of taking anything when I entered. Whatever your views are on this it does not make me a murderer! I didn't lie to the police and it doesn't change

tives.

Introduction from the report: The Mary Carpenter Unit is a small facility for 17-year-old young women, which is located in Eastwood Park women's prison, Gloucestershire. Although it can hold up to 16 young women, at the time of our inspection there were just six in the facility.

The unit was a safe place. There was little bullying, supported by the good supervision that came from effective staff engagement and the confidence that young women and staff had in being able to report and challenge any incidents. Formal child protection structures had improved, and behaviour management arrangements seemed to work and were understood by all. Although it remained good overall, we had criticisms of some aspects of respect on the unit. Relationships between staff and young people remained excellent and the quality of engagement was both consistent and purposeful. Young women from minority backgrounds were well supported, although some structures to support diversity needed some improvement. However, the quality of the environment was disappointing. Communal areas were reasonable and access to amenities was good, but cells were grubby and the unit had an institutional feel at odds with our other observations. Hygiene in the kitchen was also poor and the food unappetising. Health care was good, with the mental health service exceptional.

The provision of activity had deteriorated slightly since our last visit. There was slightly less time out of cell for young women, although it remained good, and there had been contraction in the range of education and vocational training, with training now quite limited. There was also a need for greater engagement with young women in planning their learning objectives.

Whom to Believe When Faced With a Conflict Of Evidence David Hart QC - UK Human Rights Blog

"Credibility' involves wider problems than mere 'demeanour' which is mostly concerned with whether the witness appears to be telling the truth as he now believes it to be. Credibility covers the following problems. First, is the witness a truthful or untruthful person? Secondly, is he, though a truthful person telling something less than the truth on this issue, or though an untruthful person, telling the truth on this issue? Thirdly, though he is a truthful person telling the truth as he sees it, did he register the intentions of the conversation correctly and, if so has his memory correctly retained them? Also, has his recollection been subsequently altered by unconscious bias or wishful thinking or by over much discussion of it with others? Witnesses, especially those who are emotional, who think that they are morally in the right, tend very easily and unconsciously to conjure up a legal right that did not exist. It is a truism, often used in accident cases, that with every day that passes the memory becomes fainter and the imagination becomes more active. For that reason a witness, however honest, rarely persuades a Judge that his present recollection is preferable to that which was taken down in writing immediately after the accident occurred. Therefore, contemporary documents are always of the utmost importance. And lastly, although the honest witness believes he heard or saw this or that, is it so improbable that it is on balance more likely that he was mistaken? On this point it is essential that the balance of probability is put correctly into the scales in weighing the credibility of a witness. And motive is one aspect of probability. " Lord Pearce in Onassis v Vergottis [1968] 2 Lloyds Rep 403

Or Lord Bingham's distillation of the factors in his "The Judge as Juror: The Judicial Determination of Factual Issues" The main tests needed to determine whether a witness is lying or not are, I think, the following, although their relative importance will vary widely from case to case: (1) the consistency of the witness's evidence with what is agreed, or clearly shown by other evidence, to have occurred; (2) the internal consistency of the witness's evidence; (3) consistency with

to blight their chances in an unreasonable way in later life. In one of the cases before the court, a 21-year-old man was refused a place on a university course in which he would have had contact with children because criminal record checks revealed that he had been given warnings by the police about two stolen bicycles when he was 11. In another, a woman in her 50s was turned down for a job working with vulnerable adults after checks showed she had been cautioned for stealing a packet of false nails from a chemist 10 years earlier.

The appeal court's key finding is that the criminal record checks process, which requires all convictions and cautions to be revealed, is disproportionate to the legitimate policy aim of protecting children and vulnerable adults. This is a vital restoration of balance. Ever since the passing of the Rehabilitation of Offenders Act in the 1970s, some convictions can be exempted from disclosure, and deemed to be spent, after a specified period. If the rehabilitation of offenders is to be meaningful – and, driven by the high cost of prison, this government has given welcome priority to it – this is a crucial safeguard for the individual. The court of appeal was correct to say that the right to privacy should override the obligation to disclose all convictions and cautions in appropriate circumstances. The ruling is a welcome restraint on the appetites of the overmighty state in criminal record keeping.

The ruling has a broader political importance too. A decade ago, David Blunkett overreacted to the Soham murders by calling for an indiscriminate system of criminal record checks. Hundreds of millions of pounds were invested in a system that carried out millions of checks, not always relevantly or reliably, in an attempt to reassure the public and the media that something tough was being done. The unfairnesses covered by the judgment were a direct result. The appeal court ruling restores the vital element of proportionality, which Labour should never have discarded and which Theresa May should now restore.

Adnan Rafiq - Murdered in HMP Hewell?

Adnan Rafiq, 25, from Moseley in Birmingham, suffered serious injuries at HMP Hewell on Monday afternoon 28th January; he was rushed to hospital but died on Thursday night 31st January.

