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

MOJUK: Newsletter 'Inside Out' No 937 (08/02/2023) - Cost £1

Andrew Malkinson: DNA Breakthrough CCRC Refer Conviction Back to Court of Appeal

APPEAL client Andrew Malkinson, who has been fighting to clear his name for almost two decades, has today had his conviction referred for a fresh appeal hearing after DNA was linked to an alternative suspect. The statutory body responsible for investigating miscarriages of justice, the Criminal Cases Review Commission ('CCRC'), has decided there is a real possibility that the Court of Appeal will overturn the conviction of Mr Malkinson, who spent a decade longer in prison than he might have done had he admitted guilt.

The decision comes after Mr Malkinson's representatives at the law charity APPEAL commissioned new DNA testing which revealed the presence of unknown male DNA in samples taken from the victim and her clothing. APPEAL presented these DNA results to the CCRC, who have been able to identify an alternative suspect via a search on the National DNA Database. Greater Manchester Police ('GMP') are now actively investigating this suspect.

Concerningly, this new DNA breakthrough was only possible because samples had been retained in a forensic archive. Crucial exhibits were lost or destroyed by GMP, despite the force having a strict legal duty to retain them, meaning they were not available to be tested. APPEAL also uncovered that key evidence had not been disclosed to Mr Malkinson's defence at trial and the CCRC has decided that this is also "supportive" of referral.

In 2004, Mr Malkinson was convicted by a 10-2 majority jury verdict of the July 2003 rape of a 33-year-old woman in Greater Manchester despite the absence of any forensic evidence linking him to the attack and notable discrepancies with the descriptions provided by eyewitnesses. In May 2021, Mr Malkinson's representatives at the law charity APPEAL submitted an application to the CCRC on his behalf. This presented new forensic analysis which detected the presence of DNA belonging to an unknown male in crime-specific locations from samples taken from the victim, including under the fingernails which she said she used to cause a deep scratch on her attacker's face.

APPEAL faced challenges in obtaining this DNA evidence as Greater Manchester Police had unlawfully lost or destroyed exhibits including items of the victim's clothing. Luckily, samples taken from the victim's clothing along with various swabs had been retained by a separate body, Forensic Archive Limited. This meant that some new DNA analysis could, thankfully, still take place. Building on the new DNA analysis commissioned by APPEAL, the CCRC conducted further forensic enquiries in parallel with the Greater Manchester Police which found that the DNA was "one billion times more likely" to be DNA from an unnamed individual - "Mr B" - than Mr Malkinson. According to the CCRC, this new suspect also matches the physical description of the attacker given by the victim at the time of the offence.

Mr Malkinson spent more than 17 years in prison, though he was eligible for release after 6 years 125 days. He has steadfastly maintained that this is a case of mistaken identity. This is the third time the CCRC has reviewed this case. APPEAL also uncovered and presented to the CCRC fresh evidence undermining the credibility and reliability of two key prosecution witnesses, which the police and prosecution failed to disclose to the defence at Mr Malkinson's trial. The CCRC has concluded that this evidence is also "supportive" of referral of Mr Malkinson's conviction to the Court of Appeal. Mr Malkinson's case was the subject of a podcast series by the Times and Sunday Times named "Seventeen years: The Andrew Malkinson story". Andrew Malkinson said: *"I am innocent. Finally, I have the chance to prove it thanks to the perseverance of my legal team at APPEAL. I only have one life and so far 20 years of it has been stolen from me. Yesterday I turned 57 years old. How much longer will it take?*

Emily Bolton, Director of APPEAL and Mr Malkinson's lawyer said: "APPEAL welcomes the CCRC's decision to grant our client Andy the opportunity to finally clear his name, after more than seventeen years' imprisonment for a crime of which he has always maintained his innocence. he battle for justice is not yet over. The Court of Appeal will now form its own view of the fresh evidence and we hope they will agree that Andy's conviction cannot now be regarded as safe. We hope that the police and prosecution will not spend resources opposing this appeal and instead bring the real perpetrator of this crime to justice. The CCRC's decision comes after hundreds of hours of investigation by APPEAL. This included commissioning new DNA analysis, interviewing witnesses and uncovering documents that were not disclosed to the defence at trial. We would like to thank all those who have supported our charity's work, including barristers Max Hardy and Edward Henry KC, and pro bono lawyers at Ropes & Gray, Latham & Watkins and Mishcon de Reya. The DNA breakthrough in this case was very nearly rendered impossible by the police's unlawful failure to retain key exhibits – and we will continue to push for accountability."

