suggestion that the Security Service by its Guidance is undermining the independence of prosecution (or police) authorities. Rather, the Guidance "respects" that independence, merely indicating what representations it might make to argue a prosecution would not be in the public interest. *Ground 3:* is the Guidance in accordance with the domestic law? Following the Court's dismissal of the first ground of appeal, this argument was deemed to be "devoid of any real substance" [117]. The 1989 Act is subject to judicial oversight via the Investigatory Powers Commissioner. *Grounds 4, 5 and 6:* is the Guidance in accordance with the ECHR? The Court held the appellants lacked the standing to advance claims under Articles 2,3, 5 and 6 ECHR as they themselves were not victims of any unlawful act.

Comment: Significantly, at the time this case was being decided by the Court of Appeal, the Covert Human Intelligence Sources (Criminal Conduct) Bill 2020 was proceeding through Parliament. The Court emphasised that this proposed legislation could not "legitimately be used to cast light on the meaning and effect of the 1989 Act." [22] Nonetheless, it speculated the Bill may "to a very considerable extent resolve on a statutory basis some of the issues and uncertainties thrown up by these proceedings." [22] Future litigation is certain to examine whether the 2021 Act confers full civil and criminal immunity for those undercover operatives who act within the terms of the authorisation given by their handlers.

Consultation on Miners' Strike Pardon Launched

Scottish Legal News: The Scottish government is consulting on the detail of plans to pardon miners convicted of certain offences during the 1984-85 strike. An independent review into the impact of policing on communities during the strike, led by John Scott QC, recommended that the Scottish government should introduce legislation to pardon miners convicted for certain matters related to the strike, subject to establishing suitable criteria. Justice Secretary Humza Yousaf has now launched a consultation seeking views on the qualifying criteria for a pardon. Mr Yousaf said: "I am determined to make swift progress on this matter, given the passage of time since 1984-85. That is why we have acted quickly to publish this consultation now. The consultation paper sets out potential criteria – based on the criteria suggested in the independent report – and asks for views. It is important that we have a rationale for the qualifying criteria which is well-thought through and informed by a range of views. That is why I encourage anyone with an interest in these important events to take this opportunity to have a say. The responses to the consultation will help shape the legislation that will implement the pardon. "The miners' strike was one of the most bitter and divisive industrial disputes in living memory and I hope that the independent review, this consultation and the legislation for a pardon will go some way to aid reconciliation – and to help heal wounds within Scotland's mining communities. I have again written to the Home Secretary Priti Patel renewing the call for her to instruct a full UK public inquiry into the policing of the strike."

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

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MOJUK: Newsletter 'Inside Out' No 840 (31/03/2021) - Cost £1

Shrewsbury 24: Court of Appeal Clears Picketers' Convictions

BBC News: The Court of Appeal has overturned the convictions of 14 men sentenced for their involvement in pickets in 1972. Two dozen trade unionists who picketed during the national builders' strike were charged with offences including unlawful assembly, conspiracy to intimidate and affray. Lawyers representing them had argued the destruction of witness statements made their convictions unsafe. Ricky Tomlinson was convicted and jailed for two years. Speaking after the verdict, he said: "It is only right that these convictions are overturned." Six of the 14 who brought the action have since died, including Dennis Warren, who was jailed for three years. Speaking at the Royal Courts of Justice in London, Lord Justice Fulford said: "These 14 appeals against conviction are allowed across the three trials and on every extant count which the 14 appellants faced." But he added: "It would not be in the public interest to order a retrial." In its written ruling, the Court of Appeal allowed the 14 appellants' appeals on the grounds that original witness statements had been destroyed. In June 1972, trade unionists called the UK's first-ever national builders' strike in protest against pay, unjust employment practices and dangerous conditions on sites. Trade unionists travelled to demonstrate from one site to another and in September six coach-loads of strikers demonstrated in Shrewsbury and Telford. Police arrested none of the demonstrators that day but five months later the picketers were charged and subsequently convicted. Mr Tomlinson, known at the time as Eric, said: "Whilst it is only right that these convictions are overturned, it is a sorry day for British justice." "My thoughts today are with my friend and comrade Des Warren. "I'm just sorry he is not here today so we can celebrate, but I'm sure he's with us in spirit."

Lord Justice Fulford wrote: "If the destruction of the handwritten statements had been revealed to the appellants at the time of the trial, this issue could have been comprehensively investigated with the witnesses when they gave evidence, and the judge would have been able to give appropriate directions." "We have no doubt that if that had happened, the trial process would have ensured fairness to the accused. Self-evidently, that is not what occurred." The judge added: "By the standards of today, what occurred was unfair to the extent that the verdicts cannot be upheld." 'Political witch-hunt': Lawyers had argued the broadcast of a documentary about communism during the trials was "deeply prejudicial", but the Court of Appeal dismissed the claim that the Red under the Bed documentary might have made the verdicts unsafe. Arthur Murray, who was convicted of affray and unlawful assembly and sentenced to six months, said: "We were innocent all along, yet it has taken us nearly 50 years to clear our names." "Sadly my mother and four of my siblings have passed away without knowing that we were innocent."

He added: "Serious questions need to be asked about the role of the building industry bosses in our convictions and the highest offices of government who all had a hand in our trial and conviction. "Make no mistake, our convictions were a political witch-hunt." Mr Tomlinson, from Liverpool, echoed his remarks, saying: "We were brought to trial at the apparent behest of the building industry bosses, the Conservative government and ably supported by the secret state." "This was a political trial not just of me, and the Shrewsbury pickets - but was a trial of the trade union movement." Terry Renshaw, a former Flintshire mayor, who was convicted of unlawful assembly, paid tribute to the campaign's researcher, Eileen Turnbull, who worked "tirelessly" to obtain "crucial evidence". She uncovered a document in the National Archives which were part of the prosecution papers and revealed for the first time police had destroyed some of the original witness statements. Mr Renshaw added: "It's been 47 years. I'm just so emotional. I didn't think it would hit me like this. I am no longer a criminal."