Four men, Jahnel Faure, Jermaine Christie, Paul Coulter, and Barry Mundle have been charged with murder as part of an investigation by West Mercia Police into the incident. On Tuesday 5th February 2013, they appeared by video link at Birmingham Crown Court and were charged and bail refused, which was quite stupid as they are all serving prisoners. They have been dispersed to four different prisons, locations were not given.

If anyone knows the victim or has knowledge of what led to Adnan's death, please get in touch with MOJUK

Unannounced full follow-up inspection of HMP/YOI Mary Carpenter Unit

Inspection 13/17 August 2012 by HMCIP, report compiled Nov 2012, published 01/01/13

HMP/YOI Eastwood Park Mary Carpenter unit holds some of the most damaged and vulnerable young women in the country - Inspectors concerned to find that:

- the quality of the environment was disappointing with grubby cells
- Hygiene in the kitchen was also poor and the food unappetising
- some structures to support diversity needed improvement; and
- there had been a contraction in the range of education and vocational training, with training now quite limited.
- need for greater engagement with young women in planning their learning objec-

my alibi everything I told the police was true and I stand by my word.

The police built a case around me it was conviction by design. I know it and they know it. This latest information only recently came to relevance since I looked at all my paperwork again, not just with the fibres but with timings. There is no way I could have dropped Jamie off at 5.30am. Not after hanging around, going into the commercial premises, walking the route I gave to the police, and driving back from the Woolpack, where I had left my car and the keys behind the bar. We didn't even leave Majors corner straight away. Food for thought isn't it!?

I say to whoever reads this, make of it what you will. People seem to form opinions without knowing all the facts. Since my conviction I have learned that we did not know all the facts. The prosecution knew all the facts but carried on regardless, leaving the decision in the hands of the jury who didn't know all the facts. People tend to be narrow minded and stubborn.

Only last night in fact, did I bare witness to the point I am trying to make here. Stephanie has been tirelessly working on my case for years. No one sees the all nighters she pulls, organising things, sending emails, making submissions, studying case papers, researching other cases, numerous telephone calls to all and sundry etc etc. At the same time she is visiting me too, devoting her whole life to getting me out of here and people wonder why she suffers with her health. She has very little help. None from my family, who seem more interesting in breaking us up because they think she is not good enough for me, saying that she attacks people and she is this and she is that.

I am absolutely sick of it. Stephanie is giving everything she has got the whole time and she has to put up with abuse from people who don't have a clue what is going on. My older brother got sucked into it again last night and now he is also publicly abusing my wife, as if his actions at the Court of Appeal and occasions prior to that weren't bad enough.

Hold on a minute. Why are people attacking the only person who is doing something for me? Do I not get a say in this or are you all happy to think I am brainwashed? I am my own man. I make my own decisions and choices. Stephanie is my choice and I am proud to be her husband. Speak to any bloke in here (or out there for that matter) and they would give their right arm for a women like Stephanie, who is in it for the long haul, for better for worse……

I don't like washing my dirty laundry in public like most people, but there comes a time when things must be said. I chose to ignore my family. Why? Because they treated Stephanie like dirt and still do, but they blame her for it just like many others. So perhaps it would surprise people to learn that Stephanie was actually encouraging me to speak to them. See, people don't know all the facts.

For example, what if I told you that it took my family 9 days to tell me about a family bereavement? But I still wrote to 'The Family' expressing my sympathies and support at such a difficult time. Shame they couldn't extend the same courtesy.

The truth is that I cut myself off from everyone because everyone read into the rubbish that was put out about my wife, without checking the facts, even me once. My own mother wrote to me telling me absurd things about Stephanie that she had read on line and instantly believed it. It is that kind of narrow minded thinking that got me convicted in the first place. Come on people, if you are really interested in my case, leave her alone! Let her get on with what she is doing. But no, it is easier to jump on the bandwagon isn't it? So, Stephanie makes a few waves every now and then and wont be fobbed off. You can't expect 'softly softly' to get results. It you wanna make an omelette…….. you gotta break some eggs. She fights for what she believe in and I admire her tenacity and commitment. I have spent over 10 ? years of my life banged up for someone else's crime. The real killer(s) walk among you all right now, but you would rather care about ganging up and bullying the only per-

son I have seen who actually holds her principles dear.

So, for clarity, Stephanie is my wife. If you disrespect her you disrespect me. I will defend her from the wolves and vultures. If you don't like it then you can keep your opinions to yourselves and you can 'do one!'

No one has the right to tell me what is best for me. If you want to talk about someone, talk about me. But make sure you have got your facts straight or you are just as bad as all the others. You know where I am if you want the facts, I am ready to educate you all! (Send an SAE because I'm not a post office).

Look, this situation is stressful for all involved but Stephanie and I are having to put up with so much unnecessary bulls**t. It saddens me that human beings can be so nasty, but we are all products of our own environment I suppose.