Children Born of Rape to be Recognised As Victims

In a press release, the government announced that it will be amending its upcoming Victims Bill to clarify that children who are born of rape will be recognised as victims so that they will receive full support from groups such as the police and the courts. Such steps are considered necessary, as the Centre for Women's Justice has found that due to the distressing circumstances of their birth, serious and long-term harm is a serious risk for these children. The group had urged the government to introduce this law as part of their Victims Bill under the title of 'Daisy's Law', named after a campaigner who was herself born from rape. The press release indicates the Justice Select Committee recommended the change when they reviewed the draft bill in September 2022.

The press release claims the voices of victims will be put at the heart of the justice system, making it easier for them to access therapy and counselling sessions where they can deconstruct self-blame and shame, and come to term with family issues. This is particularly important as evidence suggests that the existence of the child reminds mothers of the rapist, especially when the child is male. Between 2,080 and 3,356 children could have been conceived in rape within a single year from January 2021 to December 2021 and nearly 85% of children born of rape were reported by their mothers to display unusual/concerning behaviours, shows the evidence review. The government has committed to quadrupling funding for victim support services by 2025 from 2010, and they claim that they are unaware of any other country that is bringing forward a change such as this and placing it in law. Deputy Prime Minister Dominic Raab said that 'No child born in these horrific circumstances should be left alone…our Victims Bill will amplify their voices and boost support for all victims at every stage of the justice system'.

Last 5 Years On Average 190 Women in Prison Were Sectioned

Under sections 47/49 and 48/49 of the Mental Health Act 1983, the Secretary of State may authorise by warrant the transfer of female prisoners to a secure hospital, where he is satisfied that the criteria for detention are met. The number of women prisoners transferred to hospital in each of the last five years are: 2021 – 184 / 2020 - 181 / 2019 - 213 / 2018 - 192 / 2017 – 180

The data for 2022 are not currently available, they are due for publication later this year.

Robert Maudsley 'Breaks World Record' for Longest Time in Solitary Confinement

"I am left to stagnate, vegetate and to regress; left to confront my solitary head-on with people who have eyes but don't see and who have ears but don't hear, who have mouths but don't speak. My life in solitary is one long period of unbroken depression." Robert Maudsley

A British prisoner has broken a "world record" for the longest time spent in solitary confinement. Robert Maudsley is thought to be the longest-serving inmate in Britain, having spent 49 years behind bars. Known within the prison system as "Hannibal the Cannibal", Maudsley has spent nearly 45 of those years – some 16,000 consecutive days – in solitary confinement.

Maudsley, aged 69, was jailed for the murder of John Farrell in 1974. Maudsley is said to have flown into a rage after Farrell – who had hired him as a sex worker – revealed that he had previously abused children. It was while imprisoned in Broadmoor psychiatric hospital that Maudsley committed the crime that cemented his infamy, allegedly torturing a fellow patient who was a paedophile for nine hours before holding his dead body aloft to guards who had been bargaining for the hostage's life. One guard is reported to have described the victim's head as being "cracked open like a boiled egg" with a spoon hanging out of it and part of his brain missing – earning Maudsley the "cannibal" moniker, despite Maudsley denying such claims.

On 28 July 1978, weeks after being sent to HMP Wakefield, Maudsley killed two fellow inmates and is claimed to have calmly handed guards the murder weapon, remarking that they would be two inmates short on the next roll-call. He is reported to have been in solitary ever since, much of it spent confined in a glass cage in the cellar of Wakefield prison, which has been likened by some to the cell occupied by Hannibal Lecter in the film The Silence of the Lambs. He has also spent stints in specially constructed cells in Parkhurst on the Isle of Wight and at Woodhill in Buckinghamshire, at the latter alongside notorious inmates Charles Bronson and Reginald Wilson.

Maudsley has described intense physical abuse during his childhood, and has previously been quoted as saying: "All I remember of my childhood is the beatings. Once I was locked in a room for six months and my father only opened the door to come in to beat me, four or six times a day." In 2017, the Daily Mirror reported that Maudsley had marked his 64th birthday by setting a UK record for solitary confinement.

A Prison Service spokesperson said: "There is no such thing as solitary confinement in our prison system. Some prisoners will be segregated if they pose a risk to others but this is reviewed regularly. "Like other prisoners, they are allowed time in the open air every day, visits from relatives, phone calls, access to legal advice and medical care."

Home Office Vows to Act Over 'Invasive' Personal Record Requests in Rape Cases

Rape victims are having "significant" numbers of their personal records "unnecessarily requested" by police, delaying criminal investigations, according to a Home Office report. The information sometimes requested as part of police inquiries could include medical records, education and council files or therapy notes. In some cases, records were being requested to "test" the credibility of victims, the government response to a consultation suggested.

