was affecting the transfer of key elements of the TC's ethos; - prisoners needed to feel confident enough to raise concerns in therapy about other prisoners' behaviour, and this was not fully embedded, which needed to be addressed head on; - focus of learning skills as complementing therapy needed to be better understood and supported by staff; - promise of the national integrated personality disorder pathways strategy had not yet been realised, which was a wasted opportunity to ensure men arrived at the prison at the right time, and that there was a structured plan for them to progress after completion of the programme. - Inspectors made 77 recommendations

**HMP Norwich - Government Response to HMCIP Criticism**

Minister of State, Ministry of Justice (Lord Faulks) (Con): Action has been and is being taken to improve safety on A Wing at HMP Norwich. HMP Norwich now has extra staff from HMP Blundeston (following this prison's closure), so the prison is now fully staffed. This has allowed HMP Norwich to improve the supervision of prisoners and deal more effectively with incidents of violence and anti-social behaviour. Wing staff have a particularly challenging role as they are responsible for caring for a diverse population of prisoners, and additional managers have now been placed onto this unit to support front line work.

This will result in significant improvement in the care of new arrivals at the prison and those taking part in substance misuse interventions.

The new Safer Custody Manager and the Head of Residence and Safety at HMP Norwich are working closely with their teams and partner agency to improve safety, care and decency within the prison. Particular focus is being given to the effective identification and support of prisoners that are at risk of harming themselves. This includes a determined management push to improve the quality of ACCT (Assessment, Care in Custody and Teamwork) care plans and management. The National Offender Management Service (NOMS) is comprehensively reviewing how we manage violence in prisons with a view to introducing further improvements to ensure prisons are safer places for everyone. This will provide Governors with the tools to create safer prison environments and to help reduce re-offending.

**Footballer Nile Ranger Cleared of Rape** *BBC News, 04/03/14*

Former Newcastle United footballer Nile Ranger has been cleared of rape, following a week-long trial. The 22-year-old, who now plays for Swindon Town, had denied the charge, claiming the woman had consented to sex at a hotel in January 2013. Newcastle Crown Court heard the woman had agreed to meet him after the pair had swapped a number of messages. The player told the court he had never engaged in sexual activity with a female against her will.

**Hostages:** Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland,

**Miscarriages of JusticeUK (MOJUK)**
**22 Berners St, Birmingham B19 2DR**
**Tele: 0121- 507 0844 Fax: 087 2023 1623**

# MOJUK: Newsletter 'Inside Out' No 467 (06/03/2014)

**Alan Charlton's Murder Conviction Referred to Court Of Appeal** *Owen Bowcott, 26/02/14*

The 1991 conviction of a man for murdering a runaway Cardiff teenager has been referred to the court of appeal to examine whether there has been a miscarriage of justice The Criminal Cases Review Commission (CCRC) has asked the court to review the case of Alan Charlton, behind whose home the body of 15-year-old Karen Price was discovered. One of the grounds of the referral, the CCRC said, was new evidence that a number of South Wales police officers who were involved in the Lynette White murder inquiry and the Philip Saunders murder inquiry were also involved in the Charlton case. The CCRC said the officers "may have used investigative techniques similar to those used in the Lynette White and Philip Saunders cases and which contributed to the quashing of the convictions in those cases."

Charlton, who is still in prison, pleaded not guilty but was convicted, on 26 February 1991 at Cardiff crown court, of the murder of Price. His appeal against conviction in 1994 was dismissed. Another man, Idris Ali, pleaded guilty to manslaughter and has since been released. "Following a complex, wide-ranging and lengthy investigation, the commission has decided to refer Mr Charlton's murder conviction to the court of appeal because it considers that there is a real possibility that the court will quash the conviction," the CCRC said. Charlton was sentenced to life imprisonment with a tariff of 15 years.

Price had been living at a residential children's home in Cardiff at the time of her disappearance. She had last been seen on 2 July 1981 when she had run away from the establishment. Her murder was assumed to have taken place shortly after her disappearance, the CCRC said. Her skeletal remains were uncovered by workmen digging at the rear of 29 Fitzhamon Embankment, Cardiff, on 7 December 1989. The basement flat at that address had been occupied by Charlton at the time of Price's disappearance.

The CCRC referral is also based on alleged breaches by officers in the case of the Police and Criminal Evidence Act 1984 relating to the detention, treatment and questioning of persons by police officers. Other grounds, the CCRC statement added, were: "The credibility of a number of prosecution witnesses [and] concerns about oppressive handling by the police of key witnesses, which arguably mean that the trial amounted to an abuse of process." The CCRC has also written to the Independent Police Complaints Commission, the chief constable of South Wales police and Her Majesty's Inspectorate of Constabulary about the Charlton case.

**CPS "Willful, Calculated & Prolonged Disobedience" of Rules Of Disclosure**

Judge Blames Collapse Of Drug Trial on CPS 'Cost Cutting' On Photocopies:The trial of four suspected drug dealers and money launderers has been abandoned after a judge attacked "completely unacceptable" behaviour by the Crown Prosecution Service. Judge Peter Murphy hit out at penny-pinching measures which had threatened to deprive the defendants of a fair trial. He also accused the CPS of "willful, calculated and prolonged disobedience" of the rules of disclosure and directions of the court. Lawyers believe the CPS's attitude was dictated by the cost of photocopying thousands of pages of extra evidence and the knock-on effect on the Legal Aid bill of defence lawyers examining the evidence.

The judge stressed he had no criticism of the police or counsels' conduct in the case at Blackfriars crown court. But the case "raises serious issues about the practice of the CPS where complex evidence is involved". He ordered a transcript of his ruling be passed to the court's resident judge Peter Marron to send to the "higher sources of the CPS". The case had involved charges of conspiracy to supply class-A drugs and laundering the proceeds. A month before the trial the prosecution revealed it had new phone evidence which the judge ordered should be disclosed to the defence. But when the trial opened and the evidence had not been passed on, the judge ruled it inadmissible.

Judge Murphy said: "What is disturbing about this is that I was told very candidly that the application by the Crown was being made primarily on financial grounds. If I understand that correctly, I think it means there are financial implications in serving a large number of pages of evidence that have to be reviewed by defence counsel. "Why the CPS should concern itself with considerations of that kind was not explained." He added that the CPS had seemed to "fly in the face" of the accepted rules. An offer by the service to send to the defence only selected parts of the new evidence it intended to use in the trial was described by the judge as "completely unacceptable Judge Morgan said: "I will not permit the prosecution to adduce evidence in circumstances in which there has clearly been wilful, calculated and prolonged disobedience not only to the rules but also the specific directions given by this court."

As a result of the judge's ruling the CPS dropped the charges and the trial collapsed. CPS denied that decisions to halt or continue cases were based on cost considerations alone

**Trevor Gray Convicted/Sentenced For Rape Cleared at Re-Trial** *Daily Mail, Feb 2013*

A former detective sergeant who was jailed for rape almost two years ago has been declared innocent after a new witness came forward. Trevor Gray, 49, was accused of raping a 43-year-old mother who invited him back to her house after a date. Despite protesting the sex was consensual, he was sent to prison for eight years - where he remained until a taxi driver who had picked him up contacted police.

Gray's conviction was quashed in July last year after the new evidence came to light. The Court of Appeal, ruling that missing the witness from the original case had made the verdict 'unsafe', ordered a four-day retrial. At re-trial a jury of nine men and three women cleared Gray unanimously of rape, attempted rape and sexual touching.

