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IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM CHESTER CROWN COURT
THE RECORDER OF CHESTER (1) (2)
ON APPEAL FROM MANCHESTER CROWN COURT
THE RECORDER OF MANCHESTER (3) (4) (5) (9) (10)
ON APPEAL FROM INNER LONDON CROWN COURT
HIS HONOUR JUDGE FRASER (6)
ON APPEAL FROM WOOD GREEN CROWN COURT
HIS HONOUR JUDGE ADER (7)
ON APPEAL FROM MANCHESTER CROWN COURT
HIS HONOUR JUDGE HENSHALL (8)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/10/2011

Before :

LORD JUDGE, THE LORD CHIEF JUSTICE OF ENGLAND AND WALES
SIR JOHN THOMAS, PRESIDENT OF THE QUEEN'S BENCH DIVISION

and

LORD JUSTICE LEVESON

Between :

R

- v -

Blackshaw (1)

R

- v -

Sutcliffe (2)

R

- v -

Halloway (3)

R

Appellant

Respondent

-v-
Vanasco (4)
R
-v-
Gillespie-Doyle (5)
R
-v-
McGrane (6)
R
-v-
Koyunco (7)
R
-v-
Craven (8)
R
-v-
Beswick (9)
R
-v-
Carter (10)

G Roberts for Blackshaw (1)
R Tanner (Solicitor Advocate) for Sutcliffe (2)
D Gaskell (Solicitor Advocate) for Halloway (3)
M Stanbury for Vanasco (4)
R Tanner (Solicitor Advocate) for Gillespie-Boyle (5)
G Newell for McGrane (6)
C Palmer for Koyunco (7)
R H English for Craven (8)
R H English for Beswick (9)
H Richardson (Solicitor Advocate) for Carter (10)
D Penny for the Crown

Hearing dates : 27th September 2011

Judgment Approved by the court
for handing down
(subject to editorial corrections)

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The Lord Chief Justice of England and Wales:

1. There can be very few decent members of our community who are unaware of and were not horrified by the rioting which took place all over the country between 6th August and 11th August 2011. For them, these were deeply disturbing times. The level of lawlessness was utterly shocking and wholly inexcusable.
2. These are appeals against sentence (leave having been given by the sentencing judge or by this court) by ten adult offenders involved in the lawlessness in different ways and different places.

I. Sentencing Principles

3. Before we summarise something of the ghastliness inflicted on a variety of different neighbourhoods subjected to public disorder, and dealing with the individual appeals, we shall identify the applicable sentencing principles.
4. There is an overwhelming obligation on sentencing courts to do what they can to ensure the protection of the public, whether in their homes or in their businesses or in the street and to protect the homes and businesses and the streets in which they live and work. This is an imperative. It is not, of course, possible now, after the events, for the courts to protect the neighbourhoods which were ravaged in the riots or the people who were injured or suffered damage. Nevertheless, the imposition of severe sentences, intended to provide both punishment and deterrence, must follow. It is very simple. Those who deliberately participate in disturbances of this magnitude, causing injury and damage and fear to even the most stout-hearted of citizens, and who individually commit further crimes during the course of the riots are committing aggravated crimes. They must be punished accordingly, and the sentences should be designed to deter others from similar criminal activity.
5. This is not new found sentencing policy. In the context of a riot in Cambridge some 40 years ago, this court observed:

“When there is wanton and vicious violence of gross degree the court is not concerned with whether it originates from gang rivalry or from political motives. It is the degree of mob violence that matters and the extent to which the public peace is broken...

Any participation whatever, irrespective of its precise form, in an unlawful or riotous assembly of this type derives its gravity from becoming one of those who by weight of numbers pursued a common and unlawful purpose. The law of this country has always leant heavily against those who, to attain such a purpose, use the threat that lies in the power of numbers...

In the view of this court, it is a wholly wrong approach to take the acts of any individual participator in isolation. They were not committed in isolation and, as already indicated, it is that

very fact that constitutes the gravity of the offence.” (*R v Caird*
[1970] 54 Cr. App. R 499 at 506.)

6. This approach reflects consistent sentencing policy for many years and continues in force today.
7. The broad submission on behalf of each appellant is that the sentences passed on the individual offender for his or her individual offence were disproportionately severe. If the court were dealing with a single isolated offence, that submission would have considerable force. If, for example, a young man went down a quiet street in the middle of a town miles away from any rioting, but at a time when rioting was occurring miles away elsewhere, and broke into shop premises and there, without causing any damage, stole some cigarettes, and then left the premises, for the unfortunate shopkeeper to discover on the following morning that he had been burgled, the case would be serious enough. It would properly be dealt with in accordance with sentencing principles as the offence that it was, an offence without the aggravating feature that the offence formed part of the mob criminality which produced the public disorder.
8. It is elementary that sentencing courts cannot ignore the context in which the crime or crimes for which sentence is to be passed was committed. It is an essential feature in the assessment of culpability. In some cases, the context would provide the most powerful mitigation, for example, a genuine mercy killing as a final act of love and devotion. In other cases, including the present appeals, the context hugely aggravates the seriousness of each individual offence. None of these crimes was committed in isolation. Eight of them were intrinsic to or arose from the widespread lawlessness and two more were intended to contribute to or aggravate it at a time when the disorders were at their most disruptive and alarming.
9. It was observed on behalf of some of the appellants that their involvement followed earlier criminal activity by others. While that is factually correct, it provides no mitigation whatever for criminal activity which created or exacerbated the public disorder problem with which police and fire officers were dealing. The reality is that the offenders were deriving support and comfort and encouragement from being together with other offenders, and offering comfort support and encouragement to the offenders around them. Perhaps, too, the sheer numbers involved may have led some of the offenders to believe that they were untouchable and would escape detection. That leads us to address the suggestion that perhaps this level of public disorder should be treated as “mindless” activity. It was undoubtedly stupid and irresponsible and dangerous. However none of these appeals involves children or young offenders (where different sentencing considerations arise) nor indeed offenders with significant mental health problems. None of the offenders before us was “mindless”. The actions were deliberate, and each knew exactly what he (and in one case, she) was doing.
10. The next broad submission to be addressed is that the sentences were inconsistent with existing sentencing guidelines. Section 142 of the Criminal Justice Act 2003 (“the 2003 Act”) provides:
 - “(1) Any court dealing with an offender in respect of his offence must have regard to the following purposes of sentencing:

- (a) The punishment of offenders,
- (b) The reduction of crime, (including its reduction by deterrence),
- (c) The reform and rehabilitation of offenders,
- (d) The protection of the public, and
- (e) The making of reparation by offenders to persons affected by their offences.”