CCRC Evidence Used by Court of Appeal to Knock Back 'Freshwater Five'

Judgement was handed down on Thursday 25th March 2021, in the case of Beere & Anor, R. v [2021] EWCA Crim 432 (25 March 2021) - Procedural history leading up to the present applications

36. Between 1 October 2014 and 31 January 2017, the Centre for Criminal Appeals on behalf of these applicants and the co-defendants made a total of five submissions to the *Criminal Cases Review Commission ("CCRC")*, asking it to refer the defendants' case to this Court. In its Final Statement of Reasons, dated 22 November 2017, the *CCRC* declined to refer the case, concluding that there was no real possibility that the Court of Appeal would quash the convictions based upon the submissions put forward. The *CCRC* also concluded that there were no further lines of enquiry that it could undertake which could lead to new evidence that could impact upon the safety of the convictions. It is not necessary to look at the detail of the Final Statement of Reasons since (a) many of the issues raised in the submissions are no longer pursued in the present applications and (b) the Final Statement was issued before the ECDIS data from the Vigilant, which forms the primary basis of the present applications, was made available to the applicants.

37. However, it is necessary to consider one of the issues raised in the submissions and the *CCRC* response on it, to the extent that it forms part of the case being presented by the applicants to this Court. An important aspect of the submissions made concerned alleged police misconduct within Operation Disorient. This focused on the inconsistencies in the evidence associated with the surveillance operation and the observations of DC Jeans and DC Dunne. This included criticism of the SOCA officers involved, DC Breen, the surveillance commander, and DC Parry, the loggist, and their involvement in the embellishment of the observation evidence. Reliance was placed upon the fact that, in an unrelated case R v McGuffie [2015] EWCA Crim 307, this Court allowed an appeal concerning incriminating observations by a squad which included Breen and Parry which were recorded by them by way of late-added addenda but which were disputed by the accused. That appeal was allowed on the basis that the failure to disclose in that case the difficulties with the Freshwater Bay observation evidence in the present case had deprived Mr McGuffie of a fair trial, by denying him the opportunity to rely upon the striking similarities so as to cast doubt on the honesty of some of the same officers.

38. The *CCRC* rejected that submission, concluding that, weighing all the evidence, this was a 'compelling prosecution case of conspiracy to import cocaine'. The safety of the convictions would only be undermined through 'significant new evidence…of such strength as to undermine a substantial strand of the prosecution's case, or suggest serious bad faith, such that the prosecution would represent an abuse of process.' This alleged police misconduct is not a separate ground of appeal before this Court, but at least in their written submissions, Mr Bennathan QC and Ms Timan rely upon the same matters to invite the Court to disregard the observation evidence.

39. We can see no reason for doing so. That is because, as we have already recorded, the criticisms of the observation evidence and its embellishment were fully explored at trial and dealt with in detail by the judge in his summing up, and yet, the jury still convicted the defendants. Furthermore, the actual observation evidence as recorded in the observation log, that items were seen by the two officers being jettisoned into the sea, was not disputed by the defendants, who accepted that items were thrown overboard in Freshwater Bay, albeit that they contended that these were rubbish bags.

173. *Overall Conclusion*: Standing back and looking at all the evidence available at trial as well as the evidence now available, whilst the evidence is circumstantial, this was as the *CCRC* concluded a "compelling prosecution case of conspiracy to import cocaine". The Grounds of Appeal do not begin individually or collectively to cast doubt on the safety of

and it was noted that there was a lack of express statutory prohibition against the operational necessity of running criminally participating agents [85]: All this, in our opinion, further points strongly to the Security Service having, and always having had, the power, by its officers, to run agents who participate in criminality, whether possible or actual, in order to fulfil its function to protect the public: provided that there is no immunity from criminal sanction. [86] The Court deemed it further salient that paragraph 8 of the Guidance "stipulates that authorisation may only be given where the authorising officer is satisfied that the potential harm to the public interest from the criminal activity is outweighed by the benefit to the public interest derived from the anticipated information the agent may provide and that the benefit is proportionate to the activity in question." [87]

The Court's conclusion was reinforced by three other matters. First, the case of Buckoke v Greater London Council [1971] 1 Ch 655 provides a "powerful analogy" to the present case. That case concerned the lawfulness of "Brigade Orders", which permitted the drivers of fire brigade vehicles to cross through red traffic lights in emergency circumstances. The judges accepted that in these circumstances, a breach of law would have occurred and that prosecution could result (though emphasising than an exercise of discretion ordinarily not to prosecute should be expected). Lord Denning MR said (at p.699E) that "if a driver had made clear that he was not going to pass through a red light except when there was no risk of collision and after taking due precautions, then an order to crewmen to travel with such a driver was a lawful order." [90]

As for the Brigade Order itself, Buckley LJ said (at p. 679B): "The Order does not confer any discretion on drivers to break the law: it limits that discretion which they individually exercise." In a similar way, the Guidance "acknowledges the obligations of individuals to comply with the law and acknowledges the risk of prosecution if that is not done; but, amongst other things, it gives guidance as to the public interest and proportionality considerations which must be taken into account before any instruction is given by an individual officer." [90]

Second, the Court quoted at length the comments of the dissenting judge in the Spycatcher litigation, Sir John Donaldson MR, who pondered the extent of "wrongdoing" by the Security Service that would be considered excusable. Whilst he put his limit at physical violence, he opined that it would be "absurd to contend that any breach of law, whatever its character, will constitute such "wrongdoing" as to deprive the service of the secrecy without which it cannot possibly operate." [p.189-190 quoted at 91]

Third, the Court considered the principle of legality articulated in Lord Hoffman's dicta in R v SSHD, ex parte Simms [2000] 2 AC 115 that courts must "presume that even the most general words were intended to be subject to the basic rights of the individual" [p.131 E-G]. Indeed, the Court ruled that it would be "paradoxical" for the appellants to rely on this argument, "given that the activities of the agents are being "authorised" precisely with a view to preventing the taking of innocent life and to inhibiting the activities of those having no regard whatsoever to any principle of legality." [94] In any event, it is "very difficult" to see how "fundamental rights" will necessarily be "overridden" if the 1989 Act is interpreted as permitting the continuation of the "authorisation" of undercover agents to participate in criminality, without immunity from criminal or civil sanction [94].

Ground 2: does the Guidance create a de facto immunity from prosecution? The Court of Appeal was brief in its dismissal of this argument, stating that they found it "very difficult" to ascertain the basis for "the very generalised assertions of de facto immunity." [106] The Court agreed with the Tribunal's disposal of this issue. Overall, "this argument presupposes what the outcome would be after the event in a criminal court on the individual facts of a particular case." [para 79 quoted at 110]. The Court was similarly unpersuaded by the appellants'

the participation in criminal conduct by Covert Human Intelligence Sources. Ultimately, the Court had to determine the legitimacy of this policy by reference to the provisions of the Security Service Act 1989, which was the first piece of legislation to put the activities of the Security Service on a statutory footing. The Service had previously been governed by the Royal Prerogative.