Gray slammed the handling of his case by former colleagues at Nottinghamshire Police. He told the court: 'The (police) investigation which put me in prison was a poor investigation. My life has been ruined. I've been put in prison for 13 months for something I didn't do.' Birmingham Crown Court heard Gray, from Watnall, Nottinghamshire, had been out for drinks with the woman in Nottingham city centre on July 23, 2011, and they returned to her house in a taxi. According to the woman, she asked Gray to leave and he said he was going to hail a taxi to take him home - but he returned, breaking her door security chain and raping her while her young child slept in the house. She claimed she fell asleep and woke up with Gray naked on top of her and raping her But Gray told the jury he had been unable to hail a cab, so tried to ring the woman for help. She did not pick up so he returned to her house.

When he saw her door was ajar, he thought something was wrong and broke the chain - then she told him he 'might as well stay' and initiated sex. Asked if he raped the woman, he told the court: 'I did not. The sexual activities were consensual. She agreed to everything, she initiated everything. 'It was her suggestion to go back to her house. I was on a date, I had no expec-



for questioning by the PACE detention clock when he is eventually taken to a police station.

Whether he is to be questioned in hospital or not, it would be right to provide him, as soon as practically possible and to the extent that is appropriate, with the same information and other support that he would be given in a police station.

What that means in practice will depend on the situation. If he is unconscious, there would be no requirement to provide anything. If he is conscious, it would include telling him of the right to have someone informed of his arrest, the right to consult privately with a solicitor under the legal aid system and the right to consult the Codes of Practice. He should also be given the Notice of Rights and Entitlements. If he needs an interpreter to make sense of the situation as a suspect, an interpreter should be provided. In short, a force that holds a suspect under arrest in hospital should act to whatever extent is possible, as if the PACE rules applied.

**Report on an Unannounced Inspection of HMP Blantyre House**

Inspection 9/20 Sept 2013 by HMCIP, report compiled Dec 2013, published 28/02/14

Blantyre House is a small, semi-open prison which holds prisoners who are coming to the end of long or indeterminate sentences and are being prepared for release. In 2010 the prison had been able to select the prisoners it held and was able to tailor its services to meet a significant but narrow range of needs. At the time of this inspection, a central unit made the allocations and Blantyre House could no longer select who it held. As a consequence the prison was holding men who presented a wider range of needs and risks than before but its work and resources had not been sufficiently adjusted to meet these new requirements.

Inspectors were concerned to find: - primary purpose of the prison was resettlement, but the prison had not assessed how the needs of its population had changed; - contact between offender supervisors and prisoners was good, but not sufficiently focused on reducing reoffending; - public protection work was insufficiently robust; - too few places available for paid/unpaid work in the community,efforts to assist prisoners in finding something suitable were lacklustre; - insufficient training and employment opportunities inside the prison; - there had been 2 serious assaults, which appeared, in part, to be due to the availability of 'Spice' - a synthetic cannabinoid - & associated debt and bullying; and - there was very little self-harm but a self-inflicted death shortly before the inspection, the first at the prison, underlined there was no room for complacency. - Inspectors made 70 recommendations

**Unannounced Inspection of HMP Dovegate Therapeutic Community**

Inspection 23 Sept–4 Oct 2013 by HMCIP, report compiled Jan 2014, published 26/02/14

The Dovegate Therapeutic Community (TC) is a distinct institution holding up to 200 men, contained within the larger HMP Dovegate. The main prison, a category B training prison, is inspected separately. Dovegate TC is based on the concept that democratic therapeutic communities, run by both staff and prisoners, should be central to the way the prison operates. Prisoners are given a real say in the day-to-day running of the prison and have far more influence over their experience of prison life than at normal prisons. This happens within the context of the usual security imperatives of a category B prison holding men on indeterminate or long sentences. Men arrive at Dovegate TC needing to be more open about their offending and related institutional behaviour and to being challenged by peers and staff within therapy and community groups. Often they have a history of serious violent offending, poor institutional behaviour and prolific self-harm.

Inspectors had some concerns - men spent their first few months on the assessment unit and they had little to do that was purposeful; - lack of experienced TC members in the unit

can be a tedious and thankless task to perform the role of scene logist or security. Those tasked with this function should be correctly briefed as to the importance of the role, and the logs checked at regular intervals by a supervisor to ensure they are being completed correctly. Hand-over periods. These should be fully recorded as to date, time, and persons involved, and properly managed to ensure consistency and professionalism in approach.

*Key Point:* A sensible approach to log-keeping is sometimes required. When CSIs are returning to and from their vehicles or equipment that are located just outside the outer cordon on a regular basis there is no need for them to be constantly logged in and out as they are effectively still 'in the scene', provided the SIO and CSM are satisfied there is no risk of contamination.

*CSM/CSI Notes & Exhibit Lists:* Any crime scene exhibit list compiled by the CSM or the CSI during the scene examination (and their notes) must be copied and handed to the SIO via the exhibits officer for eventual processing by the MIR at the earliest opportunity. This may contain details of important items that the SIO may need an immediate awareness of so that important decisions can be made and actions raised. Often it is the case that these important lists get taken away with the CSIs or whoever until such time as a strategy meeting is held, which may be too late to instigate fast-track actions. This rule also applies to any other experts who attend and examine aspects of the scene and may prepare their own exhibit lists, such as forensic scientists. *Source: Police Oracle, 27/02/14*

**Police and Criminal Evidence Act 1984 (PACE) and a Medical Condition**

*Question:* A suspect who has been arrested for a serious offence is taken, because of his medical condition, direct to hospital and the next day is transferred under guard to a second hospital in a different force area. It is unclear how long he will be in hospital or even when he will be well enough to be interviewed. What PACE rules apply in this situation?

*Answer:* PACE s.37 (Duties of custody officer before charge) applies to the custody officer “at each police station where he is detained”. This suspect has been arrested but he has not been detained at any police station. Therefore no duties under PACE fall upon a custody officer in the relevant force area. The detention clock (s.41) similarly only operates in regard to someone who is in police detention. Section 118 provides that a person is in “police detention” for the purposes of PACE if “he has been taken to a police station after being arrested for an offence” or he is arrested at a police station after attending voluntarily. Neither of those apply, so he is not in police detention, and the PACE detention clock is not operating.

The situation is not covered by PACE. Does this mean that the suspect is outside the protection of the law? It does not. It only means that whatever protection and rules apply cannot arise directly from PACE. But the PACE system is applicable by way of analogy. What is required is a sensible adaptation of the PACE rules to the situation. The relevant custody officer in the first force area should open a record as if the suspect had been brought into the police station. The record should state the events that occur, with timings, for which purpose the duty of entering that information would have to be delegated to an officer at the hospital. On transfer to the second force, the record would be continued by, or under the authority of, the relevant custody officer in that area.

PACE s.41(6) provides that time spent in hospital does not count for the purposes of the detention clock unless the suspect is questioned. The suspect in this case can therefore be kept in hospital under arrest, and no doubt under guard, for as long as his medical condition requires.

However, application of s.41(6) by analogy means that if he is questioned in hospital by police officers, the time taken by such questioning should be noted and deducted from the time available



tations. She gave me a tour of the house - she was obviously very proud of the house. 'We went back to the lounge and we sat on the settee cuddling and kissing. She suddenly said "it's probably time to go". I went to the door, we kissed and I went. '[Later] I rang her phone, I send her another text asking her to get me a cab, again there was no response. 'I rang a couple more times and got no response. At that point I felt there was clearly something wrong. I walked back down towards the house. 'I could see the lights were on. I could see the door was ajar.