Section 143(1) provides:

“In considering the seriousness of any offence, the court must consider the offender’s culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably have caused...”

Guideline judgments given by this court, together with guidelines issued by the Sentencing Guidelines Council and the Sentencing Council reflected these principles both before and after the enactment of sections 142 and 143 of the 2003 Act.

11. For offences committed after 6 April 2010, section 125(1) of the Coroners and Justice Act 2009 (“the 2009 Act”) provides:

“Every court –

- (a) must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender’s case and
- (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the function,

Unless the court is satisfied that it would be contrary to the interests of justice to do so.”

Further for such offences, section 174(2) of the 2003 Act, as amended by paragraph 84 of schedule 21 to the 2009 Act, makes clear that when sentencing for offences committed after 6 April 2010, the court must:

“(a) identify in the definitive sentencing guidelines relevant to the offender’s case and explain how the court discharged any duty imposed on it by section 125 of the Coroners and Justice Act 2009

(a)(a) where the court did not follow any such guidelines because it was of the opinion that it would be contrary to the interests of justice to do so, state why it was of that opinion.”

12. The same provision amends section 174 to cover guidelines issued by the Sentencing Council for England and Wales under section 120 of the 2009 Act. The guidelines which fall within the ambit of section 120 include guidelines issued by the Sentencing

Guidelines Council under the 2003 Act which were in effect immediately before section 125 of the 2009 Act came into force, as well as guidelines included in any judgment of this court given before 27 February 2004 which have not been superceded by new sentencing guidelines. (see paragraph 7(1) and (5) of the Coroners and Justice Act 2009 (commencement number 4 (Transitional and Saving Provisions) Order 2010.)

13. When formulating guidelines one feature to which the Sentencing Council must have regard is the “need to promote consistency in sentencing” (see s 120(11)(b) of the 2009 Act). This legislation does not constrain the proper exercise of individual judgment on the specific facts of the case and the provision in section 125(1)(a) that the court “must follow... any sentencing guidelines” does not require slavish adherence to them. This follows not only from the fact that the latitude given by the legislation to sentence anywhere within the offence range (see s125(3) and (4)) but, more generally, because of the specific provisions of s125(1) which expressly removes any obligation to follow the guidelines where “the court is satisfied that it would be contrary to the interests of justice to do so”.
14. In our judgment the effect of current legislation is simple. The court should approach the sentencing decision by reference to any relevant guidelines (which effectively apply the legislative requirement to consider culpability and harm even when not necessarily expressed in those terms). This provides the starting point and it produces the desirable consistency of approach to sentencing decisions up and down the country without sacrificing the obligation to do justice in the individual and specific case. The often quoted aphorism, that sentencing guidelines are guidelines not tramlines, continues to be fully reflected in the present legislative framework. The principles were summarised in *R v Height and Anderson* [2008] EWCA Crim 2500 at paragraph 29 in the context of schedule 21 of the Criminal Justice Act 2003, summarising numerous decisions to the same effect:

“we have lost count of the number of times when this court has emphasised that these provisions are not intended to be applied inflexibly. Indeed, in our judgment, and inflexible approach would be inconsistent with the terms of the statutory framework...even when the approach to the sentencing decision is laid down in an apparently detailed and on the face of it intentionally comprehensive scheme, the sentencing judge must achieve a just result.”
15. Those observations applied to the statutory provisions governing sentencing in the most serious criminal cases, murder. The legislation relating to sentencing guidelines issued by the Sentencing Council cannot, we believe, impose a more rigid system than that which applies to the statutory sentencing framework created for sentencing in murder cases. What is more, nothing in the 2009 Act has diminished the jurisdiction of this court, where necessary, to promulgate judgments relating to the principles and approach to be taken to sentencing decisions. They bind sentencing courts. The relationship between this court and the Sentencing Council proceeds on the basis of mutual respect and comity.
16. Guidelines of possible relevance to the offences with which these appeals are concerned have been issued by this court in relation to handling offences, in cases

such as *R v Webbe and others* [2002] 1 Cr App R (S) 82, by the Sentencing Guidelines Council in relation offences of theft and burglary, and by the Sentencing Council in relation to offences of violence. However none of these guidelines contemplated the offences with which they are concerned would take place within the context of the nationwide public disorder to which we have referred. Therefore sentences beyond the range in the guidelines for conventional offending (i.e. offending which lacked the aggravating features of widespread public disorder common to these appeals) were not only appropriate, but for the reasons we have already given, inevitable. As we have explained these principles are long established. Nothing in any sentencing guideline undermines them or reduces their application.

17. For these reasons, we endorse the observations of His Honour Judge Gilbert QC by whom many of the present appeals were heard, that:

“...the context in which the offences of the 9th August were committed takes them completely outside the usual context of criminality. For the purposes of these sentences, I have no doubt at all that the principal purpose is that the courts should show that outbursts of criminal behaviour like this will be and must be met with sentences longer than they would be if the offences had been committed in isolation. For these reasons I consider that the Sentencing Guidelines for specific offences are of much less weight in the context of the current case can properly be departed from.”

18. Judge Gilbert also indicated a range of sentences which would be applied in Manchester Crown Court in the context of a group of eleven types of offence, most of which were not then before the court and were not directly related to cases before him. His object was to be open and transparent. He explained that he had discussed these issues with his fellow judges in Manchester in an effort to ensure consistency of approach to sentencing decisions arising from the public disorder. However the form in which he communicated publicly the result of these discussions led the broad framework he enunciated to be treated as if it provided guidance to other courts dealing not only with the specific offences then immediately before Judge Gilbert, burglary and handling, but also of the broad ranges of sentence for offences not then before the court, such as arson. Judges in other parts of the country would inevitably respect Judge Gilbert’s work and would wish to maintain consistency of approach with him. But, certainly in relation to offences which were not then being sentenced by Judge Gilbert, they could not know or appreciate the context prevailing in Manchester or the features which form the basis for the upper and lower ends of the range he indicated. It is not altogether far fetched to imagine that other senior judges might form different views on these issues, not least because the rioting and disorder within the jurisdiction of their own courts might have been more, or for that matter less intense than those in Manchester and the aggravating or mitigating features may have been different to those Judge Gilbert had in mind. The result might have been a multiplicity of sentencing indications.
19. What happened here was altogether different from events in Bradford in 2001. Offences committed in the context of public disorder limited and considered specifically in the context of Bradford with no suggestion of outbreaks elsewhere in the country were under consideration. Led by the Recorder of Bradford, His Honour

Judge Gullick, the judges formulated their broad approach to these sentencing problems in the context of widespread public disorder for application in each individual case. They did not announce in advance the sentences which would be imposed for any specific offences, but knowledge of the range of sentences applied in Bradford was quickly derived from the sentences actually passed. These decisions were fully explained publicly, and were then considered in this Court on appeal.