The Home Office vowed to change the law following the findings to better protect victims from "invasive" personal record requests, speed up investigations and help restore confidence in the criminal justice system. The consultation was launched to learn more about problems surrounding police requests for third party material (TPM), which can be made by police or sought by prosecutors or defence lawyers. The safeguarding minister, Sarah Dines, in a foreword to the report setting out the findings and the government's response, said: "The responses to the consultation suggest that this aspect of the criminal justice system is not functioning effectively. "Victims of some of the most traumatic crimes are having significant amounts of their personal records unnecessarily requested, and the lack of clarity in these requests is causing delays to investigations and access to justice for victims. Indeed, victim groups have reported that this invasion of privacy can be a contributing factor to victims withdrawing from the process."

There were about 400 responses to the consultation, including from police, prosecutors, lawyers, victims and campaign groups. Most respondents indicated TPM requests about victims of rape and other sexual offences could "sometimes be unnecessary and disproportionate, and made to establish victim credibility, that is, whether the victim has a history of being truthful, as opposed to the facts of the case", the report said. It found the way in which requests were made was inconsistent across England and Wales but that it was not possible to conclude from which body inappropriate requests typically originated. The requests could be "time consuming and have a severe impact on victims' confidence as an infringement on their privacy", the Home Office said.

Proposals for fresh legislation would give police "clear guidance" on how and when it was appropriate to request access to the information so it was only done when "absolutely necessary and proportionate", the department said. If the police failed to abide by the statutory duties included in the legislation, they would be in breach of the law and could be open to legal challenge. Dines said: "We know that sexual abuse investigations have a significant psychological impact on victims, and it is wrong that victims of some of the most traumatic crimes are having significant amounts of their personal records unnecessarily requested. "This new legislation and guidance will support the police to ensure all requests are completely necessary, and that we can protect victims and deliver justice more quickly."

The information commissioner, John Edwards, said: "We know from our investigations that the excessive collection of information from victims of rape and serious sexual assault leaves people feeling revictimised by a system they expected to support them. "The steps set out by [the] government show that change is possible, and alongside work by police and broader work across the UK, we believe progress can be made to prevent victims feeling as though they are being treated as suspects."

Justice Secretary Dominic Raab Set to Reject Resentencing Call for IPPs

Inside Time: In September, MPs on the Commons Justice Committee called for everyone on an IPP sentence to be resentenced – a move which would trigger the release of almost all IPP prisoners, since whatever new sentence they were given would probably have been served already. The Government promised to respond to the committee's report by November, but has still not done so. Justice Secretary Dominic Raab has again signalled that he intends to reject a call by MPs for a radical solution to the problem of Imprisonment for Public Protection (IPP) sentences. The endless sentences were scrapped in 2012 after courts found them to be illegal, but the decision was not made retrospective and there are still around 3,000 IPP prisoners in English and Welsh prisons – half of whom have been released but later recalled under the terms of their lifelong licence.

Asked about the issue at Justice Questions in the Commons on January 10, Raab declined to give a reason for the delay. However, he made clear that he does not intend to go along with the committee's central recommendation. He said: "We do want to see the number [of IPP prisoners] come down, but the right way to do that is not to let out offenders who have been deemed dangerous in the past … and therefore what we're doing is taking every measure to make sure that those offenders can pass the threshold and satisfy the decision-makers that they are safe to release – and we will release the response to the report shortly." Pressed on the subject, he added: "The right way to approach this, I think, is to make sure that those offenders who can be released safely get the support, the training, the rehabilitation that they

need to convince the decision-makers that that release is safe, and that's the approach we take."

Conservative MP James Daly, a member of the committee, told the Commons: "Many of these people are being locked in prison as a result of mental health conditions that they have developed while in custody, rather than the threat they pose the public." Amnesty International has called IPP sentences "unfair and unjust" and has said that people being held on them are subject to "arbitrary detention". The sentences were introduced in 2005 for people convicted of serious violent or sexual offences which did not warrant life sentences. David Blunkett, the Labour home secretary who introduced the sentences, has said: "The consequence of bringing that Act in has led, in some cases, to an injustice and I regret that."

Lewis Skelton: Unlawful Killing Conclusion Challenge Rejected by Divisional Court

Doughty Street Chambers: On 29 November 2016, Lewis Skelton died when he was shot twice in the back by an authorised firearms officer known as B50. He had a long history of mental health problems and had been spotted on the streets of Hull carrying a small hand axe. The officers attending were instructed that he had not threatened anyone. In October 2021, an Inquest Jury, (directed by Assistant Coroner Oliver Longstaff) retired to consider the evidence. They returned a unanimous conclusion of unlawful killing.

The Divisional Court has today (23 January 2023) rejected a judicial review pursued by B50 and supported by the Chief Constable. B50 unsuccessfully claimed that the Coroner had failed to apply the Galbraith Plus test effectively; that there was insufficient evidence for the Jury to consider unlawful killing and that the Coroner's summing up was deficient. The Divisional Court - Lord Justice Stuart-Smith and Mr Justice Fordham - rejected the claim on all grounds.