'My levels of concern were getting higher and higher. I repeatedly rang the doorbell with no response. I shouted through the door with no response. Then I made a decision to enter the premises. I used my hands on the door and pushed it open snapping the chain. She was sitting up in bed. I explained to her that I had been concerned about her. I then asked her if she could get me a taxi. She said "you might as well stay now". Everything was absolutely fine. I removed my clothing, used the toilet then I got in to the bed. I was lying in the bed, I turned away from her and after a few minutes I felt her arm come across me. I turned inwards and we started to kiss.'

Gray was suspended and later dismissed from Nottinghamshire Police after he was jailed. His appeal to rejoin the force is still being considered and a police spokesman said it would be 'inappropriate to comment' before it is decided. Detective Superintendent Jackie Alexander, of the Professional Standards Directorate, said: 'We take any report of sexual assault and rape extremely seriously and have a duty to investigate such allegations, whoever they are made against. 'The CPS considered it appropriate for this case to be prosecuted through the criminal justice system and having been presented to a jury over four-days they have considered the evidence and made a decision to acquit Trevor Gray.'

**Neill, R v [2013] EWCA Crim 2617**

[What this appeal against conviction unfortunately demonstrates is how at trial Judge Horton, failed to properly sum up and direct the jury: but do we give a fuck, we don't the conviction stands, Justices Moses, Cranston and Lang]

1) Lord Justice Moses: Criminal trials held to determine the guilt or innocence of defendants depend upon two essential features: firstly, on the skill of the independent advocates arguing them, on the one side, and, on the other, and secondly, on the judge fairly and clearly leaving to the jury the issues which they are called upon to determine.

2) This case amply demonstrates the skill, on the one hand, of Mr Tully for the defence and, on the other hand, Mr Taylor for the prosecution, in properly arguing, the acutely difficult issues which had to be determined in resolving the question whether a young man of 38, with no previous convictions, had indecently sexually assaulted the daughter of his good friend and neighbour in Bristol.

3) What this case unfortunately also demonstrates is how close this judge, His Honour Judge Horton, in his failure properly to direct and sum-up the case to the jury came in upsetting the due process of the determination of the guilt or innocence of the defendant (now the appellant).

4) This appeal has turned upon the recitation by the judge of far too much evidence running the danger of deflecting the jury from proper consideration of the clear issues that it had to resolve. Due to the skill of counsel on both sides, this case, which involved a number of witnesses concerning allegations made by a young 13 year old, lasted only some two-and-a-half days.

5) Quite unnecessarily, and we would add wrongly, the judge then recited large portions of the evidence over a period which occupied two days. In length it was some four-and-a-half hours but it went on from one day to the other. He would have been far better occupying his time leaving the court and preparing a proper summary of the evidence, summarising the

evidence and identifying the issues which had to be resolved. His failure to do so has come close to requiring this trial to be held again. We have had to very carefully consider whether the serious inadequacies in the summing-up required us to say that the verdicts were unsafe. We hope therefore that this judge will be prepared to accept our comments and not, in future treat a jury to a lengthy and unedited recital of the evidence.

17) Having criticised the judge in the way we have for the way he chose to direct the jury, at the end we have to ask ourselves whether the verdicts of guilty that the jury returned after retiring for the space of nearly 2 days and over a weekend were unsafe. This court does not sit to mark summings-up according to their excellence or otherwise but has to direct itself as to whether the effect of this summing-up was to render these verdicts unsafe. It was a finely balanced case and it is a shame that time was not taken in considering how the issues could properly be left to the jury without the unnecessary recitation of this evidence. If we had doubts on the basis that so long a recitation of the evidence might have deflected the jury from a fair consideration of the issues with which they were faced we would unhesitatingly have allowed this appeal.

18) But we do not. The issues were clear. Although there was a stark conflict between the evidence given, on the one hand, on behalf of prosecution and that by the defence, the jury can have been in no doubt but that they had to be sure that the girl was telling the truth despite the curious circumstances, particularly of 9th January. They had to focus upon the accusation which the appellant said the mother of the child had made in the curious terminology that he said she had used and consider whether, if he was not telling the truth about it, how he knew that the allegations were that he had touched her leg in a non intimate way.

19) This was the very stuff of those matters that we call upon a jury to decide. We cannot believe that the defects in the summing-up that we have underlined can have deflected the jury from a proper and fair consideration of those issues.

20) Though we fervently hope that this sort of summing-up will not be given in the future, we are unable to say that the verdicts reached by the jury on 3rd December 2012 at Bristol Crown Court were unsafe. There were four convictions and we dismiss the appeal against those convictions.

**Legal Challenge By Police Shooter E7 Dismissed by High Court**

Helen Shaw, co-director of INQUEST said: “We welcome this ruling which re-confirms the inquiry’s unequivocal finding that the killing of Azelle Rodney was unlawful. The CPS must now come to a decision regarding a prosecution as a matter of priority – Susan Alexander cannot be expected to endure further delays in a legal process that has already lasted nine years.”

Statement from Daniel Machover, solicitor at Hickman and Rose, on behalf of Azelle Rodney’s mother, Susan Alexander: Susan Alexander welcomes today’s clear decision by the High Court to reject E7's legal challenge to the outcome of the Public Inquiry into the untimely and wholly avoidable death on 30 April 2005 of her son, Azelle Rodney. It is quite clear from the court’s decision that E7’s legal challenge was without merit. E7’s key challenge as to the finding that he unlawfully opened fire on Azelle Rodney was ruled as being ‘unarguable’ (see para 59), the Court being in ‘no doubt’ that all the related findings by Sir Christopher Holland were neither irrational or perverse (see para 46). Sir Christopher Holland had ample evidence to draw on to justify his conclusion that E7 unlawfully killed Azelle Rodney.

E7, who retired from the MPS just a few months after killing Azelle Rodney, has used valuable court time and taxpayers money on his ‘unarguable’ legal challenge. A line must be drawn under this. The Mayor’s Office for Policing and Crime in London (MOPAC) should now



was sentenced to a further 12 months after admitting encouraging Turton to supply cannabis while he was an inmate in Birmingham. Defence lawyer Jonathan Park told the court Turton had been depressed after discovering her husband had had an affair and "was manipulated". She had "no sinister motive for her misconduct", he said. Judge Thomas Rochford said Turton's "special link" with King and inappropriate friendships with others "defied belief". He said: "[You knew] that your sexual relationship was bound to cause serious risks to security and to discipline."HMP Birmingham sacked Turton when she was charged with misconduct. Director Pete Small said her behaviour had been "reckless". He said: "As an established prison officer with more than 20 years of experience, Julie Turton not only let herself down, but abused the trust of her colleagues and the prison service."

**Management Of Serious Crime Investigation - Crime Scene Logs**

Scene logs are quite simply an official audit trail and record of everyone who enters a crime scene. They not only deter unauthorized access but also preserve the integrity of the scene. There are specifically designed forms to use for this purpose which, when completed, should include details of the person(s)keeping the log, full details of all persons who enter or leave the scene against signature, the exact date and time in and out, the reason for entry, and whether protective clothing is worn or not.