20. It was, as we have indicated, entirely appropriate for Judge Gilbert to make clear that any offence committed in the context of a riot was different in kind from a similar offence committed in isolated circumstances, and for that reason to indicate his intention to depart from the sentencing guidelines provided for specific offences in what he described as the “usual context of criminality”. It is however inappropriate for Crown Court judges to issue, or appear to be issuing, sentencing guidelines. Up and down the country judges will pass the sentences they think appropriate in the context of the public disorder taking place in their own cities, and nationally, and in the light of well understood principles, and in the event of any appeals against these sentences, by reference to the decisions of this court. That is the correct process. Until there are appeals against sentence, this court cannot and should not have any input into the sentencing decisions in the Crown Courts, save in the broad sense that the principles to be applied have in fact already been established.
21. Much the same applies to magistrates courts. Legal advisers to magistrates are indeed legal advisers. It was clearly appropriate for them to advise magistrates that the magistrates’ courts sentencing guidelines were not drafted with offences committed in the context of riot and public disorder in mind and that it was open to courts, if they thought appropriate in the individual cases, to impose sentences outside the range suggested by those guidelines. If any individual sentence was excessive, it would, of course, be subject to appeal to the Crown Court in the usual way.

II. The Facts

22. The question in each of these appeals therefore is whether in the light of the principles we have identified, the sentence in any individual case was manifestly excessive. To enable us to address this question, we shall summarise, as briefly as we can, the basic facts, and put the criminal activity by each of the appellants into its factual context.
23. In summary, rioting and looting broke out first in Tottenham, and then in Tottenham Hale Retail Park on 6th August 2011. This was followed on 7th August by riots in the London districts of Brixton, Enfield, Islington, Wood Green and Oxford Circus in the centre of London. On 8th August looting arson and violence occurred in Brixton, Bromley, Camden, Chingford, Clapham, Croydon, Ealing, East Ham, Hackney, Lewisham, Peckham, Stratford, Waltham Forest and Woolwich. On 9th August outbreaks of rioting arson and looting occurred outside London, notably in Birmingham, Bristol, Derby, Gillingham, Gloucester, Nottingham, Leicester, Liverpool, Manchester, Rochdale, Salford, Sefton and Wirral. The rioting and looting came to an end on 11th August.
24. We shall now set out the factual context in greater detail. On 6 August 2011 a crowd gathered outside Tottenham Police Station demonstrating in support of “justice” for Mark Duggan. The demonstration became violent. Two police cars, a bus and cars were set on fire, shops were set alight. Disorder became widespread. Before long it

had nothing whatever to do with any demonstration. Between 20:45 that evening and 4:30 the following morning the London Fire Brigade dealt with 49 “primary” fires in the Tottenham area and received more than 250 emergency calls from the public. Riot officers and police on horseback were deployed to dispense the crowns, but they came under attack from bottles, fireworks and other missiles. After shops were attacked, looting began. This continued until the early hours of Sunday morning and spread to the Tottenham Hale Retail Park. The premises which were attacked included a Comet store. £350,000 worth of damage was caused to those premises, and stock valued at £855,000 was stolen by a large number of individuals. The appellant, Koyunco, (whose appeal we consider at paragraph 101 and following below) was involved in this offence. He was identified by police officers as he climbed out of the broken entrance to the store.

25. The looting continued in Tottenham into the early hours but by midnight fire crews had managed to bring all the fires under control, although damping down in some burnt-out buildings was continuing. Later that afternoon, trouble erupted in Enfield, and then in Brixton. Approximately 100 hooded youths gathered around Enfield Police Station, and police officers were injured after intervening in an altercation in Brixton. Windows were then smashed in shops in Enfield, and mounted riot police and patrolled the street. Coming towards the late evening, approximately 50 people caused damage to property in Oxford Circus in the West End of London, and disorder spread to Walthamstow, Waltham Forest and Ponders End. Shop premises were vandalised. Looting took place.
26. At 2:20 on Monday 8th August 2011 Scotland Yard reported that police were responding to copycat criminal activity across London and that “small and mobile groups” of looters had been targeting areas of north, east and south London. Gangs of youths were attacking police officers, and shops were being targeted in Waltham Forest. In Enfield the High Street remained cordoned off after disorder in the area had been contained. In Walthamstow the situation was said to be under control after some 30 youths, many in masks, had vandalised the looted shops there. Fire-fighters had been called to a number of fires in Enfield, Brixton and Walthamstow, and 6 fire engines and 30 fire-fighters were fighting a blaze at a shop on Brixton Road.
27. By 6:15 that morning, the Metropolitan Police reported that a further 100 arrests had been made, and 16 people were charged in relation to disturbances overnight.
28. The morning began calmly, and no trouble was reported until the afternoon, when skirmishes began between groups of young people and the police in Hackney as the troubles began to spread further afield. Shortly afterwards, a bus was set on fire in Peckham, and vehicles set ablaze in Lewisham. By 20:00 shop windows had been smashed and looting had taken place in various locations. In Croydon several fires were set. The entire area around West Croydon station was closed by the police during the evening. Numerous shops were broken into, and much looting took place. A large furniture shop, called House of Reeves, which had been open in Croydon since 1867 was set alight and burned to utter destruction. It was one of many shops, cars and buses set alight in West Croydon. The television pictures of this event were stark. Homes, with people at peace in them, were set ablaze and destroyed. Although none of the present offenders is charged with any offence connected with these particular arsons it surely needs no imagination to envisage how terrifying the events of that evening were, and will remain in the memory of the victims.