The Investigatory Powers Tribunal ("the Tribunal") found by a majority for the respondents, but the minority disagreed on the issue of whether the relevant policy amounted to an unlawful de facto power to "dispense" with the criminal law (and whether it was compliant with the ECHR).

Discussion and Disposal - Ground 1: Does the Security Service have the legal power (vires) to run agents who participate in criminality? The Court upheld the decision of the Tribunal that the Security Service does have the legal power to run agents who participate in criminality. Importantly, the minority in the Tribunal themselves agreed with the majority that in operational terms that it was not simply desirable but "necessary" (or "essential") for the Security Service to have the power to run agents who participate in criminality (which was also consistent with the de Silva Report). Nevertheless, the minority held such a power was neither available under the Royal Prerogative nor could it be implied into the 1989 Act as a matter of necessary implication. Instead, because the Act says nothing expressly about these powers, they construed s.1(2) to be a provision which merely defines or limits the scope of the Security Service's activities.

Professor Zellick QC, who was in the minority, had sought to address this apparent inconsistency by suggesting that if MI5 were to turn a "blind eye" to offences in relation to proscribed organisations, then that would not be "subversive" to the rule of law. The Court of Appeal described this "middle position" as "unprincipled". The Guidance could only possibly be lawful or unlawful.

The fact is that before the 1989 Act, there would have been some situations where agents committed crimes in the course of their operations. The Court of Appeal agreed with the Tribunal majority that such a power, if lawful before the 1989 Act, would "continue" to be lawful in the language of s.1(1) and s.2(1). The Court further agreed with the majority that the availability of such a power is consistent – and necessarily consistent – with the "efficient" running of the Security Service for the purposes of s.2(2). [64]

It followed by way of "necessary implication" that the "1989 Act [confirms] the continuance of powers which the Security Service previously had, in order to fulfil the functions now specified in s.1(2) and (3)." [65] The Court buttressed this conclusion by reference to authority. In R(A) v Director of Establishments of the Security Service [2009] EWCA Civ 24, Laws LJ stated at para 28 of his judgment that "All the functions of the Security Service are and have been since the coming into force of the Security Service Act 1989, statutory functions". Therefore, despite the Act's lack of express words, it is "not at all fanciful" to reason that Parliament intended the Security Service to retain its "operationally necessary" powers after the passage of the Act. [67]

The "key question", said the Court, would be whether that power could be necessarily implied if the instruction to participate in criminality could not be lawfully given (as was contended by the minority in the Tribunal). To address this issue, the Court explored the distinction between a power and an immunity [73]. Importantly, the Guidance is specific that the "authorisation" to participate in criminality has no legal effect and does not confer on either the agent or those involved in the authorisation process any immunity from prosecution [76]. This meant that it "cannot properly be said that the 1989 Act or the Guidance seek to place the Security Service and its officers and agents above the criminal (or other) law." [77]

It was held that the functions of the Security Service and Director-General (as stated in s. 1 and s. 2 of the 1989 Act) are "all essentially geared to maintaining peace and stability within the realm"

these applicants' convictions. The applications for leave to appeal conviction are accordingly refused, as are the applications for an extension of time and to adduce fresh evidence.

Below the full press release from APPEAL, who represented Jonathan & Daniel

Deeply Troubling" Court Of Appeal Decision Upholds Freshwater Five's Convictions Despite Evidence Disclosure Failure - Two members of the 'Freshwater Five' – all of whom maintain their innocence of a £53m cocaine smuggling plot – lost their bid to have their convictions overturned today despite the Court of Appeal finding that a failure to disclose evidence at their trial "should not have happened". The 'Freshwater Five' had been sentenced to a total of 104 years' imprisonment at Kingston Crown Court in 2011 after being convicted by an 11-1 majority jury verdict. Scaffolding business owner Jonathan Beere, fishing boat skipper Jamie Green and crewmember Zoran Dresic were each handed down 24 years' imprisonment, while fishermen Daniel Payne and Scott Birtwistle received 18-and 14-year sentences respectively. Three of the men – Jamie Green, Jonathan Beere and Zoran Dresic – are still in prison.

Last month (April) judges considered fresh expert evidence that the lawyers for Jonathan Beere and Daniel Payne argued undermined the prosecution's case that they conspired to use a fishing boat to collect drugs from a containership in the English Channel and later deposited them in Freshwater Bay off the Isle of Wight. The new evidence, uncovered by law charity APPEAL, was based on radar data from a law enforcement vessel which the Crown failed to hand over at trial. In its judgment, the Court of Appeal said of this disclosure failure, "what happened should not have happened" and that the prosecution expert who extracted the data made a "serious and surprising mistake" in not supplying it to law enforcement investigators.

The case at trial: The Crown alleged at trial that in the early hours of 30 May 2010 Jamie Green's fishing boat, the Galwad-Y-Mor, manoeuvred in the wake of the MSC Oriane in high seas, in the dark, in 3 minutes in order to collect 250kg of cocaine which the prosecution hypothesised was jettisoned from the containership, which had travelled to the English Channel from Brazil. No evidence was put forward showing that drugs had been present on either vessel, but holdalls of cocaine strung along a rope found floating in Freshwater Bay were recovered by Serious Organised Crime Agency (SOCA) officers the following day. Two Hampshire Constabulary officers involved in the SOCA operation told the jury at trial that the afternoon before they had seen the fishing boat deposit the drugs in Freshwater Bay the previous day in an amended log entry – but that no one in the operation reacted to their observation when it was radioed in, an element of the prosecution case that the trial judge characterised as "extraordinary."

New Evidence, the Appeal Application and Judgment - In 2018, the Crown Prosecution Service disclosed for the first-time radar data from a Border Agency vessel called the Vigilant, which had been monitoring the MSC Oriane and Galwad-Y-Mor. The data had been extracted from the Vigilant's Electronic Chart Display and Information System, or ECDIS, by a prosecution expert in June 2010 and stored on floppy disks which then sat in a safe for the intervening years. The failure to disclose this data was accepted by the Crown. In today's judgment the Court stated with regards to this non-disclosure that "what happened should not have happened" and said there had been a "serious and surprising mistake" by prosecution expert witnesses in not bringing this evidence forward. The Court also faulted law enforcement investigators for failing to "join up such investigative dots."

Furthermore, the Court acknowledged that the Hampshire Constabulary officers "did not, at the time of their observation of the Galwad, identify that they were seeing or had seen holdalls being deployed in a line, as they described" and thus there was "no credible eye-witness tes-

timony in terms linking the Galwad (and therefore the applicants) to the drugs found [.]" Despite acknowledging the problems with this evidence, the Court of Appeal declined to quash the convictions. It acknowledged that "the evidence is circumstantial" but agreed with the Criminal Cases Review Commission's previous finding that the prosecution's case was "compelling".