They address the authorities on Galbraith Plus and find the Assistant Coroner understood and properly applied that test. They emphasise: "What is clear is that it is not open to a coroner, in a case which passes the classic Galbraith test of evidential sufficiency, to withdraw a conclusion under the guise of lack of "safety" just because they might not agree with a particular outcome, however strongly" (at [65]). B50 had claimed he faced a collapsing timeframe as Mr Skelton approached three workmen. The Divisional Court confirmed the Jury could properly come to the conclusion B50's asserted belief was not genuinely held: "On one view of the evidence that was open to the Jury, Mr Skelton's progress had slowed down considerably, he was struggling and was still not showing aggressive intent despite (or perhaps because of) being tasered four times, the workmen (who were sufficiently distant that they had not yet perceived a threat) would have had ample opportunity to get out of the way had the threat become a real and present danger, and B50's justification based upon his being threatened on or around Caroline Place was contradicted in circumstances which could (depending on the view taken by the Jury) support a conclusion that it was a deliberate falsehood designed to bolster an untrue case. In our judgment, this evidence was such that the Jury could properly come to the conclusion that B50's asserted belief in the imminence of the danger to the workmen was not genuinely held. That being so, we are unable to identify anything, either evidential or arising from the process of the inquest or otherwise, that suggests (far less shows) that it would not be safe for the Jury to reach such a conclusion. Adopting the compendious approach, this was a case where it would be safe for the Jury to come to conclusion that there had been an unlawful killing.")

Rejecting the challenge to the Coroner's summing up, the Divisional Court considered the clear written legal directions with which the Jury retired (and which were not challenged). There was nothing in the summing up which prevented the Jury from carrying out their task.

Asylum-Seeking Children Kidnapped and Trafficked From Home Office Hotels

Kate Millinship, Justice Gap: In October 2022, data revealed that 222 unaccompanied asylum-seeking children were kidnapped from hotels run by the Home Office, leading to claims that the government department is failing to deliver sufficient child protection. An Observer investigation recently revealed asylum-seeking children have been victims of kidnapping by gangs from a hotel in Brighton reportedly run by the Home Office, in addition to an estimated 136 children reported missing from 600 unaccompanied children in a Sussex hotel, with more than half remaining unaccounted for.

Further reports also stated that instances of trafficking from a similar hotel in Kent estimated that at least 10% of its children disappeared each week. No new guidance for the police has been given to detect the missing children, as sources provide that the guidance remains in 'development' despite the Home Office referring queries of criminal targeting of children to the police. "Children are literally being picked up from outside the building, disappearing and not being found. They're being taken from the street by traffickers," a recent source stated. Mark Townsend reports that Home Office sources deny allegations of kidnapping and the targeting of asylum-seeking children from hotels run under their responsibility, stating that youngsters were 'free' to leave their accommodation.

Shadow home secretary Yvette Cooper further described the news as 'truly appalling and scandalous' and that the Home Office has badly failed to protect child safety and control dangerous gangs. She added that home secretary Suella Braverman has "failed to act on the repeated warnings she has been given about totally inadequate safeguards for children in their care." As a result, The Home Office stated that robust safeguarding procedures have been considered to ensure children are safe and supported, seeking urgent placements within Local Authorities. The National Police Chief's Council lead for missing persons, Catherine Hankinson, reassures that regular multi-agency meetings by the police review the response to every missing migrant child who do not get located. Despite this, Carolyne Willow, the director of Article 39 which campaigns for the rights of children in state institutions stated that the volume of missing children portrays a 'catastrophic child protection failure' which requires 'dramatic intervention'.

Media Witch-Hunt and the Imprisonment of Luke Mitchell

Sandra Lean: This article relates to the Scottish Criminal Cases Review Commission (SCCRC), the 2nd such post-appeal body to be established after the Criminal Cases Review Commission (CCRC). In it, Dr Sandra Lean, a prominent expert on wrongful convictions, provides a compelling critical analysis of the ongoing struggle by Luke Mitchell to overturn his conviction for the murder of 14-year-old Jodi Jones. Regular readers of CCRC Watch will relate to the facts of Luke Mitchell's alleged wrongful conviction, which tallies with other cases featured on this site in terms of a failure to conduct a full, comprehensive, fair and transparent investigation into the facts of the murder of Jodi Jones. CCRC Watch supports the call for an independent and impartial review of Mr Mitchell's conviction and for truth and justice to prevail. "Appeal judges would later refer to this 'interview' being a 'hostile and overbearing interrogation' and branded the behaviour of the officers involved 'outrageous and to be deplored'. They did not, however, conclude that a miscarriage of justice had occurred as a result of such outrageous and deplorable behaviour"

When 14 year-old Jodi Jones was found murdered on the night of June 30th 2003, police suspicion immediately fell on her boyfriend, Luke Mitchell, who was also 14. The foundation of that suspicion was based on a mistaken belief by the first officers at the scene that Luke, and Luke alone, had found Jodi's body, in darkness, in a woodland strip behind a large stone

wall. What those officers failed to realise was that there had been another three searchers with Luke looking for Jodi, and three of the four had been over the wall to where Jodi lay. That critical error, within 15 minutes of the searchers finding Jodi, was to set the scene for a blinkered, tunnel-visioned approach to a case, which would ultimately turn into a modern day witch hunt involving a 14 year-old schoolboy.