29. That evening at about 21:30 Lorri McGrane (see paragraph 109 and following) was one of those who looted the premises of Argos in Rowcross Street, London SE1. This store was extensively looted and damaged. The cost of repairing the damage was estimated at £40,000. An estimated £80,000 worth of stock was stolen. When the police attended the scene following a report of a break in, this appellant was seen a short distance away, carrying a television in a large box.
30. In the meantime trouble spread to South Croydon where a man was shot and killed. There was rioting in parts of West Bromwich in the Midlands, premises at Teddington in Oxford were set alight and a fire was burned in Barton in Oxfordshire. Fires were burning in Clapham High Street and looting was continuing in Woolwich High Street. It was reported on the BBC that several hundred youths were involved, but that there were no police around. Rioting continued in Ealing where the windows of a Tesco supermarket were put out, a car was set on fire and rubbish strewn in public areas.
31. That night there was violence in Nottingham, in which 40 vehicles were damaged. The police foiled an attempt to break in to the Victoria Centre in Nottingham. The trouble here lasted for about 3 hours. One senior officer described the violence in Nottingham as “motivated” by the London riots. In the meantime Essex and Suffolk police sent officers to London to assist the Metropolitan police to deal with the disorder. Indeed by 9th August an extra 10,000 police officers were deployed in London. The numbers included 1700 officers from other forces around the country who were, of course, no longer available to protect public order in the places for which their forces had specific responsibility. The streets of London became quieter but rioting and looting was spreading further afield. The worst troubles occurred in Manchester, Liverpool and Birmingham.
32. During the evening of 8th August Blackshaw (see paragraphs 54 and following) created an event on the Facebook social networking site. The objective was a riot in Northwich.
33. At 00:45 on 9 August a police station in Handsworth in Birmingham was set on fire, and shortly afterwards Merseyside Police confirmed that they were dealing with a number of incidents in South Liverpool, which included cars being set alight. Some 200 rioters hurled missiles at officers in Smithdown Road Liverpool. A few minutes later BBC staff reported that hundreds of youths were ransacking a Panasonic store in West Ealing, and there were then disturbances and troubles in Derby.
34. It was about this time that Sutcliffe (see paragraph 60 and following) used Facebook to construct a webpage called “The Warrington Riots”.
35. To underline one specific aspect of all these offences we mention that a friendly international soccer match between England and Holland was called off that morning because of the rioting in London. The story of the public disorder in this country had a vast international dimension. Television films of London burning were seen throughout the world. We have no doubt they were a source of incredulity abroad as they were at home, and of considerable dismay among those who retain affection for this country. The rioting also enabled a spokesman for a dictatorial regime abroad to equate those conducting demonstrations for greater civil liberties with the rioters here.

36. By 17:46 reports were received of rocks and stones being hurled at police vans by gangs of youths in Salford, and disorderly conduct was reported in Birmingham, where several groups tried to get into various shopping and office centres, and had to be dispersed by officers using batons. However shortly after their dispersal around 500 people gathered outside a shop, and then a violent crowd broke into a supermarket in the city centre. This crowd of some 300 people was dispersed, but the gangs re-grouped and attacked a number of shops and a Job Centre in Queen Street, and set fire to a police station in Handsworth. In Gloucester in the central shopping area a number of stores were reported to have been targeted by vandals, and close to the Cathedral crowds set fire to a building, many rubbish bins, and two cars.
37. At 19:28 there was an appeal by the police in Manchester for calm following a number of attacks by rioters on shops in Manchester City Centre and Salford. Continuing reports of trouble in Birmingham and West Bromwich were received. And in Basildon in Essex, some 350 youths smashed shop windows and set fires in the town centre. When fire-fighters attempted to respond to an incident, they were attacked by the rioters. There were problems in Nottingham where a police station was fire bombed by a group of rioters. In Birmingham a public house was looted, its windows smashed and fires started. Eleven shots were fired at police officers who attended the incident and petrol bombs were thrown at them. A police helicopter came under fire.
38. The public disorder in Greater Manchester and Salford starting in the afternoon of 9th August and continuing into the following morning was severe. Extensive damage was caused to many business, most of which had been looted. The economic cost to Salford alone is likely to run into millions of pounds. 155 fires were reported in Salford and Manchester City Centre. 147 premises, mainly business premises, were damaged. Officers were attacked and residents, business owners and staff put in fear for their own safety. Due to fear of attacks on them, the fire brigade was forced to send 9 fire-fighters to each incident, and 351 fires were dealt with. The fire brigade was forced to withdraw from 4 of these fires because of attacks on fire-fighters by youths throwing bricks.
39. Hassan Halloway (see paragraph 78 and following), was seen in Dale Street, Manchester on the evening of 9th August, was seen directly participating in the rioting, orchestrating a group, and throwing bricks at police officers on two separate occasions. In between the two incidents of direct violence he burgled 5 retail premises and stole property from 4 of them. Gillespie-Doyle (see paragraph 94 and following) was one of those who entered Sainsbury's store in Deansgate Manchester. At 21:32 Gillespie-Doyle was observed on the CCTV system entering the premises. He went behind one of the tills and removed cigarettes from the shelves.
40. Another shop, a branch of Jessops in the centre of Manchester, was also attacked and looted. Vanasco (see paragraph 88 and following) joined in with others in burgling the store and he stole property worth in the region of £300. That night the store suffered damage valued at between £15,000 and £20,000 and stock valued at £10,000 was stolen from it.
41. Overnight between 9th August and 10th August clashes between rioters and looters and the police continued in the early hours in many areas outside London, which remained calm, and which were now focussed on the Midlands and north west of England.