The officer who is maintaining the outer cordon scene log is normally positioned at the RVP to capture all persons attempting to enter the scene. There are normally clear instructions printed inside the front cover of scene logs. Spare booklets should be stored in a readily accessible place because they are not generally issued to all staff and are only used as and when required, primarily at major crime scenes. There should be a separate log for both inner and outer cordons (and for a third cordon if one is used). All logs, once completed, must be submitted without delay to the major incident room for examination and processing on HOLMES2. Designated scene 'logists' should record on the log only details of those who actually enter or leave the crime scene (the 'sterile' area). Entries should clearly record reasons for a person entering the scene on the log. The logs need to be detailed, accurate, and comprehensive. If for any reasons the correct log forms are not immediately available, then a pocket book or other note-taking format should be utilized, but the same amount of care must be taken even if it is recorded on plain paper.

There are some common mistakes made with scene logs. Some are as follows: Incorrect forms used or none at all. Using a makeshift piece of paper or officer's pocket book is not very professional. Experience indicates that if official forms are not used then usually the necessary detail is not recorded. * Precise and accurate details not recorded. Each and every box and question on the form is there for a specific reason.

There should be no gaps, for instance if protective clothing has not been worn the box needs to state this and must not be left blank. If it is a requirement to note the weather conditions at regular intervals, this should be completed correctly. * Incorrect detail recorded. Attention to detail is vital, even down to the correct spelling of people's names. Scene logs are entered onto the HOLMES2 database with all the names of persons attending the scene. Any that are not spelt correctly can lead to dual registration and foul up the nominal indices. * Entries on forms not being signed. Some officers may feel awkward asking people who are wearing protective suits or whatever to keep signing themselves in and out of scenes. All entries should be made against signature, with no excuses. * Briefing and supervision. It

v West London Mental Health NHS Trust [2014] EWCA Civ 47 - did not assist him. In that case, the claimant had less input into the relevant decision than Mr Gul did, but the Court of Appeal held that because he was able to put his side of the story before a decision was made, it was not procedurally unfair.

In fact, the court was so unimpressed by the procedural unfairness point that at [44] it said the following: It is important for claimants and legal practitioners not to lose sight of their obligations of disclosure and reconsideration… failure to reconsider a claim or a ground in the light of the defendant's evidence may be reflected in the order for costs, including, in an appropriate case, a wasted costs order against the legal representatives. While no such order was made in this case, the point is very much worth remembering.

Human rights aspects: The second broad point made by Hugh Southey QC on Mr Gul's behalf was, in essence, that, on Article 8 grounds, the provisions of the 2003 Act are insufficiently specific to authorise the conditions of his licence (or, if he was right, any of the standard licence terms commonly used across the country, such as keeping in touch with a responsible parole officer, as the court pointed out at [50]).

The court rejected the submission that the language of either the 2003 Act or the 2005 Order was insufficiently clear to fall foul of either the common law principles of certainty or the ECHR requirement that they be "in accordance with law". It went on to say that the licence conditions imposed on Mr Gul may not have even gone far enough to engage Article 8 at all – see paragraph [70] – but that, if they did, they would be justified as "necessary in a democratic society", and proportionate, given that Mr Gul had been convicted of a terrorism-related offence.

The court went on to comment in general on the imposition of licence conditions on offenders, saying at [72]: it is important to recall the nature of release on licence… the submissions on behalf of the claimant made no distinction between the position of an offender in whom the state has a legitimate interest in rehabilitation, and the position of a citizen without a blemish on his record exercising one of the fundamental freedoms of all citizens which are protected by the ECHR… I respectfully agree with the observations of Moses J (as he then was) in R(Carman) v SSHD [2004] EWHC 2400 (Admin) at [33] that "the licence conditions and assessment of risk to the public, on which they are based, are matters of fine judgment for those in the prison and probation service experienced in such matters, not for the courts. The courts must be steadfastly astute not to interfere save in the most exceptional case

Although Beatson LJ did go on to say that while he would not describe the cases in which the court should interfere as necessarily being exceptional, he would emphasise the need "to show a clear error of law or other public law flaw,and care not to give insufficient recognition to the expertise of the Probation Service".

**Prison Officer Julie Turton Jailed Over Sex & Drugs**

Julie Turton, 54, of Hamstead, Birmingham, admitted misconduct in a public office and was sentenced to 32 months at Birmingham Crown Court. The court heard she supplied inmates with cannabis that was smuggled into the prison inside two chocolate eggs. The judge said her sexual relationship with drug dealer Danny King had caused "serious risks to security". The court heard Turton was in charge of staff and up to 160 inmates on M wing at the prison, known as Winson Green, between November 2011 and May 2012. During that time she admitted calling and texting three inmates more than 900 times, including King, the court heard.

Those contacted also included Arteef Hussain, 25, now at Stoke Heath prison. Hussain



urgently review the expenditure of taxpayers money to the tune of as much as £168,000 towards E7's legal costs on this failed claim. It is of particular concern that MOPAC agreed to pay out this sum to E7's lawyers - and that the MPS backed E7's funding request - even after the High Court first rejected his judicial review out of hand back in October 2013.

In the meantime, no proper resources appear to have been put in to reviewing possible criminal charges by the Crown Prosecution Service (CPS). Almost eight months after the publication of the Inquiry's Report, the CPS have completely failed to reach an efficient and speedy decision on whether to bring criminal charges in respect of the unlawful killing of Azelle Rodney, compared with taking six months to make its initial negative decision back in July 2006, based on the (now discredited) IPCC investigation.

At present, no one will tell Susan Alexander when any CPS decision is remotely likely. Even though the Government officially apologised to Susan Alexander in public in 2012 at the European Court of Human Rights about the delay in her case, the best that the CPS can say in 2014 is that they hope to tell Susan some news by the end of May 2014, but that will be after Susan begins her 10th year of fighting for justice for the death of her son. No mother should ever endure a wait of this kind. Susan Alexander therefore calls on the DPP, the Attorney General and the Home Secretary to review the resources being applied to this case by the CPS (and if relevant the IPCC) and to prioritise this case, with a view to reaching the earliest possible decisions on criminal charges, preferably before this Easter.

**Mark Duggan's Mother Lodges Legal Challenge Against Judge**

*Diane Taylor, theguardian.com, Wednesday 26 February 2014*

The mother of Mark Duggan, whose fatal shooting by police provoked the 2011 riots, has lodged a legal challenge against the judge who presided over the inquest into her son's death, which ended with a jury making a majority ruling that he was lawfully killed. Pamela Duggan is seeking leave for a judicial review, accusing Judge Keith Cutler of acting unlawfully in his directions to the jury in the case.

After hearing three months of evidence at the end of last year, the inquest jury was asked to consider whether Duggan was killed lawfully, unlawfully or whether an open verdict should be returned. Last month eight of the 10 jurors said Duggan had no gun in his hand when he was fatally shot, but eight of those jurors also ruled that Duggan was lawfully killed by the police. Cutler was appointed assistant deputy coroner for the inquest.

The Duggan family's legal team are asking the high court to declare the coroner's directions to the jury unlawful. They are asking for a court order to quash the lawful killing verdict and replace it with an open verdict. Alternatively they are requesting an order quashing the inquest's conclusions and ordering a fresh inquest. The Duggan family's legal team argue that Cutler should have directed the jury that if they decided Duggan did not have a gun in his hand they could not return a verdict of lawful killing. They say that this direction to the jury was necessary to avoid an inconsistent conclusion for which there was insufficient evidence.

V53, the police officer who fired the shots that killed Duggan, told the inquest that he clearly saw a gun in Duggan's hand. However, in the documents lodged in the High Court, the Duggan lawyers argue "V53 could not have known what the gun looked like. V53 must have been making these details up after the event, having later seen the gun". They argue that V53's belief that Duggan was holding a gun was mistaken. "V53 had a clear, unobstructed and prolonged view of what Mark was holding. There was no evidence V53 had any good rea-

son to think Mark was holding a gun."