Initially, investigators were confident that DNA results would prove their 'main line of enquiry' (as stated by a police spokesperson at the time). But, when those results came back, there was no forensic evidence linking Luke Mitchell to the murder or the crime scene. There was, however, other male DNA – a full profile from Jodi's t-shirt originated from her sister's boyfriend, Steven Kelly (who was also one of the searchers who found Jodi). A condom, filled with what scientists called 'fresh' semen was found 20 yards from the body, but the full profile from this did not match anyone in the national database.

Police handling of the crime scene was appalling – Jodi's body was left out, uncovered, in the rain for more than eight hours. The original forensics officer was unable to climb the wall and left the scene in the early hours of the morning. In the meantime, other offices cut down overhanging branches, moved Jodi's body onto a plastic sheet (still without covering it), moved other items at the crime scene and gathered up Jodi's clothing, which was strewn around where her body lay.

There are no records of who authorised these actions, or how they were carried out. There were no forensics officers present while all of this was happening. A purse was found, 12 days into the investigation, under a large rock which had been used as a stepping stone for those going over the wall – it is still unclear how that purse entered what was supposed to have been a secure crime scene, almost two weeks into the investigation. Specialist dogs were brought in from Yorkshire in an effort to discover which way the murderer had escaped, but were unable to carry out their work because the crime scene had already been bleached. Again, there are no records to say when the scene was bleached, or who authorised the bleaching.

Meanwhile a massive, relentless and entirely negative media campaign was in full swing. Luke Mitchell's home was searched and he was taken in for questioning in a blaze of publicity on July 4th, just four days after Jodi was murdered. Six weeks later and just three weeks after he turned 15, he was again paraded through the media as he was again taken in for questioning. In Scotland in 2003, what were known as 'Section 14 interviews' were legal – anyone, including children, could be taken by police and held for six hours for questioning without access to legal advice or assistance. Appeal judges would later refer to this 'interview' being a 'hostile and overbearing interrogation' and branded the behaviour of the officers involved 'outrageous and to be deplored'. They did not, however, conclude that a miscarriage of justice had occurred as a result of such outrageous and deplorable behaviour.For almost ten months, the media named and pictured Luke Mitchell, until he was finally arrested in April 2004. Then, they referred to a 'youth who could not be named for legal reasons' – but only for three months – when Luke turned 16 that July, they were free to name him again, as he was no longer a minor.

The trial – the longest of a single accused in Scottish history at that time - threw up some stunning information. The three searchers with Luke that night were Jodi's sister, the sister's boyfriend and Jodi's grandmother. They all said, in statements for the first month, that Luke's dog started jumping up and scrabbling at the wall, which was what alerted the searchers that there might be something behind the wall. By the time they came to give evidence at trial, their stories had changed. The dog, they said, did nothing – Luke just went straight through a V-shaped break in the wall, indicating (according to the prosecution) that he already knew

where Jodi's body lay. Two boys who had been seen riding a moped close to the murder scene at 5pm, and whose vehicle was propped against the break in the wall without them at the exact claimed time of the murder (5:15pm) were Jodi's cousin and his friend. They had taken five days to come forward at the beginning of the investigation – one of them said his grandmother (also Jodi's grandmother) had told them not to go to the police.Later still, in 2006, the owner of the condom was traced – James Falconer, who was 20 at the time, claimed he had gone into the woodland strip to masturbate, because he had no privacy at home. He said he saw and heard nothing that night, even though the route he described taking in the woodland strip would have taken him right up to – and perhaps past – where Jodi's body lay. In January 2005, Luke Mitchell (now 16) was sentenced without limit of time, with a minimum punishment period of 20 years.

He has always protested his innocence and, over the years, more and more evidence has been uncovered supporting his stance. Both Luke and his mother passed polygraph tests, independently of each other. Medical records revealed a person with close links to Jodi was extremely psychotic at the time of the murder and had been known to attack people with bladed instruments. He was never considered a suspect and, on closer inspection, the alibi provided by his mother does not stand up to scrutiny. A number of witnesses have come forward to say the police would not take statements from them about other people behaving suspiciously. Many witnesses, who were only children at the time, have told how they were bullied and terrorised by police investigators trying to force them to agree with incriminating statements about Luke.