42. On the evening of 9th August, a pawn shop in the shopping precinct in Salford was broken into. The property looted from the shop included a 32 inch television. On 11 August the police went to the home of Craven (see paragraph 119 and following). The television was found there.
43. At 12:40am Beswick (see paragraph 128 and following) was found by the police close to the troubled areas in Salford Precinct. In the boot of his car at 37 inch television, stolen from a shop in Salford, was found. A few minutes later, at 12:50 Carter (see paragraph 134 and following) was arrested in King Street in Manchester. He was found in possession of approximately £500 worth of stolen items of clothing, which came from a shop which had been looted.
44. In the early hours, reports were received of disorder in Bristol City Centre. All this paled into insignificance when set against the emerging news of a terrible incident which occurred in Birmingham in what appears to have been a hit and run incident. In view of a likely trial for homicide, we expressly refrain from making any comment about the facts of this case.
45. Later that afternoon, the Association of Chief Police Officers reported that 6 forces had required assistance during the previous night. They were Avon and Somerset, Gloucestershire, Greater Manchester Police, the Metropolitan Police, the West Midlands Police, and the Nottinghamshire Police. 250 police officers from Scotland were dispatched to the Midlands and the north of England to help deal with the disorder.
46. Trouble began again in Manchester at 17:30. Premises in exchange square and the Manchester Arndale Centre were attacked by rioters, and hundreds of looters were reported to be attacking premises in Deansgate. Trams were unable to move in the Market Street because of jobs and onlookers. Brawls then broke out in Market Street Manchester. The rioting continued that evening, with businesses, banks and hotels and bus stops being smashed, and shops looted.
47. The effect of the disturbances in Manchester and Salford were summarised into community impact statements dated 14 August 2011. The significant points are stark. Between 18:00 on 9 August and 4:00 on 10 August Greater Manchester Police received reports to attend 363 incidents, and between 17:00 and 4:00 on the same night, the number in Salford was 356. The main focus of the disorder was looting, smashing shop windows, and looting in the course of what was identified as sustained attacks from groups of those determined to enter them and make off with their stock and their money. When police officers attended the scene to restore order they came under sustained attack, and 20 of them were injured while performing their duties. In total 155 fires were reported, and fire fighters performing their duties came under sustained attack. 147 premises were damaged and the cost of damage runs into millions of pounds. This figure takes no account of loss of earning, loss of revenue, stolen and damaged stock losses and consequential loss caused because business premises had to be closed.
48. Judge Gilbert QC dealt with four of the cases which are the subject of the present appeals on 16th August 2011. Like other judges and magistrates courts, his court had dealt with the cases brought before it with remarkable speed and efficiency. As the Recorder of Manchester he made these observations about the impact of the offences.

“To anyone who lives or works in Manchester or Salford, the effect of what had happened was heartbreaking. This (Manchester and Salford taken together) is a hard working city with a wonderfully diverse society which is one of its great strengths. Manchester and Salford City Councils and their communities have worked hard to get this city to put its best foot forward. Some who live outside this great city may be unaware of the dedication shown by those Councils and other parts of the community to putting this City back on its feet once the recession of the 1980s had taken its toll, and then again after the IRA bomb in 1996. The achievements in regeneration have been substantial, not least the renewed vitality of the city centre’s commercial core. To those of us who knew Manchester and Salford in the 1970s and early 1980s, the transformation has been quite remarkable. The city has struggled and must still struggle through bad economic times so that all of its areas can benefit from the regeneration which that hard work has produced. The commercial life of the retail sector is no small part of that. It provides jobs for large numbers of people, and services to the whole population of the area. It also supports Manchester City Centre and Salford Quays in providing cultural vitality to the region in theatres and concert halls, clubs and all the other facilities of a vibrant city centre which adds up to 100,000 people in all over a weekend evening.”

49. The London-wide community impact statement includes the following passage:

“Although at first the violent disorder was directed at police officers, with over 100 officers being injured over the 3 nights, it quickly became focussed on business premises and residential properties within the areas affected. Many commercial premises were either ransacked by looters or set ablaze by arsonists. Many homes were broken into by marauding gangs intent on burglary. Many vehicles were also stolen and then set alight during the violent disorder. Some of these fires quickly became out of control, spreading to residential premises and flats above business premises, endangering life and leaving many local people homeless. Although no specific community groups have been targeted in the attacks, members of the public have been injured and tragically an elderly male lost his life in Ealing as a result of the disturbances.”

50. A community impact statement prepared in respect of Southwark describes violence which erupted in Southwark on the afternoon of 8th August, initially directed at police officers and local business. A number of police officers were injured, and the police station at Peckham came under sustained attack with windows smashed and a petrol bomb thrown at the buildings. Individuals using their motor cycles were attacked, so were buses, and shops were attacked damaged and looted. Many members of the

public were assaulted and a Mosque at the Old Kent Road was attacked after the occupants made two citizens' arrest for looting. The Borough police at Southwark recorded 252 offences which included arson, robbery, burglary and grievous bodily harm. This was described as "the worst instance of serious public disorder in the recent history of the Borough. The local communities were devastated and saddened...and they are determined to stand together to re-build and restore the excellent community relations that existed prior to that appalling evening".

51. The Haringey Borough community impact statement described the initial outbreak of violent disorder on 6th August which was directed at police officers who were subjected to a prolonged missile attack. Vehicles were high-jacked the set ablaze, and then the order spread to a wide range of premises including jewellers, and mobile phone and electrical stores. Commercial premises were broken into ransacked, looted and set alight. Fires quickly ran out of control, endangering life and leaving many people homeless. The High Road in Wood Green was closed to traffic for 48 hours, and the High Road in Tottenham was closed for a week. The cost of damage to local authority vehicles alone was assessed at £600,000. Among the more frightening incidents, a bus driver was dragged from his vehicle and attacked, and then bus was set on fire, and television pictures of it circulated throughout the country, and indeed overseas. A barber shop run by an 89 year old man for the last 41 years was ransacked: all the equipment, including the kettle to make tea, was taken. A building which contained flats for 20 families was completely destroyed by fire.
52. In very relative terms Nottingham was not as badly affected as parts of London, Manchester and Salford. Nevertheless it is salutary to remind ourselves that the impact of the rioting in Nottingham, even if relatively speaking less serious than rioting elsewhere in the country, was itself extremely serious. On the evening of the 8th August significant disorder was reported in the St Ann's area, with cars damaged then set on fire, and a petrol bomb attack on the police station. Then, in the early evening, there were numerous incidents of disorder across the city and conurbation, with incidents not only in St Ann's, and in the city centre, but in areas like Bestwood, Bulwell and Meadows. The incidents involved the destruction of vehicles by fire, damage to premises by fire, and looting of their contents of two shops, including a jewellers shop. During both nights the disorder lasted until well into the early hours. Several groups of youths were involved. Many of them wore face coverings and were armed with weapons and missiles, and the police were subjected to numerous attacks. In summary, at least 25 vehicles were damaged or destroyed by fire. A college was damaged by fire. A school was occupied by a gang throwing missiles. Two city shops were entered and the contents stolen. A number of police stations were attacked with petrol bombs. Police were subjected to violent attacks. Officers were drafted in from elsewhere to cope with the public order problems. At the height of the violence on 9th August the number of calls received by the police increased by 47%. The additional cost of the policing operation was over £1 million. The premises damaged and attacked ranged from small family retail business, to large commercial chains, and included schools, police stations, and private dwelling houses. We emphasise that this was serious public disorder. But serious as it was there were cities where the magnitude of public disorder was much greater.