The Duggan family were visibly shocked after the inquest jury delivered its verdict. Duggan's aunt, Carole Duggan, said she believed her nephew had been "executed" by the police. After the inquest verdict the family's lawyer, Marcia Willis Stewart said: "The jury found that he had no gun in his hand yet he was gunned down. For us that is an unlawful killing."

In the papers lodged at the high court seeking leave for a judicial review of Cutler's directions to the jury, the Duggan family's legal team say: "This is a matter of intense public interest. The apparent inconsistency in the jury's findings is a matter of widespread public concern." They added that public confidence in state agents' use of force was at stake. Pamela Duggan said: "We have asked the court for permission to challenge the inquest's findings as part of our continuing quest for justice for Mark. I am particularly distressed that the officer who killed Mark can return to work. I don't want to see any other mothers losing their sons at the hands of the police in the way that I lost Mark."

**Doreen Lawrence: Hold Public Inquiry Into Police Spying or We'll Sue**

The home secretary must order a public inquiry into undercover police who spy on political campaigners or the family of murdered black teenager Stephen Lawrence will sue, human rights campaigners have been told. In a statement to help launch the Campaign Opposing Police Surveillance in central London, Lady Lawrence said only "the most authoritative, public, transparent and legally robust framework possible" to investigate police actions will be enough to satisfy both her own and the public's concerns on this important issue. Police chiefs have conceded that undercover officers were deployed to spy on supporters of her family's efforts to force Scotland Yard to investigate her son's racist murder properly.

Her lawyer Imran Khan said: "She [Theresa May] should order an inquiry and we are going to challenge it legally if she doesn't." Claims the police tried to smear the Lawrence family in the aftermath of Stephen's murder are being investigated by two existing inquiries. The allegations are being examined by an internal police investigation, known as Operation Herne, run by the Derbyshire chief constable, Mick Creedon. Campaigners say they have "no faith" in Operation Herne or any of the other internal official inquiries to uncover the truth of the undercover infiltration that started in 1968. Barrister Mark Ellison QC, who successfully prosecuted Gary Dobson and David Norris for Stephen's murder in 2012, is examining police corruption during the original investigation in to the killing.

It comes after undercover officer Peter Francis said he was instructed in 1993 to find information that could discredit the Lawrence family. He claims that he posed as an anti-racism campaigner in a hunt for "disinformation" to use against those criticising the police. In her statement, read out by Khan, Lawrence said: "Only a judge-led public inquiry can perform that task. A police review and a review by an experienced prosecutor, no matter how carefully or thoroughly conducted, simply will not have the necessary level of credibility and authority to draw a line under these important issues."

Lawrence said that, along with members of the public, her fear is that a police or barrister-led review will only seem as though they are "shielding the police from public scrutiny". She believes "very strongly" that an inquiry should cover a wide range of people who say they are victims of this type of surveillance, Khan said. The new campaign brings together people who say they have been targeted by this undercover work. They include women who say they were duped into forming long-lasting relationships with undercover police such as London



decriminalisation; they do no want legalisation. Legalisation means the regulation of sex work. It punishes those vulnerable women who are not able to jump through the necessary hoops, for example refugees and mothers. It's a backdoor process of criminalisation. Decriminalisation is the removal of the laws that penalise sex workers and clients. Decriminalisation would make women safer. If decriminalisation happens it would not mean removal of laws to protect women from trafficking, exploitation and rape. When a client is made to be a criminal, he isn't going to call the police to report suspected people trafficking. It is just driving it underground. This proposal would just create a blacker market than there already is."

**Human Rights And Public Law Challenge To Prisoner's Release Conditions Fails**

R*ose Beaton, UK Human Rights Blog, 02/03/14*

Prisoners release R(Gul) v Secretary of State for Justice [2014] EWHC 373 (Admin): Mr Gul had been imprisoned for a period, on 24 February 2011, for disseminating terrorist publications. When he was released on 6 July 2012, this was under licence, as is common following the release of dangerous prisoners. Mr Gul challenged some of the conditions of his licence by judicial review. The court rejected his challenge.

The purposes of releasing offenders from prison on licence, allowing them liberty under conditions to be supervised by a probation officer, are clear enough – protecting the public, preventing reoffending, and securing the successful reintegration of the prisoner into the community, as set out in Section 250 (8) Criminal Justice Act 2003.

The conditions which Mr Gul challenged were in the category of "other conditions" (as opposed to "standard conditions") and were imposed in accordance with Article 3(2) Criminal Justice (Sentencing) (Licence Conditions) Order 2005 SI 2005/648 (dealing with conditions generally) and Annex B Probation Instruction 07/2011 (dealing with extremist offenders).

The first was a "non-association" requirement – not to attend meetings other than for worship, without prior approval – and the second was a "restricted activity" requirement – summarising, not to have any printed material which contains information about military technology, without prior approval (see the judgment at paragraph [16]).

Procedural unfairness: Mr Gul, through his solicitor, objected to these conditions. It cannot, he said, "be the intention of the licence to prevent him from reading a newspaper or from observing his religious practice". It isn't, said the London Probation Trust. In accordance with the non-association requirement, he was already allowed to attend one mosque, and when he sought permission to attend another one as well the Trust granted it.

If he wanted to go out to see Arsenal play, though, he would still have to ask permission of his probation officer first, who would try to make a decision as quickly as possible. The relevant condition of the restricted activity requirement, they said, only covered "materials which could be reasonably used to promote violence" – newspapers would be fine. Still unsatisfied, Mr Gul brought a judicial review.

His first point was procedural unfairness. The court was unimpressed by this. Mr Gul had met the probation officer responsible for supervising his licence three times in prison prior to his release. He had an opportunity to discuss the licence conditions in some detail with her. One of the matters which he raised with her was which mosque he could attend, and this was dealt with prior to his release. Procedural fairness, the court said, whether under the common law or under Article 8, requires only involvement in the decision-making process as a whole sufficient to provide him with protection of his interests – [39]. The recent decision in R(L)

punters at the expense of often vulnerable women and girls." It concluded that current legislation was "complicated and confusing", with sex workers, rather than punters, often receiving the fines, antisocial behaviour orders and criminal records.

Sweden made the purchase of sex illegal in 1999 and has been followed by Norway and Iceland, while Denmark and France are also debating whether to follow suit. But critics of the move suggest it could drive prostitution further underground, making it more difficult to rescue women who wanted to escape the sex trade. Last week's European Parliament vote was passed by a majority of 343 to 139. Mary Honeyball, the Labour MEP who put forward the resolution, said it would target "men who treat women's bodies as a commodity without criminalising women who are driven into sex work".

In 2004, the Labour government proposed the creation of tightly controlled "red light districts" to get vulnerable women off the streets, but dropped the idea in the face of widespread opposition. Instead it brought in an offence criminalising men who pay for sex with women forced into prostitution, a measure that has been criticised for being ineffectual. Monday's report recommends the law be toughened against men who have sex with a prostitute aged under 18. As long as the girl is aged 13 or over, the customer can currently escape a charge of child prostitution if he can argue he believed the girl was aged 18.

Norman Baker, the crime prevention minister, said: "We believe that those who want to leave prostitution should be given every opportunity to find routes out. We will ensure that legislation surrounding prostitution remains effective and continue to work with law enforcement agencies to achieve this."

