

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Maira Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Chambers of Timothy Raggatt QC 4 King's Bench Walk, Temple, London EC4Y 7DL

Crime Team Case law and Criminal Justice Policy Update

October 2006

Introduction

Welcome to the first of our criminal updates which we hope that you will find informative. Please feel free to forward it to colleagues and if they wish to be added to our mailing list they just need to send an email to clerks@4kbw.co.uk.

Our next edition will be circulated in **January 2007**.

Content

Pg 1.	Introduction
Pg 2.	Chambers News
Pg 3.	Barrister Profile
Pg 4.	Barrister Profile
Pg 5.	General Criminal Update
Pg 6.	General Criminal Update
Pg 7.	Sentencing Update
Pg 8.	Bad Character Update
Pg 9.	ASBO Case Update

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moirá Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Chambers of Timothy Raggatt QC 4 King's Bench Walk, Temple, London EC4Y 7DL

Crime Team Case law and Criminal Justice Policy Update

October 2006

Chambers News

Nicholas Jarman QC:

After a long and successful career Nicholas Jarman has retired from the bar. As a mark of thanks for his leadership, chambers will be holding a dinner in January 2007.

Timothy Raggatt QC:

Following the collapse of 3 Fountain Court Chambers, Timothy Raggatt has joined St Philips Chambers as a door tenant.

Stephen Williamson QC:

Stephen Williamson has recently been instructed to defend one of the defendants in the failed 21st July London bombing.

Louise Robinson:

Louise Robinson is currently on secondment to the only British judge at the European Court of Justice.

Video Conferencing:

With the impending changes to funding under the Carter Report chambers is currently installing video conferencing. This will enable our members to have video link conferences with defendants in prisons or at solicitors offices where they also have video conferencing facilities

New Tenants:

David Bennett and **David Sawtell** have become full tenants with chambers after successfully completing their Pupillage.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moira Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Chambers of Timothy Raggatt QC
4 King's Bench Walk, Temple, London EC4Y 7DL

Profiles



Justine Davidge

Call: 2001

Justine completed her LLB(Hon.) at Cardiff University and subsequently took up the offer of a postgraduate scholarship from Cardiff Law School to research a MPhil in Criminal Law History.

Prior to undertaking the BVC at ICSSL Justine gained experience of teaching law undergraduates at Cardiff and acted as a research assistant for a number of legal professionals including Professors, a Judge and numerous Queens Counsel. She also spent time working as a fraud paralegal for solicitors in Wales and as a civil advocate for Legal Practice Clerks in London.

Justine was called to the Bar in 2001 by Gray's Inn and practices both Criminal and Prison Law. She prosecutes and defends in equal measure in the Crown Court and will accept instructions in privately funded matters in the magistrates court. Justine also has experience of preparing matters for case stated and judicial review proceedings in the Administrative Court.

General areas of work undertaken include substantial deception and forgery; robbery; serious violence; public order; drug supply and importation; arson; racially aggravated offences; careless and dangerous driving; perverting the course of justice and witness intimidation/vengeance; confiscation proceedings.

Justine is a member of the Criminal Bar Association and of Liberty. In her spare time she enjoys literature, live music and is a keen follower of Formula 1 motor racing.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moira Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Chambers of Timothy Raggatt QC
4 King's Bench Walk, Temple, London EC4Y 7DL

Profiles



Claire Van Overdijk

Call: 2003

After obtaining a LL.B (Hons) from University College, London Claire obtained a LL.M in Public International Law at Leiden University in the Netherlands.

Prior to coming to the Bar Claire gained legal experience working as a Housing Lawyer for Enfield Council, a Research Fellow for the Organisation for Security and Co-operation in Europe and a Paralegal for an insurance solicitor in Bristol.

Claire was called to the Bar in July 2003 and her areas of practice include Criminal Law, General Common Law, Prison Law, Personal Injury and Family Law.

Claire's criminal practice comprises both Prosecution and Defence work and she appears regularly the Crown Court, Magistrates' Court and Youth Court. She practises in a wide range of criminal cases generally encompassing violent and sexual offences, drugs offences, public disorders, and dishonesty offences, and has also represented a number of prisoners in Parole Board and Disciplinary Hearings. Her criminal practice includes advisory work.