At the end of 2021, with a further application being prepared for the SCCRC (Scotland Criminal Cases Review Commission) and the intention to apply for samples for re-testing with more modern methods being public knowledge, it was discovered that police had begun secretly destroying evidence – evidence the law says should have been preserved until at least 2026. The destruction was halted, but to date Luke's lawyers have not been informed as to why the destruction was ever authorised, or by whom, nor have they had any indication of what was destroyed and what still remains.

A petition containing over 25,000 signatures was delivered to the Scottish parliament on November 16th 2021, calling for an independent review of the case. On December 29th it was reported that the Lord Advocate had rejected the petition, saying: 'COPFS considers that there is currently no basis for a review of this conviction', claiming that extensive work by investigators and prosecutors had tested the evidence. The Lord Advocate, Scotland's highest legal authority, is the wife of the man who prosecuted Luke Mitchell.

As of January 2022, the fight to have this case independently reviewed continues – the person calling most stridently for all of the forensic evidence to be re-tested is Luke Mitchell himself.

Dr Sandra Lean's goal is to help share stories of people who have suffered injustice and in so doing, to alert an unsuspecting public that the same could happen to any one of them. Since 2003, she has researched and written about cases of wrongful conviction and factual innocence. She has tried to assist a number of people over the years and campaign, write articles, etc, wherever she is able to help. Following the completion of her Honours degree in Social Sciences (Psychology and Sociology) in 2000, she obtained a Specialist Paralegal Qualification in Criminal Law in 2010, via Criminal Law Training and Strathclyde University. She completed a PhD in 2012, (the thesis title being "Hidden in Plain View,") which studied the factors which lead to wrongful convictions and why ordinary people are completely unaware of these factors.

Acquitted for Conspiracy to Possess a Firearm With Intent

In a complex case involving nine defendants, five of whom had a trial. HK initially arrested for conspiracy to murder, was alleged to have played a key role in conveying a firearm from Oxford to the Northeast, where the firearm was discharged towards a gang rival of one of the co-defendants. The prosecution's case was that the defendant was involved in a sophisticated conspiracy which spanned several months and involved alleged gangs from London, Oxford and Newcastle, Gateshead, and South Shields. The prosecution relied on comprehensive cell site evidence, multi-disciplinary telephonic evidence, including a detailed analysis of call data records, sequencing, and past patterns of usage, surveillance evidence as well as eyewitness evidence as part of its case.

The case involved a three-way cutthroat defence, involving two co-defendants (one of whom required an intermediary during the giving of his evidence) who were in the car with the client when he was alleged to have transported the firearm across the country. Issues involving bad character, admissibility of antecedents and police intelligence arose throughout the trial because of the cutthroat defences. As part of the defence case of HK, a separate sequence of events document was prepared and relied upon which included evidence the prosecution sought to exclude, which was vital to demonstrate that the defendant's lack of knowledge and participation in the wider conspiracy. HK was the only defendant to be acquitted.

What is a cut-throat defence in criminal proceedings?

When one defendant in a criminal trial seeks to advance a defence case to the effect that the perpetrator of a criminal act was their co-accused (ie blaming their co-accused), this is called cutting their co-accused's throat, or a 'cut throat defence'. It is most often relied on when there is clear evidence to place before the magistrates' or jury that an offence has been committed and where there was an opportunity for two or more people to commit the offence. By advancing a defence that the other person was in fact the culpable party, the defendant is seeking to distance themselves from the offending and absolve themselves of responsibility for the crime itself, notwithstanding that they may accept a hand in some or all of the conduct forming the actus reus of the offence.

Offenders (Day of Release From Detention)

Simon Fell MP: I had laboured under the belief that if someone committed a crime, served their time and paid back their debt to society, they would be afforded every opportunity to succeed on their release from prison and make a fresh start. I was disappointed to find out that often that is not the case and many people released from prison, especially those released on Fridays, are almost set up to fail from the moment they set foot outside the prison estate. They face a race against time to access statutory and non-statutory services—to meet their probation officer; visit a pharmacy or a GP; sort out their accommodation—all on a Friday, with services closing early, and with some being a distance away or even impossible to reach by public transport. Many of them therefore end up homeless, with no hope of accessing services until Monday morning at the earliest. So they have nowhere to stay, they have little support and the world is on their shoulders. Is it any surprise that up to two thirds of people released without access to accommodation reoffend within a year.