Around the World: Prostitution and the law: Sweden Pioneered legislation criminalising the purchase, but not sale, of sex in 1999. Supporters claim this has reduced demand for prostitution and the number of sex workers. Germany Legalised in 2002, creating an industry thought to employ 400,000 prostitutes and to be worth £13 billion a year. The Netherlands Legalised in 2000 and Amsterdam is considered to be an international centre of the sex trade. Prostitutes became liable for taxes three years ago.

France Not illegal to buy or sell sex, although pimping and operating a brothel are prohibited. Parliament debating new laws to criminalise buying sex, with fines of at least €1,500 (£1,240). Italy Street prostitution and single sex workers operating from apartments are legal, but brothels and pimping are banned. United States Illegal (except in parts of Nevada which permit regulated brothels). However, it has been estimated that the American sex trade is worth about £8 billion and employs hundreds of thousands of people. Australia Legal and regulated in New South Wales, Victoria and Queensland. In other states, running brothels remains illegal.

Case study: 'The Nordic model has failed': Gemma, 24, from south-east London, is strongly opposed to the introduction of a new Scandinavian-style criminal offence banning the purchase of sexual services, saying it would push the trade further underground. I started doing sex work about four years ago when I began work as a stripper. I went on to work in massage parlours and about a year ago I went independent, working from my home. The Nordic model is a failed piece of legislation that has not worked and is not reducing the amount of sex work taking place. It is harmful and does not protect sex workers or keep them safe.

If I decided I was too nervous to work alone, I would not be allowed to have a friend over to work in a pair for safety: it would technically mean I was running a brothel. What sex workers want is the removal of sanctions around sex work, like in New Zealand. Sex workers want



Greenpeace activist Helen Steel. She was one of the pair in the notorious McLibel case sued by burger giant McDonalds over a leaflet.

Khan said he feared that if Francis was called to give evidence behind closed doors that nobody would ever hear about it. He noted: "One of the things that was instrumental in the public inquiry into Stephen Lawrence's murder was the ability to hold all of that out in the open and for officers to be held to account in ways that had never happened before. "If we allow the home secretary to say there is going to be no inquiry into all of this, we are going to be left in a situation where the police can act with impunity, where Creedon can say 'I am going to go against you with the Official Secrets Act' and people will never know and be able to get to the bottom of what happened. "There have been 20 or 30 years of undercover policing in this country, which has only just come out. It is shocking."

Steel, who is among a group of women who have launched a legal action against the Metropolitan police, says she was targeted in 1990 by undercover officer John Dines, who used the alias John Barker. She believed they were "soulmates" and had talked about starting a family - but he was actually married and had adopted the name of a dead child. Now describing the relationship as "a deliberate process of emotional manipulation," she told the campaigners: "He was seeking to draw me closer to him so that he could spy on me and my friends and seek to undermine the political movements I was involved with and, ultimately, seek to prevent change."

**Court Orders Merseyside Police to Hold Fresh Misconduct Hearings**

A High Court judge has ordered Merseyside Police to hold fresh misconduct hearings with the police officers caught on CCTV spraying a teenager With Tear Gas. This after an internal investigation and misconduct hearing recommended by the Independent Police Complaints Commission ended with no action being taken.

Ross Miller, from Anfield, was pulled to the ground by police outside Marks and Spencer on Church Street in Liverpool city centre in February 2011 and had the riot control chemical sprayed in his face despite being held in a seated position by officers.He accused PC Claire Mannion and PC David Priestley of assault afterwards, but after an internal investigation rejected most of his complaints he appealed to the IPCC. The complaints body upheld his appeal in a number of respects, criticised the officers' conduct and urged they both faced misconduct proceedings. They said PC Mannion had used excessive force, that PC Priestley's used of CS gas was not reasonable or proportionate and that their evidence did not match CCTV footage. But although the Chief Inspector who heard the cases gave "management advice" to PC Mannion neither officer was found to have breached the force's standards of professional behaviour. Mr Miller then appealed to the High Court, which on Thursday ruled against the force's handling of the case and ordered a new disciplinary meeting be held.

Mr Justice Stewart ruled Mr Miller and his mum were excluded from attending the disciplinary hearings in breach of official regulations and weren't provided with transcripts of what went on behind closed doors. He also said an "irrational" conclusion had been reached by senior investigator Chief Inspector Powell, after deciding there were "clear and obvious flaws" in her reasoning.

The altercation happened at about 6.15pm on February 18, 2011, when Mr Miller was with a group of friends in the town centre. After one of them was attacked the rest of his friends ran over to help him, shortly before police arrived. But when they got there the victim was put in the back of a squad car and the group became concerned that he had been singled out

instead of his attackers. While the group discussed it with the officers on the scene PC Mannion and a special constable arrived and PC Mannion stepped into the crowd, pushing Mr Miller away. As he moved away she pulled him back, before throwing him up against the side of the squad car. The other officers quickly got involved, wrestled Mr Miller to the floor and held him in a seated position, before PC Priestley sprayed him in the face with CS spray. This version of events is clear in CCTV footage obtained by the ECHO and Merseyside Police did not significantly dispute this version of events, Mr Justice Stewart said.

Mr Miller was arrested under section 5 of the Public Order Act 1986, but was not told the reason for this. He was then re-arrested on suspicion of affray at the police station but released on bail at 4am the next morning. Proceedings against him were later abandoned.

In his witness statement PC Priestley said Miller had been “struggling violently, kicking out at officers” and fearing officers would sustain injury because of Miller’s conduct he shouted a warning to “stop fighting or you will be sprayed.” He said Miller ignored this and continued to resist. He said he then shouted another warning before spraying Miller in the face. PC Mannion had justified her use of force on the grounds she felt threatened after a person shouted “someone has a blade”. But this could not be supported by any of the other officers present, or by CCTV footage, investigators concluded. Despite this, Chief Inspector Powell said her version of events could not be ruled out. The action was also justified because Mr Miller had made his body rigid and that the group had shown “violent tendencies”, according to PC Mannion.

But Mr Justice Stewart said the decision to accept this version of events was “irrational”, adding: “I fail to understand the basis upon which the conclusion of a group display of violent tendencies can be supported.” Further he said inconsistencies between notebook entries and CCTV evidence were not addressed by investigators. He also ruled the CS spray had been used within 2ft of Mr Miller’s face, when force guidelines say it must be sprayed from a minimum of 3ft. He quashed the findings of both misconduct hearings, ordering a new set of disciplinary meetings to be held with a new decision maker in charge. A spokesman for Merseyside Police said: “Merseyside Police notes, and will comply with, the judgement of the High Court in relation to Mr Miller.”

Speaking after the case Chris Topping, of Broudie Jackson Canter, who represented Mr Miller, said: “This is a classic case of how the police complaints system is extremely difficult for unrepresented people to participate in. It’s not a very transparent system. Without legal aid Ross would have been at a significant disadvantage.”

**No Fault' Over Two Prisoner Deaths At Barlinnie Jail - Stinks to High Heaven**

A fatal accident inquiry into the deaths of two men at Glasgow's Barlinnie Prison has found neither could have been "reasonably" prevented. Stuart Rose, 26, was found dead on 15 April 2010. He was jailed for torching an Islamic Relief shop in Glasgow. James Bell, 27, was found dead on 13 August 2010, hours after he was remanded in custody.

Sheriff Alayne Swanson said "there were no reasonable precautions whereby the deaths might have been avoided". In a written judgement, Sheriff Swanson added in relation to Rose: "I cannot determine the impact on him of the phone call which we heard but there can be no doubt that it was significant. His distress at being separated from his wife and her assertion that their relationship was over was evident." The inquiry was told that Rose collapsed in the dock after being sentenced and was upset when he was taken into custody but he was later assessed as being at "no apparent risk" by a prison officer and nurse when taken to prison.