III. The Individual Appeals

(a) Incitement by the use of Facebook

Jordan Philip Blackshaw and Perry John Sutcliffe

Jordan Philip Blackshaw – the facts

53. We shall deal with the cases of these appellants together although their offences were committed entirely independently of each other.
54. On 16 August 2011 at Chester Crown Court before the Recorder of Chester, His Honour Judge Elgan Edwards, Blackshaw pleaded guilty to committing an offence contrary to section 46 of the Serious Crime Act 2007, encouraging or assisting offences believing that one or more would be committed. The offence or offences which he believed would be committed were riot, burglary and criminal damage. It is important to emphasise that the applicant admitted and was convicted of doing an act capable of encouraging the commission of riot, burglary and criminal damage, and doing so believing that what he did would encourage or assist the commission of one or more of the offences, and that one or more of the offences would in fact be committed. This was no joke. He was sentenced to four years' imprisonment.
55. At 10.30 on 8th August 2011 he used Facebook to set up and plan a public event called "Smash down in Northwick Town". It would start behind the premises of McDonalds at 13.00 next day. The riots were in full flow. The appellant knew perfectly well that they were. The purpose of his website was to wreak "criminal damage and rioting in the centre of Northwich, and the event called for participants to meet in a restaurant in Northwich at lunchtime on 9th August. The website was aimed at his close associates, who he referred to as the "Mob Hill Massive", and his friends, but he also opened it to public view and included in the website references to ongoing rioting in London Birmingham and Liverpool. He posted a message of encouragement on the website that read "we'll need to get on this, kicking off all over".
56. Fortunately members of the community who saw the website were revolted by it and alerted the police. In addition, some of them left messages on the website expressing their disgust in no uncertain terms. The police infiltrated the website and posted messages on it, warning of the consequences if the website were followed. By the time it was closed down by the police, 9 people had confirmed their intention to attend. In the result, the offence which the appellant was inciting did not take place.
57. Following his arrest at 11.00 on 9th August, the appellant admitted that he had watched media coverage of the riots on the television and that he set up the website. He agreed that the event would be carried out, and that he would have attended himself if he had had enough alcohol. He said that it was not something that he would have done sober, and claimed that he had set the site up for a "laugh and to meet people to drink with", but in later discussions he agreed that what he had done was stupid and that the effect of his actions was to encourage rioting and looting. He accepted responsibility for his actions. As we have indicated, his later guilty plea made clear that he had not set up the website as a joke. He believed that the offences he was inciting would happen.
58. The appellant is 21 years old. He has no criminal record, save for some motoring convictions, but in May 2011 he was cautioned for causing criminal damage. In the pre-sentence report attention was drawn to the fact that although he described the

offence as a “sick joke” that had gone wrong, he knew that his invitation would make its way to many people.

Perry John Sutcliffe – the facts

59. On 16th August 2011 in the Crown Court at Chester before the Recorder, this appellant pleaded guilty to intentionally encouraging or assisting the commission of an offence contrary to section 44 of the Serious Crime Act 2007. This conviction meant that the appellant accepted that he had encouraged the commission of riot, and intended to encourage its commission. In other words this too was deliberate action, with a specific intention, and certainly no joke. He was sentenced to four years’ imprisonment.
60. In the early hours of 9th August the appellant used Facebook to construct a web page called “The Warrington Riots”. On this web page he included a photograph of police officers in riot equipment in a “stand off position” with a group of rioters. He also included a photograph of himself and others in a pose described by police as “gangster like”. He sent invitations on his Facebook to 400 contacts. They were invited to meet at a Carvery in Warrington at 7pm on 10th August. In addition to his own Facebook contacts the website was also made available for general public viewing. Through the website 47 people confirmed that they would go to the meeting. In the meantime the police received communications from local residents who had seen and were concerned by what they read on the webpage and they closed the site down in the early hours of 9th August. In the result no one attended the meeting. The applicant was arrested at 11.00 on 9th August. He gave two “no comment” interviews. The court proceedings were rightly treated as urgent.
61. At the hearing the appellant pleaded guilty. After he entered his plea it was said on his behalf that he went back to the Facebook site and cancelled the event. It was further said that he woke up at around 10.00 and received a telephone call from a friend who had seen the entry on Facebook and, asked him about it. This had prompted the appellant to go to the Facebook site and cancel the event, posting a remark to the effect that it was a joke. It was suggested that the prosecution could not gainsay the appellant’s assertion that he brought about closure of the event before the police arranged for the Facebook site to be closed down. After discussion the Recorder said that he would deal with the appellant on the basis that he had retracted the entry as he had changed his mind. The issue which the discussion did not address was the reason for the change of mind. It was said on his behalf that the appellant decided to cancel the event after his friend had “asked him about the Facebook entry”. It was however not suggested that he had done so out of an overwhelming sense of regret or concern about the possible consequences of his entry. Nevertheless it was argued that the appellant had attempted to mitigate his crime by “putting things right”. The circumstances in which the appellant cancelled the event was important to any mitigation that might be available. At that stage the evidence on the point was incomplete. In an endeavour to establish the facts we asked for further evidence to be provided by the prosecution. In due course this was circulated to the appellant’s solicitor. We also sent a draft of the judgment which would be based on the further evidence, if admitted. We invited submissions whether the evidence should be admitted in the interests of justice under section 23 of the Criminal Appeal Act 1968. We also made clear that if the appellant wished to give evidence he would be permitted to do so. He declined the opportunity. We received written submissions

from the appellant's solicitor. In effect she asked us to rely on and treat ourselves as bound by the discussions before Judge Edwards. That was not good enough. We had to proceed on the basis of evidence which was not immediately available on 16th August. The interests of justice were clear. The case should proceed on the facts.