In its review of the case, the CCRC failed to obtain the undisclosed radar evidence which formed the basis of this appeal application. The CCRC has recently been criticised in a report by the Westminster Commission on Miscarriages of Justice, co-chaired by two members of the House of Lords, for the inadequacies of its approach to investigation. The grounds of appeal advanced by the men were that the new radar data showed that: The Galwad-Y-Mor never got sufficiently close to the path travelled by the MSC Oriane to permit the transfer of drugs according to the Vigilant's radar's assessment of the path travelled by the Oriane . In rejecting this ground, and finding the radar derived line for the path take by the Oriane not to be reliable, the Court rejected evidence from a renowned leader in radar and surveillance technology.

The Court concluded that the AIS-derived line from the Vigilant's ECDIS for the path taken by the Oriane was reliable. They found that though it was different to the path presented by the prosecution expert at trial, because this data placed the fishing boat's southernmost turn closer to that track, the jury would have found it more inculpatory than the line presented at trial. The Court reached this conclusion despite another expert's evidence that this new line changed the probability of any drugs pick up in a manner that was significant.

Another small vessel travelled to Freshwater Bay, where the drugs were recovered, shortly after the Galwad had sailed nearby. Either this was an alternative suspect vessel which was not known about at trial, or this was a law enforcement vessel which failed to find any drugs in the bay after the Galwad passed through. The Court effectively concluded that as the Vigilant did not consider this high powered RHIB to be a suspect and ignored it, the jury would have done the same, had they been made aware of it. The applicants had also argued that this craft could be a law enforcement asset going to check whether the Galwad had left any drugs behind in Freshwater Bay. Had it found any, this evidence would have been presented at trial – which it was not. The Court accepted the Respondent's contention that it was not the Vigilant's RHIB, on the basis that no note of such an operational deployment of the RHIB exists in the Vigilant's deck log. However, the cover of the Deck Log states that "no operational information is to be recorded in the Deck Log at all". The Vigilant was monitoring the MSC Oriane and discounted the Galwad-Y-Mor as the drugs-receiving vessel around the time when the transfer was supposed to have been taking place.

The Court found that the ECDIS data showed that the "yacht" recorded as being seen near the Oriane by the Vigilant at a time when no activity was visible on the stern of the container ship was the Galwad and not a yacht at all. At trial this yacht was thought to be a different vessel altogether. However, the Court concluded that this would not have made a difference to the jury's verdict. A surveillance plane flew over Freshwater Bay after the Galwad-Y-Mor passed through yet failed to report the presence of any bags tied together on a rope in the water below.

The Court found it inarguable that this was the UKBA surveillance aircraft, preferring a handwritten note on a log of the take-off time of that aircraft, over the radar data from the Vigilant. This was despite the fact that the Crown's barrister submitted during the appeal hearing that the safest course was to assume that the radar target seen was the UKBA surveillance aircraft. The Court concluded that even if it was the surveillance aircraft deployed on the drugs smuggling operation, it could have missed the large red marker buoy, bright white rope, and eleven coloured holdalls that the police claim the Galwad had dumped in the water

Anita Sharma, Head of Casework at INQUEST who has worked closely with the family, said: "Officers treated Leon's obvious distress as aggression and violence. They used brutal and almost immediate force and chose not to seek clinical support, while the Ambulance service made no attempts to intervene. These actions and inactions are part of a pattern of inhumane treatment rooted in systemic racism. This damning conclusion is an important recognition of the seriousness of the system wide failures. The police will say that seven years on things have changed. Why then are Black men still subject to disproportionate use of force by police? Why are they more likely to die after police contact particularly when in a mental health crisis? And why have the police resisted scrutiny and accountability since his death by neglect."

Jocelyn Cockburn, Partner at Hodge Jones & Allen solicitors said: "Shockingly several years after the death, the police officers displayed little or no insight into the consequences of their actions. Officers said they would do the same today. This shows an unmitigated failure on the part of the Chief Constable to take appropriate actions following the death. The attempts by Bedfordshire Police to obstruct the investigatory process from the very first moments (when officers conferred in preparation of their statements) have meant that there has been a failure to learn lessons. There has been no accountability. The evidence heard during this inquest has been an important step towards learning lessons. It is the interests of officers of Bedfordshire Police as well as the general public that the rights lessons are learned following this tragedy. There is every need for a prevention of future deaths report in this case as there are serious concerns that the police simply will not face up to the truth of what happened and the lessons that should be learned from it. This family's fight for justice continues."

Gimhani Eriyagolla, Solicitor at Hodge Jones & Allen, said: "While we still believe there was enough evidence for unlawful killing, the conclusion of neglect showcases how system wide failures were at fault for Leon's death. However, it is shameful that it has taken nearly eight years to get to this result. There has been a continuous lack of accountability from the Bedfordshire Police, something which has only gotten worse through this inquest. Officers have fabricated accounts and excuses to cover up this injustice. The issues presented in this case, such as the treatment of mixed-race person in custody, the dangerous restraint used on someone suffering from ill mental health, and the lack of medical intervention, shows a myriad of systemic problems from the Bedfordshire Police as well as failings by East of England Ambulance Service that are simply unacceptable.

MI5 Undercover Agents May Commit Crimes With Impunity

In Privacy International & Ors v Secretary of State for Foreign & Commonwealth Affairs & Ors [2021] EWCACiv330, CoA held that the policy which authorises officers of the Security Service (MI5) to run undercover agents who participate in the commission of criminal offences is lawful.

Background and Legal Framework: The appellants' challenge focused on the alleged participation of undercover MI5 agents in criminality. Particular emphasis was placed upon the infamous killing in 1989 of Northern Irish solicitor, Pat Finucane, who was involved in representing those accused of terrorist activities. Of note, in 2012, the Prime Minister, David Cameron, stated that there was "state collusion" in the murder [17]. This led to a report prepared by Desmond de Silva QC in December 2012, who expressed "significant doubt" that the murder would have occurred without the involvement of "elements of the State"; and suggested that there were "positive actions by employees of the State" to further and facilitate the murder [18].