Coombes were set upon with shouts of “kill the pig”, the court heard. “The attack on him was without mercy,” said Richard Whittam QC, counsel for the prosecution. “PC Blakelock suffered something in excess of 40 stab type injuries and there appears to have been an attempt made to decapitate him. The attack left him with a knife embedded in his neck.”

Mr Jacobs, who was aged 16 at the time of the attack, was part of the disturbances and has been accused of using a blade to attack the officer. He denies murder. The court heard that a first police investigation resulted in the convictions of 300 people for public order offences and the convictions of three men for murder in 1987. However their convictions were quashed in 1991 after scientific analysis of their interview notes cast doubt over the case. Two police officers were subsequently put on trial for perverting the course of justice but cleared. Police launched a second inquiry in 1992 which adopted the “highly unusual” approach to encourage some of those involved in the attack to come forward, the court heard. Police divided the group into “stabbers” and “kickers” – who did not wield weapons and were treated as witnesses rather than suspects for the murder.

A third inquiry began in 2000 after a review of the evidence. It resulted in the arrest and murder charge against Mr Jacobs in part based on the evidence of witnesses involved in the riots, the court heard. “You will hear of convictions not least arising out of the riots against some of the witnesses,” Mr Whittam told the jury of five women and seven men. “You will hear of problems in relation to substance abuse about drugs and of alcohol.” Mr Whittam said that members of the jury might disapprove of some of the key prosecution witnesses in the case. “They are all matters that we as the prosecution don’t shirk from,” he said. “It doesn’t make a witness incapable of telling the truth.” He said that the jury would have to decide if the witnesses admitting kicking the officer to secure immunity offered during the 1992 investigation. PC Blakelock’s widow and three sons were in court to hear the prosecution open its case against Mr Jacobs.

**MPs Call For Prostitution To Be Legalised** *Nigel Morris Author, Indpendent, 03/03/14*

Laws criminalising women working as prostitutes should be scrapped and replaced with tough new penalties targeting customers and pimps who fuel the multibillion-pound sex trade, a year-long parliamentary inquiry has concluded. MPs and peers of all parties urge Britain to follow Scandinavian countries by aiming the full force of the law against punters, rather than women who might have been coerced into selling their bodies. The starting-point for legislation should be the premise that prostitution amounts to violence against women and is an affront to sexual equality, their report, published on Monday, claims. It argues for the introduction of a new “general offence” banning the purchase of sexual services. At the same time, soliciting offences that are currently used to prosecute prostitutes should be removed from the statute book. The sale and purchase of sex is currently legal in Britain, but soliciting, pimping, running a brothel and kerb-crawling are illegal.

Their call comes days after the European Parliament voted overwhelmingly for new laws criminalising prostitutes’ clients. In the report, the all-party parliamentary group on prostitution delivers a damning verdict on the inadequacy of the UK’s prostitution laws, some of which date back to the 1950s. It warns that legal loopholes enable men to evade prosecution for abusing girls as young as 13 and fail to protect women who have been trafficked into Britain against rape. The group also claims that a lack of political will to tackle the issue has helped turn this country into a lucrative destination for criminal gangs involved in the sex trade. The Labour MP Gavin Shuker, the group’s chair, said: “The current UK law is not working. It sends no clear signals about what we consider prostitution to be, in effect prioritising the gratification of

The general approach to sentencing where Chapter 5 applies

It may be helpful, following our analysis of the new provisions and in the light of the cases before us, to suggest an approach that a court should take when considering whether to impose a sentence under the dangerous offenders provisions of the CJA 2003 as amended by LASPO.

The first question to be considered in all cases where these provisions apply is whether the offender is dangerous. Where s.224A may be relevant there will be a temptation to move straight to a consideration of that provision. That temptation should be resisted. It may lead to the omission of the crucial first question of whether the offender is dangerous.

The order in which a judge should approach sentencing in a case of this type is this:-

1) Consider the question of dangerousness. If the offender is not dangerous and section 224A does not apply, a determinate sentence should be passed. If the offender is not dangerous and the conditions in section 224A are satisfied then (subject to ss.2 (a) and (b)), a life sentence must be imposed.

2) If the offender is dangerous, consider whether the seriousness of the offence and offences associated with it justify a life sentence. Seriousness is to be considered as we have set out at paragraph 22.

3) If a life sentence is justified then the judge must pass a life sentence in accordance with s.225. If s.224A also applies, the judge should record that fact in open court.

4) If a life sentence is not justified, then the sentencing judge should consider whether s.224A applies. If it does then (subject to the terms of s.224A) a life sentence must be imposed.

5) If section 224A does not apply the judge should then consider the provisions of section 226A. Before passing an extended sentence the judge should consider a determinate sentence.

**Blakelock Murder Trial: CPS Witnesses Paid to Testify & Given Immunity**

*Paul Peachey, Indendent, Monday 03 March 2014*

Members of a violent mob that surrounded PC Keith Blakelock during riots in Tottenham 29 years ago have been paid by the police and given immunity from murder to become key witnesses against a man accused of stabbing the officer to death, a court heard today. Nicky Jacobs, 45, went on trial today following a third police investigation into the murder of an officer who was surrounded and nearly decapitated by an “inner circle” of some 15-20 attackers shouting “kill the pig” during the 1985 riots on the Broadwater Farm Estate.

The Old Bailey heard that key prosecution witnesses included those who kicked the fallen officer during the attack and could have faced murder charges had it not for the deal. Some have been paid by the police, been charged with criminal offences and been involved in drug and alcohol abuse, the court heard. The men – known as “kickers” - were offered immunity to try to prosecute the “stabbers” in the attack and to win back confidence after three earlier murder convictions were quashed after police officers were accused of fabricating interview evidence, the court heard.

PC Blakelock was stabbed some 40 times when he and a colleague were surrounded during disturbances sparked by the death of Cynthia Jarrett from a heart attack during a police search of her home in Tottenham, north London, in October 1985. Her death led to riots with a “sinister edge” when some of the rioters “appeared to have as their target, the death of a police officer”, the Old Bailey was told yesterday. PC Blakelock, 40, was part of an 11-strong team of officers who went on to the estate to protect firefighters dousing flames during the riot. They were forced to retreat in the face of a large group of rioters, and PC Blakelock and a colleague Richard



The following morning, the day of his death, he was assessed by another nurse as being at "no apparent risk". Bell was also assessed as the same at the prison.

The inquiry heard about paperwork known as a prisoner escort form (PER) that was filled in about each man and detailed risks or concerns about them, and in Rose's case a new admissions form, because he had never been in custody, was also filled out. On Bell's PER he was noted as being at risk of suicide or self harm and Rose's new admissions form confirmed he was a suicide or self harm risk. These forms were not in front of nurses and prison officers who assessed each of them at the prison. Sheriff Swanson said she rejected that this contributed to the deaths by information not being passed on.

**Two Women Win Compensation Claim Against the MET**

The women who were sexually assaulted by London taxi driver John Worboys have won their High Court bid to get compensation from the Met Police. They claimed their treatment by police after reporting Worboys's attacks had caused mental suffering. The judge ruled their human rights were breached. Damages will now be assessed. The judge also said "systemic" failures in the investigation meant Worboys - jailed for life in 2009 for attacks from 2002-08 - was not stopped earlier. Delivering his judgement at the High Court in London, Mr Justice Green said Worboys - who was convicted of 19 offences, including one rape and 12 drugging charges - had carried out more than 100 rapes and sexual assaults.