That race against the clock is maddening. With a third of all releases taking place on a Friday, this is a numbers game, and the numbers are very high indeed: reoffending costs the taxpayer £18 billion a year; and 80% of crime is committed by reoffenders. If we support people as they come out of prison, we can play a key role in reducing the significant societal and individual costs of reoffending, leading to fewer victims of crime and fewer communities dealing with its impact. This Bill is an

important step towards doing that. By making a simple change, by varying the date of release for vulnerable people by up to 48 hours, we can relieve that time pressure and give people the opportunity to make a fresh start. This small but significant change would build on existing Government funding and support for people coming out of prison, including the funding of temporary accommodation for prison leavers at risk of homelessness. We need to end the practice of Friday releases for the most vulnerable, so that they have the vital extra hours and days they need to get support in place before the weekend arrives. This move is supported by charities, the third sector, those working in prisons, the probation service and the Local Government Association, and by former offenders who have been through the system.

Entering a prison, certainly one such as Wormwood Scrubs, feels very final indeed. You walk Toggle showing location ofColumn 1115through a set of remarkable Victorian buildings and the first thing you notice is how solid the place is. There are big, thick walls, and heavy, metal doors. Everything is contained and segregated by keys. Each door is opened ahead of you and closes behind you, with a click. Your choices are limited to the space you have access to. The outside world, even though you can see it above and through the windows, feels maddeningly far away. As Governor Frost explained to me, when you leave a prison like the Scrubs, setting foot outside the estate for the first time, you face the "first independent choice you can make in a while."

If someone is released on a Friday, they have precious little time to make those choices and if they choose poorly, they may well find themselves back in prison. Some would rather see their family than comply with appointments, for some their addiction takes priority and others simply do not have time to make their appointments, with no chance of getting from point A to point B in the remaining hours of the day. When someone resides in Wormwood Scrubs at His Majesty's pleasure, is released at 3pm on Friday and then has to see their parole officer in Cambridge that same day, what chance do they realistically have of making that appointment before 5 pm?

I have spoken to prison leavers who were released from custody on a Friday. Some were lucky and managed to get support, but the majority were left facing severe issues with access to key resettlement services. Some ended up on the streets over the weekend while waiting for housing services to reopen on the Monday. Even worse, some people I have spoken to were greeted at the prison gates by the smiling face of their drug dealer. Criminal gangs know just how hard it can be for people to work through their release checklist, meet their parole officer, sort their housing, go to the pharmacy and so on, so they offer a handout—one that comes at a very steep cost. So the merry-go-round continues: the person is recalled to prison, and it all begins again.

I am on the Select Committee on Home Affairs, which is undertaking an inquiry into drugs. In Middlesbrough earlier this year, we spoke to addicts and people in recovery about their life stories. The same issue came up time and again. Their experience is addiction, prison, release, shoplifting and other petty crimes, and imprisonment again. At no point does the process help them, their family or those who work in criminal justice. Nor does it help society. In my constituency, I have spoken to Cumbria police and the amazing Well Communities and have seen these issues time and again. The nature of unstable releases means further addiction and ripe pickings for drugs gangs involved in county lines —the exact opposite of the outcome from imprisonment and rehabilitation that we might hope for. The chair of the Local Government Association's safer and stronger communities board, Councillor Caliskan, says:

"With staff limitations at the weekend across a range of services, delays in accessing accommodation and a lack of early intervention from support services, vulnerable prison-leavers are at considerable risk of reoffending. In bringing release dates forward, this will ensure prison-leavers have enough time to access the right help and support to prevent

them heading back towards previous criminal activities." I could not agree more. For many offenders, the day of release from custody is a realisation of a long-awaited goal: a chance to turn their backs on crime for good. But the reality for those released on Friday can be fraught with practical challenges to surmount. Those who need access to multiple support services before they close for the day, including local authority housing and mental health services, can face a race against the clock. Many services close early and are then shut over the weekend. Approximately a third of all releases fall on a Friday, so those services are under considerable additional pressure.

Compensation Payments to Serving Prisoners Last Three Years - £18,954,129

Steve Reed: To ask the Secretary of State for Justice, what estimate he has made of the cost to the public purse of compensation payments made to prisoners in each of the last three years.

Damian Hinds: The total cost of litigation damages paid to prisoners in England and Wales.
2019-20 £7,621,648 2020-21 £6,074,143 2021-22 £5,258,338

We successfully defend two-thirds of compensation cases brought by prisoners and always make sure debts to victims and the courts are paid before the offender sees a penny.

Regarding claims made under the Human Rights Act, which was introduced by the Labour Government in 1998, the Government's upcoming Bill of Rights will repeal the HRA and implement a permission stage to ensure trivial cases do not undermine public confidence in human rights (cl.15). The introduction of a permission stage will ensure that courts focus on serious human rights claims and places responsibility on the claimant to demonstrate that they have suffered a significant disadvantage before a human rights claim can be heard in court.