In this case, the focus of challenge was a policy document issued by the Security Service in March 2011 entitled, "Guidelines on the Use of Agents who participate in Criminality – Official Guidance" ("the Guidance"). This document delineates the Security Service's procedure for "authorising"

in the prone position with the application of inappropriate use of force. They also criticised a failure to recognise Leon as a medical emergency, inadequate assessments and a failure to monitor him. They pointed to an unsatisfactory conveyance in the police van as well as miscommunication throughout. These failures contributed to his death. The jury also found a number of serious failings by the East of England Ambulance Service. Leon had been moving erratically around the local area, with numerous witnesses describing that he appeared to have mental ill health and seemed 'confused' but not aggressive. Bedfordshire Police initially arrived on the scene after a member of the public called 999, concerned for Leon's welfare. The caller asked for an ambulance as well as police as Leon "needed calming down".

The police control room, who could see Leon on CCTV, logged this as 'an aggressive male'. Armed police officers arrived on scene and Leon was detained under section 136 of the Mental Health Act. He was quickly brought to the ground and restrained in the street by three officers. Leon was in prone restraint (face down) for over 13 minutes, and in handcuffs and leg restraints for 25 minutes. Staff from the East of England Ambulance Service arrived on scene, but did not assess or communicate with Leon. Leon was then taken in a police van to Luton Police Station, rather than the local hospital despite it being closer in distance. The custody team had been alerted that a 'violent male' was being brought in. Unable to walk, he was carried into a cell where he was restrained again then left unconscious for 6 minutes and 15 seconds, before becoming silent and unresponsive. At this point Leon was taken by an ambulance to hospital, where he was pronounced dead.

Throughout the nine-week inquest, held by the Senior Coroner for Bedfordshire, Ms Emma Whitting, jurors heard evidence of a catalogue of failings that culminated in Leon's death. The inquest heard his primary cause of death was "amphetamine intoxication in association with prone restraint and prolonged struggling", with a secondary cause of coronary heart disease. A medical expert told the inquest Leon would have survived, beyond reasonable doubt, if he had been taken to hospital rather than police custody. The credibility of the officers' accounts was called into question after the breach of a non-conferral order, initial statements from the officers were nearly identical when given. At the conclusion of the inquest the coroner praised the family for the 'complete understanding and courtesy' they had shown throughout the process. The coroner said that Leon deserved to get the full services owed to him by the police and ambulance service. She said Leon had been "so very let down". The coroner also made the point that, unlike Bedfordshire Police, the EEAST had acknowledged their failures before the end of the inquest. The Coroner indicated that this was to their "credit" and that she hoped the Chief Constable would "reflect" on the implications of the findings. She gave a clear hint that she considered it would be appropriate to make a 'Prevention of Future Deaths' report linked to the police conduct.

Margaret Briggs, Leon's mother, said: "Today marks a milestone in our fight for justice for Leon. After seven long years of waiting, those present during Leon's restraint have finally been made to explain their actions. The conclusion of Neglect does not, I believe, reflect the evidence and I am disappointed that the jury did not return a conclusion of Unlawful Killing. Over our long fight for the truth there has been no remorse shown by the police – in fact they have tried to disrupt the investigation at every turn, determined to cover their own backs. To this day, those police officers still have their jobs and livelihoods and no one has been punished for Leon's death. There has been no accountability or justice. The CPS must now reconsider bringing prosecutions. We think that Leon's race was a factor in the way he was treated by the police. He was treated as someone who posed a threat rather than someone in need of help. Leon was also failed by the East of England Ambulance Service staff who made no attempt to help him or do their job to care for him. They were faced with a man in crisis, who posed a medical emergency, and yet they failed to even check if he was all right."I wouldn't wish the pain we have suffered on anyone."

minutes before. The Court took this view despite being presented with photographs of the items clearly visible in the water taken from a similar plane the next day.

Emily Bolton, Director of APPEAL and Solicitor for the 'Freshwater Five', said: "Miscarriages of justice don't just happen in the trial courts – today one happened in the Court of Appeal. The Court handed down a judgment which simply underscores just how profoundly broken the criminal appeals system is in this country. There is no dispute that this is a case in which law enforcement and the prosecution failed to hand over crucial evidence to the defence at trial. As we showed in the court hearing, that new evidence undermines the prosecution's case on several fronts and gives a totally different picture to that which was presented to the jury. Yet, in a yet another failure to correct a miscarriage of justice, the Court of Appeal has said today that none of this matters. The Court has substituted its judgement for that of the jurors in a way that fundamentally undermines the principle of trial by jury. Further, the Court's ruling effectively gives law enforcement a licence to perpetuate evidence disclosure failures in future. It sends a deeply troubling message that they can withhold crucial information from judges, juries, and defendants and get away with it. We have no doubt that law enforcement holds further evidence which supports the Freshwater Five's innocence. Yet our opaque, unaccountable justice system continues to prevent the truth from coming to light. o those with short memories, it is worth bearing in mind that it took three appeals before the Birmingham Six finally had their names cleared. The Freshwater Five, their families and the APPEAL team will keep battling for justice and reform."

Freshwater Five Families Issued the Following Statement: "This is a bitter and dark day for the men and their families. Yet again, our faith in the criminal justice system has been shattered. These men are innocent and have collectively spent decades in prison for a crime they did not commit. They have missed births, the deaths of close family members, and countless other irreplaceable family moments while our so called 'justice' system has kept them kidnapped behind bars. Today, in ruling against Jon Beere and Danny Payne, the Court has once again whitewashed over what has happened in this case, just four days after Jon's father died, having lost his battle to hold out long enough to see his son vindicated. At this next funeral we will be mourning the death of Jon's father, but also the death of British Justice. This pitiful judgement is just yet another example of the system protecting itself from embarrassment and criticism. If the Court of Appeal and the Criminal Cases Review Commission won't correct this mistake, where else do we turn? British justice is broken, and we will never trust it again. But we have faith that the truth will out. In every round of this case, more and more people have come forward with information about what really happened. We are not the only ones waking up in the night worrying about this case - people involved in the original investigation are having trouble sleeping too – there are whistle blower protections and those with a conscience will come forward. The five men and their families would like to place on record their sincerest thanks to the legal charity APPEAL for their relentless work, and for walking through this nightmare alongside us. We also want to thank barristers Joel Bennathan QC and Annabel Timan for their painstaking advocacy, and the experts on the appeal who worked for hundreds of hours for free in their quest to uncover the truth. We ask for privacy during this difficult time, as we come to terms with this decision. The war is not over, and you haven't heard the last of us. Once the dust has settled, we will be back fighting for this horrific miscarriage of justice to be overturned and making sure the public knows the full story of not just what happened here, but of the efforts that have been made to cover it up"

Colin Norris - Science Fact and Science Fiction

Paul May , Justice Gap: On February 12 2021, the Criminal Cases Review Commission referred the convictions of former hospital nurse Colin Norris to the Court of Appeal. The decision came more than nine years after his October 2011 application to the Commission challenging his conviction. Extraordinary delay has typified every stage of his 18 year quest for justice during which time he has consistently protested his innocence.