The women, known only as DSD and NBV for legal reasons, brought their claims under article three of the Human Rights Act - the right not to be subjected to torture or to inhuman or degrading treatment. DSD's 2003 allegation was the first received by the Met - although a woman went to City of London Police the previous year. NBV contacted the police after being attacked by Worboys in July 2007. DSD said she suffered a depressive disorder as a result of her treatment by officers during the 2003 investigation, while NBV claimed that she suffered serious distress, anxiety, guilt and an exacerbation of a post-traumatic disorder and depression as a result of her treatment in 2007. The judge said there had been a "series of systemic failings" by the Met, which had failed to "cut short his five to six-year spree of violent attacks". He said the Met had failed to "join the dots" between various despite the fact a "common modus operandi" was used by Worboys.

Harriet Wistrich, solicitor for the two women, said the judgement was of "great significance" because it was the first in the High Court to find that such failings by the police "can give rise" to successful legal action, police guidance had not "translated on to the ground". The police had "questioned whether they have a duty at all towards victims under law" and the judgement made it clear they did have such a duty. Had the police done their job properly, probably a lot of women wouldn't have been raped, which is really appalling," . The judge had identified five main areas of failure by the police - training, supervision, use of intelligence, systems to ensure victim confidence and allocation of adequate resources.

Reacting to the judgement, the Met said it did not contest the case due to "factual differences" with the women - but rather on the "interpretation of European human rights law". "The case has raised important arguments regarding the boundaries of police responsibility and liability and we believed that it was important for these principles to be tested before the courts," a Met statement said. It said it had "previously apologised for mistakes" in the Worboys investigation, adding that the errors were "very much historic. In the interim we have made important and significant changes to the way we investigate rape, which remains one of the most challenging and complex policing issues," it added.

**Guidance: 'Test for Release' all Determinate Prisoners**

Parole Board For England and Wales, Guidance to members on LASPO Act 2012 – 'Test for Release', Revised Guidance – December 2013 LASPO imposes the same statutory test for the release of all determinate prisoners: "The Parole Board must not give a direction [for release] … unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined." This test came into force on 3 December 2012 and applies to all determinate prisoners at first release (EDS, DCR, 1967 and extended sentences).

Where there is a statutory test, it is for the Board to interpret it in light of any existing case law. Parliament has ruled that the test shall be one of public protection rather than a balancing act between the risk of any type of offending against the benefits of early release; in other words, it will be a 'risk-only' test. In respect of lifers/IPPs, the Board is required to protect the public from the risk of serious harm (risk to life and limb). The Board's view is that the same test must be applied to determinate sentenced prisoners.

Every Parole Board panel is a judicial body in its own right; this guidance cannot legally fetter a panel's duty to interpret the statutory test as it sees fit. Guidance is published in order to assist rather than bind a panel.

Guidance: Panels may interpret the test for all determinate sentenced prisoners as follows:

In order to direct release, the Board should be satisfied that it is no longer necessary for the prisoner to be detained in order to protect the public from serious harm (to life and limb). It is not a requirement to balance the risk against the benefits to the public or the prisoner of release.

Panels are invited to interpret the statutory test as they see fit with the above guidance in mind. Panels are reminded that when considering a case, public protection must be the over-riding consideration. The identification and management of risk remains the focal point for panels' consideration.

*Secretary Of State's Power To Change The Test*

Section 128 of LASPO gives the Secretary of State power, order made by statutory instrument, to change the test for: - An IPP Prisoner - An extended sentence prisoner - A determinate sentenced prisoner subject to the transitional arrangements in the Act

The Secretary of State has confirmed that he has no plans to exercise his power at present. Should that position change in the future, further advice will be given to members.

*Arrangements For Determinate Recalls*

There are three changes of interest to the Board. The third will mean a significant change to the way we approach the risk of re-offending in recall cases.

1. Previous statutory restrictions which prevented some categories of prisoner being given a Fixed Term Recall (FTR) have been removed by LASPO. This means that FTRs may now be considered (but only where appropriate in each case) for prisoners: Serving a sentence for a violent or sexual offence (as listed in Schedule 15 CJA 2003); Who have previously had a FTR during the current sentence; Subject to the Home Detention Curfew (HDC) scheme. As regards standard recalls, there are no changes procedurally.

2. The Board now has the power to direct release of recalled determinate prisoners, rather than recommend it. iii. Interpreting the test for release of recalled determinate prisoners - see following guidance.

Guidance to panels: The Parole Board will now apply the public prosecution test to all determinate cases at first release. LASPO is silent, however, on the test for release of recalled determinate prisoners. This could be interpreted in two ways: either Parliament did not want the Board to apply the public protection test; or it is content for the Board, as a judicial decision maker, to interpret it for itself in light of case law. There are two good reasons for saying that the public protection test must now be applied to recalls.



1. Since FTRs are now available in respect of Schedule 15 offences, and the Secretary of State must himself apply the public protection test when considering executive release of someone not suitable for FTR, it would be difficult to reconcile the Board's position with this if the Board devised a completely different test for itself.

2. LASPO presents a similar picture to that for lifers – there is a statutory public protection test for the first release of a lifer, but none in respect of a recalled lifer. In the 1996 case of Watson, the Court of Appeal said: 'Section 39(4) [1991 Act] prescribes no statutory test [for recall] which the Board is to apply. But the Board's function under section 39(5) [first release] is almost exactly the same as that under section 34(3), namely to direct (or not) the prisoner's release. In the absence of express statutory provision, it is to be assumed that the same test is applicable'. That closely resembles the situation in LASPO in respect of determinate sentences; other amendments brought in by LASPO give the Board the power to direct release rather than recommend it as it did before. Accordingly the public protection test may be interpreted to apply to determinate recall cases. Just as for lifers, someone charged with a minor offence cane be dealt with though the criminal courts and will, if convicted, receive a sentence appropriate in all the circumstance.

*Panels may interpret the test for determinate sentenced prisoners as follows:*

In order to direct release, the Board should be satisfied that it is no longer necessary for the prisoner to be detained in order to protect the public from serious harm (to life and limb). It is not a requirement to balance the risk against the benefits to the public or the prisoner of release. Panels are reminded that when considering a case, public protection must be the over-riding consideration. The identification and management of risk remains the focal point for panel's consideration.

**R v Burinskas and Others - Sentencing of Dangerous Offenders**

The eight cases before the court give rise to a consideration of the effect upon sentencing of amendments to the dangerous offender provisions in Chapter 5, Part 12 of the Criminal Justice Act 2003 (CJA 2003) made by the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO). In six cases life sentences were passed. In the other two extended sentences were passed.

In our judgment, taking into account the law prior to the coming into force of the CJA 2003 and the whole of the new statutory provisions, the question in s.225(2)(b) as to whether the seriousness of the offence (or of the offence and one or more offences associated with it) is such as to justify a life sentence requires consideration of:-

1) The seriousness of the offence itself, on its own or with other offences associated with it in accordance with the provisions of s.143(1). This is always a matter for the judgment of the court. 2) The defendant's previous convictions (in accordance with s.143(2)). 3) The level of danger to the public posed by the defendant and whether there is a reliable estimate of the length of time he will remain a danger. 4) The available alternative sentences.

It is inevitable that the application of s.225 in its current form will lead to the imposition of life sentences in circumstances where previously the sentence would have been one of IPP. It is what Parliament intended and also ensures (as Parliament also intended), so far as is possible, the effective protection of the public.