62. They show that at 10.15am on 9th August police went to an address in Warrington searching for the appellant. At this address they spoke to an individual called Phil O'Neil, making inquiries about the appellant's whereabouts. Then they visited another address in the area and asked another friend of the appellant about his whereabouts. At 11.00am police officers attended 35 Richmond Avenue, Latchford, and they saw the appellant in company with Phil O'Neil, to whom they had spoken some 45 minutes or so earlier. The two men were coming out of the front garden of this address.
63. A forensic analysis of the appellant's computer equipment establishes that the posting on Facebook which cancelled the event and said it was "only jokin f... hell" was created at 10.54am, literally a few minutes before the police arrived. Although we approach the decision in the appeal on the basis that the appellant decided to retract the Facebook entry, as his advocate suggested, the inference seems clear that this decision followed an intimation that the police were searching for him.
64. The appellant is 22. Earlier this year he was convicted of possession a class B drug and fined. According to the pre-sentence report he did not remember much about the offence as he had been drinking during the afternoon and evening, and when he was contacted by a friend he had been unable to recall what he had done.

The Sentencing Decision

65. In his sentencing remarks the judge made clear to both appellants that the sentence had to be a deterrent sentence to demonstrate that this conduct would not be tolerated. He took account of their early guilty pleas.
66. In relation to Blackshaw, he noted that the appellant had sought to take advantage of the public disorder and criminality occurring elsewhere and to transfer it to the peaceful streets of Northwich. If such disorder had arisen, he might become personally involved in the troubles. In short he had sought to organise criminality which had revolted many right thinking members of the community, who had expressed their revulsion by contributing to the detection of the offence, enabling the police to give warnings against any attendance. The appellant had sought to create public disorder and mayhem in Northwich. A custodial sentence was inevitable.
67. Taking account of the appellant's plea, but as a deterrent to others a sentence of 4 years' detention was appropriate.
68. In relation Sutcliffe the judge identified the relevant features of the case, including the fact that no less than 47 people had agreed to attend. They were fortunately outweighed by the number of residents in Warrington who had contacted the police. The appellant had placed considerable strain on police resources in Warrington and caused real panic in the town, where a number of people anticipated scenes of riot similar to those which had been occurring throughout the country. The judge took the

view that the case was more serious than that of Blackshaw, but he gave credit to the appellant for having changed his mind.

69. Again the sentence had to be a deterrent sentence. This behaviour would not be tolerated. A sentence of 4 years imprisonment was imposed.
70. In relation to Blackshaw the submission on the appeal is that the sentence was manifestly excessive. Insufficient credit was given for the early guilty plea, and disproportionate weight attached to the necessity to impose a deterrent sentence. The judge failed to give adequate weight to the fact that this was a single stupid act. No one had been contacted outside the entry on Facebook. There was nothing persistent about his conduct. He had not taken any further steps to incite any criminal activity. According to the written grounds of appeal the judge had failed to “distinguish between tangible acts of criminality and incitement which, in actual fact, leads to nothing”. Disproportionate weight to the necessity to deter others had been given by the judge to what was a spontaneous but monumentally foolish act.
71. In relation to Sutcliffe the effect of the written and oral submissions proceeded on the same broad premise and the judge was criticised for emphasising too heavily the reduction of crime which followed from the attention he paid to the potential for harm rather than the actual harm which had followed. It was suggested that insufficient attention had been given to the fact that the appellant thought better of his actions and closed down the site before any harm could be done. We are however unable to accept that the closing of the site was not directly connected to the information that the police were looking for him. It was also suggested that there was a degree of disparity in relation to different sentences already imposed in other parts of the country, and in particular the sentence imposed by His Honour Judge Milmo QC at Nottingham Crown Court in the case called R v Pelle. This contention, too, is without foundation. In Pelle the maximum sentence available to Judge Milmo was 5 years imprisonment. In the present case it is 10 years imprisonment. In both cases a reduction to allow for the guilty plea was appropriate. In other words, even if all other features of the case were identical (which they were not) the disparity argument is flawed at the outset.
72. When dealing with these two appeals we are, of course, conscious of the fact that in the end no actual harm in the streets of Northwich and Warrington actually occurred. It is not however accurate to suggest that neither crime had any adverse consequences. We know for a certainty that in each case a number of decent citizens were appalled by what they had read, and given the widespread rioting throughout the country, which at that time was spiralling out of control, we have no doubt that some, at least, of them were put in fear. In any event the fact that no rioting occurred in the streets of Northwich or Warrington owed nothing to either appellant. The reality was that armed with information from members of the public who were disturbed at the prospect, the police were able to interfere and bring the possibility of riot to an end.
73. We are unimpressed with the suggestion that in each case the appellant did no more than make the appropriate entry in his Facebook. Neither went from door to door looking for friends or like minded people to join up with him in the riot. All that is true. But modern technology has done away with the need for such direct personal communication. It can all be done through Facebook or other social media. In other words, the abuse of modern technology for criminal purposes extends to and includes

incitement of very many people by a single step. Indeed it is a sinister feature of these cases that modern technology almost certainly assisted rioters in other places to organise the rapid movement and congregation of disorderly groups in new and unpoliced areas.

74. As we have already described, well established principles of sentencing have relatively recently been encapsulated in section 143(1) of the Criminal Justice Act 2003. This provides that when deciding the seriousness of any offence the court must consider “the offender’s culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably have caused”. What both these appellants intended was to cause very serious crime, in the case of Blackshaw, rioting burglary or criminal damage, each in the context of serious public disorder, and in relation to Sutcliff, rioting, in the context of serious public disorder. All this was incited at a time of sustained countrywide mayhem.
75. The judge was fully justified in concluding that deterrent sentences were appropriate. These offenders were caught red-handed. For the citizens of Northwich and Warrington that was just as well, because as we have explained, and the guilty pleas acknowledged, neither offender was joking when the Facebook entry was set up. These appeals are dismissed.

(b) Burglary

76. We now come to five offences of burglary, the first of which, in addition involved direct violence against the police.