She is a member of the American Society of International Law, Criminal Bar Association, Human Rights Lawyer Association, and Personal Injuries Bar Association. She is also fluent in Spanish and Portuguese.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moira Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Crime Team Case law and Criminal Justice Policy Update Continued

General Criminal Update

Home Office Circular 25/2005 (Issued 1st September 2006)

This document sets out in full the current Home Office policy regarding the electronic monitoring of defendants on bail. It is explicitly stated that the intention of the Home Office in making electronic tagging more available is to make it a real alternative to remand in custody. Prosecutors are expected to consider the availability of tagging when assessing objections to bail and it is anticipated that defence lawyers will challenge opposition to bail in all cases where tagging may be appropriate.

R v Harrow Crown Court (2nd August 2006) House of Lords [2006] UKHL 42

The appellant, being charged with rape and having previously been convicted of such an offence, fell within the provisions of s.25 Criminal Justice and Public Order Act 1994 with regards to bail, that defendants charged with specified grave offences who had committed such an offence in the past should only be granted bail in exceptional circumstances. On 7th June 2006 his custody time limit expired and had not been extended by the prosecution due to a failure to act with due diligence and expedition. However the court upheld both the Judge's decision not to grant bail and a later decision to refuse an application for habeus corpus. It did not automatically follow that he was entitled to bail or that his right to a trial within a reasonable time had been violated. S.25 has the effect of disapplying reg.6(6) of the Prosecution of Offences Custody Time Limit Regulations (SI 1987/299), that a Crown Court should grant bail when a defendant's custody time limit expires, in such cases.

R v Loizou 14th July 2006) Court of Appeal Criminal Division [2006] EWCA 1719

The Court clearly summarised the legal position relating to the situation where a defendant gives a no comment interview and at trial seeks to rely on the fact that he was advised to make no comment by a solicitor with the effect that the prosecutor applies to cross-examine the defendant/his solicitor about those reasons/the basis for that advice. Where a defendant relies upon or makes reference to statements made by him or his solicitor relating to the grounds for such advice, he 'voluntarily withdraws the veil of privilege and having done so he cannot resist questioning directed to the nature of that advice and the factual premises on which it had been based'.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moira Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Crime Team Case law and Criminal Justice Policy Update Continued

DPP v Chorley Justices

(8th June 2006) High Court Admin. Division [2006] LTL 8/6/06

The High Court gave guidance on the management of cases in the magistrates court by both justices and their clerks in light of the Criminal Procedure Rules. In particular the use by defence lawyers of technical defences to ambush the prosecution at trial should no longer be permitted. The CrPR had effected a “sea change” in the way cases should be conducted with the key objective being the early identification of the issues in the case with “cards being put on the table” from the outset. Defence representatives have a duty to ensure that the points to be taken at trial are brought to the prosecutions attention well in advance and the court should allow adjournments where necessary to allow the “real justice in the case” to be done. This case involved specifically the incorrect service by the Crown of a blood analysis certificate in a case of driving with excess alcohol, a point relied upon by the defence in a submission of no case to answer and which had not previously been brought to the attention of the prosecutor. Similarly see DPP v Stephens (22nd June 2006) High Court Admin. Division [2006] EWHC 1860.

R v The Combined Court at Stafford, Ex parte TB

(4th July 2006) [2006] EWHC 1645

A witness summons issued for the production of medical records must be served on the interested party (the patient) as well as the NHS Trust producing the records and that person should be given sufficient opportunity to make representations against production.

Murphy v DPP

(20th June 2006) High Court Admin. Division [2006] EWHC 1753

The prosecution could not deny secondary disclosure simply because a defence case statement had been served out of time.

R v Clarke and McDaid

(25th May 2006) CA Crim. Division [2006] EWCA Crim 1196

Proceedings on indictment are not automatically invalid just because the indictment itself was not signed by an officer of the court. There was no prejudice caused to the defendants and no resultant injustice, therefore the convictions remained valid. R v Ashton [2006] EWCA 794 followed.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moira Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Crime Team Case law and Criminal Justice Policy Update Continued

Sentencing Update

R v Norman and others

(20th July 2006) CA Crim. Division [2006] EWCA Crim. 1792

Guidance for Judges making orders under s.240 Criminal Justice Act 2003 regarding the number of days spent by a defendant on remand to count against the final sentence. A failure to correctly identify the number of days means that the sentence is wrong in principle.

R v O'Brien and others

(14th July 2006) CA Crim. Division [2006] EWCA Crim. 1741

Guidance on whether a sentence of imprisonment imposed for public protection should be made to run concurrent or consecutive to another such sentence. Generally it would be undesirable for an indeterminate or extended sentence to run consecutive to another period of imprisonment.