Colin Norris was first interviewed by police in December 2002 following the death of an elderly patient at Leeds General Infirmary. Arrested a few days later, it was almost three years before he was charged with murdering four elderly patients and the attempted murder of another. Two years elapsed before his trial commenced in October 2007 culminating in a guilty verdict five months later. His case exemplifies problems juries face when considering complex scientific evidence. These difficulties are compounded by widespread misperceptions about the nature of science and the role of expert witnesses within the adversarial trial system. His case also highlights the dangers inherent in conclusion-driven police investigations.

Operation Bevel: On November 11 2002, retired shopkeeper Ethel Hall, aged 86 years, was admitted to an orthopaedic ward at Leeds General Infirmary with a broken hip after a fall at her home. She underwent an operation on November 14. In the early hours of November 20, she was heard making loud choking noises. The ward's night team including staff nurse Colin Norris went to her assistance and doctors were called. Mrs Hall went into a coma from which she never recovered. She passed away on 11 December 2002. When nurses went to help Mrs Hall, her blood glucose level was measured. This indicated she was experiencing severe hypoglycaemia (dangerously low blood glucose) expressed as 1.5 millimoles per litre. Hypoglycaemia may result in irreversible coma and death. The condition is normally observed in insulin-dependent diabetic individuals. Mrs Hall, however, wasn't diabetic. Among possible reasons for her condition, a doctor speculated she might have been injected with insulin by mistake. A hospital consultant instructed a sample of her blood be sent for specialist laboratory analysis. On November 29 2002, the hospital was informed the laboratory test showed a high concentration of insulin in her blood. This result, it was suggested, was due to external injection of a large amount of insulin. The hospital contacted West Yorkshire Police who began an investigation on December 6 2002.

On December 9 2002, Colin was interviewed as one of 16 hospital staff who police had identified as working in or near the orthopaedic ward on the night in question. On December 11 2002 Colin was arrested. He was held for 29 hours during which time he was questioned about Mrs Hall's death. He denied any wrongdoing and was released on police bail. The reason why police suspicion fell so quickly on Colin remains unclear to this day. In a 2011 article for a policing journal, a senior West Yorkshire officer conducting the investigation claimed 'initial enquiries on the ward… revealed… two other patients had died under similar circumstances' and that Colin had been on duty in the ward when the patients suffered hypoglycaemic episodes. This assertion is simply untrue. In the course of a five-year investigation (Operation Bevel), West Yorkshire Police took a remarkable 7,212 witness statements. Not a single one corroborates the claim regarding 'initial enquiries' by West Yorkshire Police. There were few, if any similarities, between the deaths of the patients named in the article and Mrs Hall's demise. Nor were the two women's blood samples subjected to laboratory analysis.

A comment by the officer who first interviewed Colin as a witness may provide a clue why he rapidly became the sole focus of police interest. Colin is gay. In a report to his superiors, the interviewing detective made a gratuitous remark that he 'noticed that NORRIS… was

formerly serving sentences for terrorist offences – the Birmingham Six, Judith Ward and Danny McNamee. Some notion of the bleakness of HMP Frankland's location may be gathered from the fact that the last village one passes before reaching the prison is called Pity Me.

Colin has been supported throughout the nightmare by his devoted mother June, his stepfather Raymond and many loyal friends. Tellingly, these friends include NHS nurses he met during his three years' training at Dundee and in Leeds after he qualified in 2001. None believe he could possibly have committed the offences for which he was convicted and imprisoned. I hope and pray the Court of Appeal will recognise that yesterday's scientific certainty often becomes today's discredited fallacy and that this innocent man will soon regain the freedom which should never have been taken away from him.

Very, Very Good News: Council of Europe Reopens Pat Finucane case

Scottish Legal News: The Council of Europe has reopened its consideration of the Pat Finucane case following the UK government's refusal to order a fresh public inquiry into the Belfast solicitor's murder in 1998. The Supreme Court ruled in February 2019 that the state had failed to deliver an Article 2 compliant investigation into the death of Mr Finucane, who was shot and killed by loyalist paramilitaries in collusion with UK security forces.

The government did not respond until December 2020, when it said it would not establish a public inquiry and highlighted an ongoing "review process" within the Police Service of Northern Ireland (PSNI) and investigations by the Police Ombudsman (OPONI). However, the PSNI subsequently said there are "no new lines of inquiry" and the Police Ombudsman said the murder was "not central to any of our ongoing investigations", which human rights campaigners said challenged the government's explanation.

The Committee of Ministers of the Council of Europe, which supervises the executive of judgments of the European Court of Human Rights (ECtHR), examined the Finucane case this week. A record of the meeting says the committee "decided to reopen their consideration of the individual measures in the case of Finucane in order to supervise the ongoing measures to ensure that they are adequate, sufficient and proceed in a timely manner".

It has also "invited the authorities to clarify how the ongoing police and OPONI processes will proceed promptly and in line with Convention standards given the issues raised by both of those bodies in recent statements". Mr Finucane's son, lawyer and Sinn Féin MP John Finucane, tweeted: "This is a hugely significant move. The British govt have been criticised internationally for their failure to establish an inquiry & this level of scrutiny is vital to ensure truth can finally emerge."

Leon Briggs: Jury Concludes Neglect After Seven and a Half Year Wait for Justice

INQUEST: An inquest on Friday 12th March, found that a series of omissions and failures by Bedfordshire Police and East of England Ambulance Service contributed to the death of Leon Briggs on 4 November 2013. The jury found, on the balance of probabilities, that there was a gross failure to provide Leon with basic medical attention and that there was a direct causal connection between this conduct and his death. They recorded a conclusion that his death was 'contributed to by neglect'.

Leon Briggs, from Luton, was 39 years old when he died on 4 November 2013 following restraint by Bedfordshire police officers. Today's conclusion marks the latest step in the family's fight for answers. Leon had a mixed-race heritage. He was a father to two children. His family describe him as "a loving, son, brother and father, caring and genuine". He had previously worked teaching computer skills to the elderly and as a lorry driver. The jury criticised the restraint by Bedfordshire Police, which they found to be mostly

outskirts of Warrington where the hearings were held. Michael was instrumental in persuading Birnberg Peirce Ltd to take on Colin's case. The firm is headed by the incomparable Gareth Peirce. I worked with her on many wrongful convictions since I began chairing the London-based campaign for the innocent Irishmen known as the Birmingham Six in 1985.