My goal and Stephanie's goal is for me to clear my name and for us to start a family. That's all we want. If you want to help, please help, but if all you want to do is criticise and make trouble with your lies and games, we don't want to know and you should be ashamed of yourselves. Do a sponsored silence for Comic Relief or do something else worthwhile.

Leave the adult stuff to the grown ups.

Simon Hall: A767 8AC, HMP Hollesley Bay, Woodbridge, Suffolk, IP12 3JW

R (T and others) v Chief Constable of Greater Manchester and Another

In these proceedings, the claimants contend that in certain respects the provisions of the Police Act 1997 ("the 1997 Act"), the Rehabilitation of Offenders Act 1974 ("the ROA") and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 ("the ROA Order"), which was made pursuant to the ROA, are incompatible with article 8 of the European Convention on Human Rights ("the ECHR").

The case of "T" concerned a 21-year-old man who received warnings from Manchester Police when he was 11-years-old in connection with two stolen bikes. This information was disclosed on two occasions; when he applied for a part-time job at a local football club at the age of 17 and later when he applied for a University course in sports studies.

Held: For the reasons that we have given, we allow the appeals of T and JB and refuse AW permission to appeal. We grant T and JB a declaration that the 1997 Act is incompatible with article 8 of the ECHR. We do not consider that it is appropriate for us to identify the provisions of the 1997 Act which need to be amended, still less the precise nature of the amendments that are required. It will be a matter for Parliament to decide, in the light of this judgment, what amendments to make. We also grant T a declaration that the ROA Order is incompatible with article 8 and, therefore, ultra vires the ROA.

IPCC Investigate Failings By South Wales Police In Serious Domestic Abuse Case

The Independent Police Complaints Commission is independently investigating how South Wales Police dealt with a report of domestic abuse in August 2011 by a woman in Cardiff who told police that her partner had assaulted her. It appears that the woman was sent home from Fairwater police station, Cardiff, without action on the part of the police. The man she had complained about then assaulted her two days later. He was then recalled to jail because he had been released from a previous prison sentence on licence. The woman subsequently went to her Member of Parliament, who complained on her behalf about the force's actions and the matter has now been referred to the IPCC.

IPCC Commissioner for Wales Tom Davies said: "This woman went to the police after her partner had threatened her. The fact that she and her children were allowed to return home where she was then subjected to a serious violent attack raises serious concerns. Even more concerning is that the man was released from prison on licence and had a record of violence. We will want to look at what action was taken by the police and the adequacy of any background checks made. Our investigation will also look at whether this man was being properly managed, as he was released from prison on licence as a registered sex offender. The IPCC has concerns that this matter was referred only after a letter of complaint had been received by an MP, over a year after the original incident. We will also look at what actions or review South Wales Police took after the man assaulted this woman and why it did not refer the matter to the IPCC at a much earlier stage. The IPCC has investigated a number of domestic abuse cases in Wales over the last few years, which led to an all-Wales conference on domestic abuse in 2011 to learn the lessons across the police service and other agencies. I will be looking to see whether South Wales Police has put the learning into effect."

UN Concerned at Levels of Violence in Venezuelan Prisons *UN News Centre, 29/01/13*

The United Nations human rights office today voiced concern at an "alarming" pattern of violence in Venezuelan prisons, with the latest incident leaving 58 inmates dead and around 100 injured. The riot that took place on 25 January at the Uribana prison occurred in the context of an arms seizure. "This latest example reflects an alarming pattern of violence in Venezuelan prisons, which is a direct consequence of poor conditions," he told a news conference in Geneva. "Chronic prison overcrowding, lack of access to basic services and the generalized presence of firearms are widespread in Venezuelan prisons. These conditions are further exacerbated by judicial delays and excessive resort to pre-trial detention."

Mr. Colville noted that States are guarantors of the lives and physical integrity of persons deprived of their liberty. "These persons are under State custody and therefore the relevant State authorities bear responsibility for what happens to them," he stated. States must ensure that conditions of detention are compatible with the prohibition of torture and cruel, inhuman or degrading treatment or punishment, he added. "We call for prompt and effective investigations into this incident with a view, where applicable, to identifying those responsible and to obtain redress for the victims' families," he stated. "We also call on the Venezuelan Government to adopt urgent measures to ensure that conditions of detention comply with international human rights standards." Such measures should include the adoption of a comprehensive prison policy, training of penitentiary staff and ratification of the Optional Protocol to the Convention against Torture, Mr. Colville said.

Criminal Records: Proportionality Restored *The Guardian, Tuesday 29 January 2013*

It is probably a bit premature to use the term "landmark ruling" to describe the court of appeal's judgment on the scope of the criminal records check system introduced by the Blair government. The judgment, after all, is being appealed by the Home Office to the supreme court, which may overturn it. Even if the appeal court's view is upheld, it could be some considerable time before the necessary new legislation is introduced. The landmark is therefore only a provisional one. But it is a big one nonetheless.

The ruling matters on two levels. The most immediate is that it rights a wrong done to people who have committed relatively minor criminal acts, sometimes as juveniles, which continue