R v A

(29th June 2006) CA Crim. Division

Guidance on how to approach an appeal against sentence where the appellant had been properly sentenced but had later given evidence against a co-accused. Usually a defendant who provided assistance to the police would receive an appropriate reduction in sentence, dependant on the quality and nature of the material provided and the risk undertaken in providing the same. The general rule however is that a defendant properly sentence who later decides to speak to the police cannot expect the appeal court to intervene. Yet, the court was not restricted to considering only the material available to the Judge at the time of sentencing and in this case the appellant's sentence would be reduced accordingly.

R v Bignell

[2006] EWCA Crim 69

Guidance for Judges passing sentences involving a period of recall under s.116. First the sentence for the new offence should be determined, disregarding the potential recall, then the decisions should be taken as to whether the defendant should be recalled, for how long and whether the new sentence should run concurrently or consecutively. The court should also take account of any time spent by the defendant on administrative recall prior to sentencing.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moirá Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



Crime Team Case law and Criminal Justice Policy Update Continued

Bad Character Update

R v Ullah (18th July 2006)

In a pre-prepared statement in interview the defendant claimed good character in relation to past business dealings when in fact he had a previous conviction for obtaining property by deception. The prosecution successfully applied to adduce evidence of this conviction prior to the interview being read in evidence, on the ground that it was necessary to correct the false impression given in the interview. The court ruled the defence argument, that the conviction could not be admitted as the false impression had not yet been part of the evidence in the case, to be "bordering on the absurd". It was sensible for the application to be heard first to enable the Judge to make a ruling. The defendant had told a deliberate lie in interview, a fact which was relied upon by the prosecution. Police station representatives must take care when drafting pre-prepared interview statements as such comments may not simply be edited out of interview at trial.

R v Card (11th May 2006) CA Crim. Division [2006] EWCA Crim 1079

S.107 Criminal Justice Act 2003 imposes a duty on a Judge to stop proceedings where the defendant's previous convictions have been admitted into evidence and the prosecution evidence may have been contaminated. The section required the Judge to make a finding of fact in the case and if the Judge was satisfied that there was contamination then an acquittal must be directed and the possibility of a re-trial considered. The decision to hold a re-trial would not normally be susceptible to an abuse of process application. Where defence counsel raises the possibility of contamination at the outset of the trial in response to the prosecution's application to adduce bad character then it is normally sensible for the Judge to hear that evidence before considering that point.

Members of Chambers

Timothy Raggatt QC
Stephen Williamson QC
John Jenkins QC
Roger Thomas QC
Alan Conrad QC

Basil Hillman
Robert Spencer Bernard
Christopher Cousins
John Denniss
Moirá Pooley
Kate Mallison
Barnaby Evans
Michael Harrison
John Riley
Reginald Arkhurst
Peter Nightingale
Andrew Granville Stafford
Claire Jacobs
Paul Wakerley
Kate Mather
Michael Skelley
Kim Preston
Jillian Hurworth
Sanjay Lal
Iain Burnett
Brendan Davis
Jackie Bond
Kemi Ojutiku
Tamala McGee
Amanda Millmore
Nadia Chbat
Alan Blake
Olive Lycourgou
Tamia Tagon
Beverly Roberts
Cameron Brown
Gavin Holme
Sabina Khan
Simon Heptonstall
Hannah Sherlock
Justyn Turner
Justine Davidge
Alison Griffiths
Jerome Silva
Edward James
Louise Robinson
Claire Van Overdijk
David Bennett
David Sawtell

Principal Clerk
Lee Cook



**Crime Team Case law and Criminal Justice Policy Update
Continued**

ASBO Cases Update

**R v Barnard
(1st August 2006) High Court Admin. Division**

The High court criticised the use of ASBOs that “do no more than seek to prohibit the commission of a crime” and stressed that ordinary policing methods should be the preferred way of monitoring and preventing prevalent crimes such as theft from motor vehicles. The ASBO in question consisted of 2 conditions preventing the defendant from: (i) touching or entering any unattended vehicle within the M25 without permission from the owner; and (ii) having any rock, stone or any similar object for breaking glass in his possession.

**R v Chief Constable of West Midlands Police, Ex parte Singh
(28th July 2006) High Court Admin. Division [2006] EWCA Civ. 1118**

Guidance given on the scope of dispersal directions that can be issued by the police dealing with protests by way of the dispersal regime under the Anti-social Behaviour Act 2003.

**R v Highbury Corner Magistrates Court, Ex parte Cleary
(26th July 2006) High Court Admin. Division [2006] EWHC 1869**

Guidance given on the fair conduct of proceedings for a closure order under the Anti-social Behaviour Act 2003.