In September 2016, not long after Colin's new legal representatives took over, the Commission issued a 58-page Provisional Statement of Reasons (PSOR) rejecting his application. Among other issues, the PSOR refuted a TV documentary about Colin's case broadcast in December 2014. Although well-meaning, the programme contained information which was either factually incorrect or scientifically speculative. The PSOR confirmed that most of the experts the Commission approached about non-diabetic hypoglycaemia had appeared for the prosecution at Colin's trial. It was perhaps unsurprising they stood by their trial testimony. Colin's lawyers protested that media coverage over which applicants have no control must never be treated as forming part of a CCRC submission. The new lawyers required time to prepare fresh representations. The CCRC agreed to await their submissions.

In January 2017, Colin's legal team submitted further fresh evidence. This included a fresh report after limited access to some of the women's medical records had been obtained. The report concluded that hypoglycaemia experienced by four of the women was a secondary effect of pre-existing illnesses. In other words, there was every reason to conclude the women died of natural causes. In August 2019, the Commission issued a second PSOR rejecting Colin's application. The CCRC's refusal focussed on an issue which bedevilled its understanding of the case more or less from the outset – that the five patients' cases represent a 'cluster' of phenomena which couldn't be adequately explained. In January 2020, his lawyers again drafted a painstaking response demonstrating that no such 'cluster' existed. The clinical picture now pointed to all of the women except Mrs Hall having suffered hypoglycaemia due to natural causes. Had the jury in 2008 been aware of the medical and scientific evidence as it now stood, it's inconceivable a guilty verdict would have been returned.

Mrs Hall's case should be treated separately. Anomalies surrounding the 2002 immunoassay test on her blood sample include the uncontested fact she wasn't hypoglycaemic when the sample was taken, an unexplained 5 day hiatus between stages of the immunoassay tests, no second confirmatory test and failure to apply more reliable analytical methods. Nevertheless, the result still suggests she was injected with insulin. No evidence was ever presented against Colin as one of sixteen staff with potential access to her on the night in question. Sadly, the truth concerning Mrs Hall may never be known partly due to police failures to investigate suspects other than Colin Norris.

On 12 February 2012, the CCRC finally answered the lawyers' January 2020 representations. Having consulted an independent expert in geriatric medicine who largely agreed with Professor Marks' findings, Colin's convictions would be referred to the Court of Appeal. In its press statement accompanying the decision, the Commission 'concluded there is a real possibility that the Court of Appeal will decide that Mr Norris's conviction …is unsafe'.

Since 2012, I've visited Colin many times at HMP Frankland in Co, Durham where he is held as a Category A inmate. The day his conviction was referred coincided with his 45th birthday, He's a mild mannered, friendly Glaswegian who endures his ordeal with great stoicism. He spends much of his time on initiatives to help others including establishing a food bank donation scheme in conjunction with a local charity outside the prison. While he gets on well with prison staff, he is detained in high security conditions more oppressive than any innocent inmate with whose case I've been involved over the past 36 years. This includes those

effeminate in his demeanour and speech'. It's a matter for speculation why the officer considered it necessary to draw irrelevant attention to a witness's sexual orientation during an interview about the wholly unconnected matter of a patient's death. Colin was re-arrested and interviewed by police on another five occasions over the next three years. Curiously, he was allowed to retain his passport and even given police permission to holiday abroad. Despite police admitting there was a paucity of evidence against him when first arrested, no other person was ever investigated in connection with Mrs Hall's death.

Meanwhile, Operation Bevel embarked on a trawl of hypoglycaemic incidents in two wards where Colin worked at Leeds General Infirmary and St James' Hospital, Leeds (Jimmy's) during 2001 and 2002. Although supervised by clinicians, the exercise was conclusion-driven from the start. A major criterion for cases which should receive 'high priority' was those where 'the suspect Norris had attended at the time of death'. On 12 October 2005, Colin was charged with murdering Ethel Hall, Bridget Bourke aged 89, Doris Ludlam aged 80 and Irene Crookes aged 78. All four women suffered hypoglycaemic episodes shortly before their deaths. He was also charged with the attempted murder of Vera Wilby aged 90 who died months after experiencing hypoglycaemia.

Operation Bevel was headed by officers who'd recently reviewed the case of serial killer Harold Shipman. The failure of West Yorkshire Police to apprehend Shipman during his early career as a GP in Todmorden was criticised by Dame Janet Smith in her official report on the case. After Colin's conviction, the Senior Investigating Officer on Operation Bevel proclaimed they'd 'stopped another Harold Shipman in the making'. Approximately 50 police officers and civilian staff were engaged on the inquiry over a three year period. In 2013, West Yorkshire Police answered a Freedom of Information request I had submitted stating they 'hold no information in relation to the estimated total cost' of the inquiry. They did admit to spending £373,895.07 in overtime payments on top of normal salaries indicating significant determination to secure a conviction against their sole suspect.

Trial: Colin was again released on bail. He waited another two years before his trial commenced on October 16 2007. The trial lasted 19 weeks. A succession of experts testified that hypoglycaemia in non-diabetic individuals (in the words of the trial judge) is 'vanishingly rare'. Eminent clinicians stated they'd never encountered a single case in their entire careers. To find five cases in two hospital wards was beyond the bounds of mere happenstance. The only explanation, they said, was that all five patients had been unlawfully injected with insulin. Prosecuting counsel stressed Colin was the 'common denominator' as he'd been the staff nurse assigned to care for the elderly women. Experts commissioned by Colin's defence team agreed that spontaneous hypoglycaemia in non-diabetic patients was virtually unknown. This obliged the defence to put forward an implausible hypothesis that a 'mystery intruder' may have gained access to the hospital wards and injected the women without being detected.

Evidence was also called concerning a condition called Insulin Autoimmune Syndrome (IAS) which results in hypoglycaemia. The Crown easily disposed of this argument. One consultant geriatrician likened the prospect of a single patient contracting IAS as 'probably less than winning the lottery'. Over a 44 year period, only 60 instances of IAS were detected among persons of (so called) 'Caucasian' ethnicity out of an estimated world population of one billion. For five such cases to occur in two Leeds wards would have been statistically absurd.