'Scottish Prisoners Cannot Reach the Open Estate'

Inside Time: Scotland's Chief Inspector of Prisons has warned that the system for long-term prisoners to progress through their sentences "hasn't worked, isn't working and still isn't working post-Covid". Wendy Sinclair-Gieben criticised the underuse of Castle Huntly, Scotland's only open prison, which is only half-full despite overcrowding in the country's closed prisons. Giving evidence last week to a committee of the Scottish Parliament which is considering reforms to the country's bail laws, she said that one of the main topics for complaints to the inspectorate was the inability of long-term prisoners to progress towards release. She said: "There are various hoops that they have to jump through, and various assessments that go on, before they can reach the open estate or release, depending on the length of the sentence. The progression system hasn't worked, isn't working and still isn't working post-Covid, and requires significant effort to make it work, so you have people waiting significant periods of time to be able to progress to the next stage even though they've been cleared for the next stage. To give the Scottish Prison Service their due, there has been a 25 per cent increase in the number of people going to the open estate, so work is progressing, but the open estate is still very much underutilised – and it's a fantastic resource for testing people in the community before they're finally released."

A report by the inspectorate on Castle Huntley, published in December, pointed out that it only holds around 100 prisoners despite having a capacity of more than 200. Addressing the issue of prison overcrowding, Sinclair-Gieben told the MPSs that if Scotland could reduce its prison population in the way that other European countries like the Netherlands and Portugal have done, "the existing prison staff can do so much more in terms of reassessing what they need to, providing purposeful activity, actually reducing the risk of that person leaving the prison and therefore benefiting the community".At present, remands make up 29 per cent of the overall prison population in Scotland, compared with 17 per cent in England and Wales.

Prisoners Banned From Receiving Letters Families Must use Email

Inside Time: HMPElmley, a category B local prison in Kent holding 1,000 men, introduced a policy called "Postless for Prisoners" on January 1. Families wanting to contact their loved ones were told to use the Email-a-Prisoner service instead. The policy appears at odds with national rules. Prison Service Instruction 49/2011, reissued last September, states: "Prison Rules require prisons to actively encourage prisoners to maintain outside contacts and meaningful family ties. Prisoners also have a statutory entitlement to send and receive letters. Letters and phone calls assist in sustaining supportive relationships with family and friends." However, the rules also say that "there may be circumstances where it is necessary and proportionate to place restrictions or conditions on communications". When Inside Time approached the Ministry of Justice on January 12, a spokesperson confirmed that the Postless for Prisoners policy had been put in place at Elmley, but told us it had ended. The spokesperson said: "Post can be sent in as normal. This was a temporary trial, in line with prison rules, to address the influx of drugs but it has now stopped." However, the following day, when a prisoner's relative asked Elmley's Business Hub about sending letters to a prisoner, they were told: "HMP Elmley became 'Postless for Prisoners' on 01/01/23, family and friends must now use Email a Prisoner to contact prisoners. This is a permanent measure which has been implemented." The MoJ later told us that the policy was in two weeks before it ended. Several prisons in England and Wales, and all prisons in Scotland, now photocopy all incoming letters to combat the smuggling of Spice-type drugs. Prisoners receive the copy, not the original. However, Elmley is believed to be the first UK jail to have banned letters entirely. Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, said: "Thousands of people in prison rely on support from family and friends to get through their darkest days and help them turn their back on crime. Any 'security' policy that denies them the chance to receive letters and cards from loved ones is cruel, unnecessary and ultimately self-defeating."

Healthy Relationships Between Staff And Prisoners Under Threat

Evidence submitted to the House of Commons Justice Committee warns that the fundamental operating model for our prisons, built on relationships rather than coercion, is under threat as a generation of staff only experience a way of working that rarely sees prisoners unlocked. "[Officers] should receive in depth one-to-one sessions with superiors on a regular basis, just to ensure the wellbeing of staff. If they're expected to deliver this to prisoners they should be offered it themselves." Prisoner Policy Network member PPN members also endorsed a model of running prisons that depends on the relationships between the people who work in prisons and the people who have to live there: "A settled regime is a settled person and a settled person can think about what needs to be done to get through the sentence, to maintain sanity and to be a better person on release and in the prison sentence. For all of that you need to be around people, you need to be exposed to new ways of thinking, you need to be challenged, you would need to have relationships, and you would need to feel safe enough to reach out for help." Prisoner Policy Network member It's all too obvious that the disastrous rate at which new recruits are leaving, compounded by sick absence, mean that staffing shortages are crippling prison regimes. But it's also apparent that the current situation owes more to the mismanagement of prison policy by governments over the last decade than to the temporary impact of the pandemic. Our evidence reminds the committee both of its sensible conclusions the last time it considered these issues in 2009 — and of the then government's complacent response. No workforce strategy can overcome the obstacles of running a service in a state of perpetual crisis and an overcrowded and dilapidated estate.