Without substantiation, the Crown alleged that vials of insulin had gone missing from the orthopaedic ward around the time Mrs. Hall developed hypoglycaemia. The defence pointed to glaring stocktaking deficiencies at the hospital. The prosecution also alleged Colin was

motivated by animosity towards elderly patients pointing to a police interview in which he said he found bathing older female patients difficult while on student placement. He'd made clear he only had problems 'at first' and 'soon got over it'. At trial, he denied any dislike of older patients saying 'if you don't like elderly patients you shouldn't be in nursing'.

The trial's length and complexity meant Mr Justice Griffiths-Williams took five days to read out his 571 page summing-up. The jury retired on 27 February 2008 for deliberations lasting another five days. The trial judge advised jurors they could deliver a majority verdict. On 3 March 2008, by an 11-1 majority, Colin was found guilty on all charges. The next day he received a life sentence with a recommendation he serve a minimum 30 years in prison. Colin appealed against his conviction on 9 December 2009. His grounds mostly focussed on somewhat arcane arguments concerning 'cross admissibility' of evidence which even law graduates (such as the present author) might have struggled to comprehend. The Court of Appeal devoted little time before upholding his conviction.

The Problem with Science: The virtual army of medical and scientific experts at Colin's trial were honest and sincere in their unanimous beliefs about the rarity of hypoglycaemia in non-diabetic patients. The trial judge was impeccable in directing the jury that expert evidence must be approached as opinion rather than incontestable fact. Indeed, a leading biochemist called by the Crown correctly observed that a scientific hypothesis can never be proved conclusively. Scientists can only find data which may or may not be consistent with the hypothesis. There was only one problem with the experts' evidence. It was wrong.

Research studies since 2008 show that far from an extreme rarity up to 10% of elderly hospital patients suffering from co-morbidities (two or more serious medical conditions) may experience hypoglycaemia in their final stages of life. The reason why many eminent clinicians had never encountered the phenomenon was that – understandably – they hadn't been looking for it. As a 2012 literature review put it, there existed a 'paucity of literature regarding the incidence of hypoglycaemia in non-diabetic patients'.The same review concluded ''hypoglycaemia is not uncommon in hospitalized non-diabetic older people'. Following the failure of

Colin's appeal, Professor Vincent Marks – widely acknowledged as the world's leading expert on insulin and hypoglycaemia – prepared a report on Colin's case. He concluded that spontaneous hypoglycaemia affects 5% to 10% of non-diabetic elderly patients who have risk factors such as other serious conditions (as was the case with all of the women). His initial findings were submitted to the Criminal Cases Review Commission in October 2011.

Why was there little or no research into non-diabetic hypoglycaemia before 2008? The simple answer is that there was no interest – and hence funding – from pharmaceutical companies, governments , charitable foundations or universities in finding out what happens in the final days of life. The notion that scientists are in a position to pursue 'pure' knowledge for its own sake is mythical. Like the rest of us they must pay their bills and need to be funded. Put bluntly, there was no money in discovering end of life phenomena. By the very nature of science, there can never be absolute certainty about a scientific theory. Any hypothesis is only as valid as the most recent data. This sits uneasily within the adversarial English criminal trial system. Judges, lawyers and jurors routinely demand unambiguous certainty from expert witnesses who may feel tempted to provide dogmatic and inflexible evidence. Thus at the 1975 trial of the Birmingham Six, the jury preferred self-assured, doctrinaire assertions from a Home Office employee later exposed as a chronic incompetent to cautious but authoritative evidence from a much better qualified defence witness from the Royal Institute of Chemistry.

In 2011, the Law Commission published a report which acknowledged problems with the admissibility of expert evidence. The report's conclusions were almost universally applauded by those involved in criminal justice including judges, scientists, other experts as well as prosecution and defence lawyers. A key recommendation was that courts conduct pre-trial hearings at which the reliability of expert evidence would be probed. This might include enquiry whether proposed testimony was supported by a firm body of research. Had the proposed system been in place before Colin's trial, the absence of confirmatory research to support the alleged rarity of non-diabetic hypoglycaemia would have become apparent. The experts' testimony might have been ruled inadmissible. Sadly, a lone voice opposing the Law Commission recommendations was the then Justice Secretary, the Rt. Hon Christopher Grayling MP. For no rational reason, he flatly rejected the report claiming pre-trial hearings would cost too much. Despite protests that the proposals were more likely to save public money, he obdurately refused to budge leaving him free to pursue other nonsensical pet projects such as banning prison inmates from receiving books.

The CCRC: In 2012, Colin asked me to establish a support committee for him. This followed the release and exoneration of Sam Hallam who I had (reluctantly) represented in his application to the Criminal Cases Review Commission. In line with CCRC procedure, Colin waited some nine months before a case review manager was assigned to investigate his application. In late 2012, I met with his case review manager and the Commissioner overseeing his case at the CCRC's offices in Birmingham. The meeting was cordial and courteous but I came away uneasy that the Commission didn't seem to have a clear idea how it would evaluate Colin's complex case. An obvious start point for the Commission's investigation was to access hospital records.

The reaction of Leeds Teaching Hospitals NHS Trust to requests from the Commission for information was unhelpful. Notwithstanding that the CCRC possesses extensive statutory powers to require documentation from public bodies, the Trust referred requests to its solicitors leading to chronic delay. In November 2014, I was informally advised that soundings with a high-ranking member of the Trust had revealed that relevant records prior to 2005 no longer existed.

In January 2015, I submitted a Freedom of Information Act request to the Trust asking how many hypoglycaemic incidents were recorded in orthopaedic trauma wards in the years since Colin's arrest. I received the reply that the Trust 'does not record the information requested in this format'. This was astonishing. A staff nurse had allegedly injected multiple patients with insulin and was convicted amid national and international notoriety but the Trust had no apparent interest in maintaining relevant statistical records thereafter. In 2014, Colin decided to dispense with his then legal representation. Very reluctantly, I undertook to represent him in his CCRC application until a new solicitor could be found. My reluctance was founded on several considerations. I'm not (and have never aspired to be) a lawyer. As a campaigner, I regard my role as helping innocent prisoners' lawyers to do their job by highlighting and drawing public attention to their cases. I was, moreover, aware that expert witnesses – with the notable exception of Professor Marks who'd patiently helped me grasp at least some of the basic science in Colin's case – would rightly be much less likely to engage with an unknown campaigner rather than an established law firm.

The prospects of finding lawyers able to undertake thousands of hours' unpaid work on miscarriage of justice cases have massively diminished thanks to swingeing legal aid cuts. I remain grateful to Michael Mansfield QC who took time out from his tour de force representation of bereaved families at the inquest into the 1988 Hillsborough tragedy to meet with me twice in 2015 to discuss Colin's case. We met at the disorientating business park on the