Hassan Halloway

77. On 10th August 2011 at the Manchester City Magistrates Courts the appellant pleaded guilty to one count of violent disorder and five counts of burglary. He was committed for sentence to the Crown Court. On 18th August he was sentenced at Manchester Crown Court before His Honour Judge Gillbart QC the Recorder of Manchester to a total of 4 years 8 months’ imprisonment. The sentence was calculated on the basis of a 28 month sentence of imprisonment for violent disorder, together with a further 28 months’ imprisonment on each count of burglary, to run concurrently with each other but consecutively to the sentence for violent disorder.
78. The appellant was involved in violent disorder in the circumstances described in paragraph 40. He was noticed by police officers who were dealing with a group of thirty or so men during the disturbances in Manchester at about 19.30 on 9th August. He stood out from the rest of the crowd due to his distinctive clothing and the fact he was wearing a hood. He was orchestrating the group and taunting the police. As officers moved up the street he threw a brick at a police handler and his dog, and when the brick missed, he threw a second brick which also missed. When he was interviewed later he accepted that he had hurled bricks and charged at the police, and as part of the crowd which eventually fled from the police he noticed that a restaurant had been broken into. He went inside and stole two bottles of wine. Together with other members of the group he then proceeded towards the Piccadilly area. There he noticed that a Spar store had been attacked. Again he went inside and stole cigarettes and alcohol valued at £190, which he handed out to others. From there he moved on to Nobles Arcade where he tried to get money out of some of the machines. He then

went on to another store, which had been attacked, and stole crisps and chocolate, and then to another store, Marks and Spencer, where he took and handed out to the crowd some £90 worth of spirits. In the course of this burglary he cut his hand.

79. He then came into the street and saw the police trying to clear the street. He noticed the officer he had targeted with his brick at the earlier stage. He picked up another brick and threw it at a police van. He then ran off into the crowd. Later, with his hood removed he returned to the police seeking their assistance for the cut he had sustained to his hand. He was arrested for violent disorder. Initially he denied responsibility, but eventually he said “yeh, but I missed”.
80. In his interview he said that he had heard about the riots in London and wanted to experience the thrill. That is why he became involved. He wanted to create “lawlessness” and had thrown items at the police to stop them. He had not considered the consequences of his actions.
81. The appellant is 39 years old. He had a number of previous convictions, but his most recent conviction, for common assault, took place in 2000. He had never previously served a custodial sentence.
82. In the pre-sentence report the appellant accepted full responsibility for his behaviour and considered he had become involved due to “mob mentality”. He had been out of work for six years. He had received medication for depression and panic attacks. However his cognitive skills were not impaired. He was intelligent and educated.
83. The grounds of appeal accept that it was entirely proper for Halloway to be sentenced outside the Sentencing Council Guidelines, but argued that the sentencing range identified for the burglary offences was too high, and the total sentence of 56 months’ imprisonment failed sufficiently to consider Halloway’s personal circumstances, his guilty plea and admission in interview, and that as a totality the sentence was manifestly excessive. Our attention was drawn to a good family background, and it was emphasised that his initial presence in the city Centre had been for a legitimate reason. In other words, he had not come to the city in order to participate in the riots, but rather had become caught up with them.
84. The judge accepted that the appellant’s initial presence had been legitimate, but considered that this was irrelevant because his subsequent activities outweighed the fact that he had not deliberately gone into the city to participate in the disturbances. He had joined a group of thirty who had caused serious violent disorder in the City Centre, and was one of those who had “orchestrated” what was happening, as well as hurling bricks at the police. As the disorder moved down the streets he had entered stores which had been attacked, stealing from them, and handing out the results of his thefts to others.
85. The judge reflected on the mayhem and general damage to Manchester believing that a deterrent sentence had to be passed. He reflected on the totality. He made the order currently under appeal.
86. The only issue in this appeal is the total sentence. It might have been constructed differently. A deterrent sentence of 4 years and 8 months’ imprisonment for an individual who had attacked the police on two separate occasions in the course of

rioting, and had burgled five separate premises, sharing out the proceeds of his crime with others who were also participating in the disorder was not manifestly excessive. This appeal is dismissed.

Enrico Vanasco

87. On 15th August 2011 at Manchester City Magistrates Court, the appellant pleaded guilty to burglary. On committal for sentence to the Crown Court, on 18th August he was sentenced by the Recorder of Manchester to 20 months' imprisonment.
88. The facts have already been partly narrated at paragraph 41. We simply repeat that on the night of the disturbances in Manchester between 9th and 10th August 2011 the appellant entered a camera shop in Princess Street where he stole a camera valued at just under £300. During the course of these disturbances the shop had suffered significant damage, valued at between £15,000 and £20,000, and stock had been valued at £10,000 had been stolen from it. He was linked to the scene of the crime by a DNA profile found in some blood at the store. He was arrested on 14th August. He admitted stealing the camera. He explained that he had watched the disturbances on the television, and had gone to the City Centre out of curiosity. He had seen others breaking in to the store, and as he needed a camera, he followed them in and took one. He told the police where the camera was.
89. The appellant was 25 years old. He had no relevant previous convictions. In the pre-sentence report he accepted his responsibility for the offence, but preferred to view himself not as a participant in the disturbances but as an observer of them. He was employed as a chef at a well known local restaurant, and had been in work for the majority of the 9 years he had lived in this country. He usually earned £350 per week.
90. Passing sentence the judge acknowledged that it was a tragedy to see the appellant in the dock, because he had great skills which gave pleasure to many people. But, as the judge pointed out, his work was in the City Centre, and he and the business he worked in, would have been affected by the disturbances that evening, as part of the general damage to the City Centre. He had chosen to enter Manchester knowing of the disturbances, and his presence added to the difficulties. He had compounded this by committing the burglary. He had no previous convictions, and although account was taken of the guilty plea, his offence was a serious one.
91. The argument on the appeal is that the sentence is manifestly excessive in the context of sentencing guidelines, and the deterrent purpose which the sentence was intended to serve could have been achieved in any event by a shorter custodial sentence.
92. The appellant was guilty of looting in a vandalised shop, and his crime was intrinsic to and part of the overall public disorder in Manchester that night. The sentence was within appropriate range. The appeal is dismissed.

Michael Gillespie-Doyle

93. On 10th August 2011 the appellant pleaded guilty to burglary at Manchester City Magistrates Court. On committal to the Crown Court, on 16th August, he was sentenced by the Recorder of Manchester to 2 years detention in a Young Offender Institution.

94. This offence took place against the backdrop of the public disorder in Greater Manchester and Salford that started at about 16.30 on 9th August as narrated in paragraph 40. At about 18.00 that evening a Sainsburys store closed early because of the disorder. The staff became aware of large groups of men outside the store moving around the building. They had been seen smashing windows of other buildings, and concerned for the safety of his staff, the manager locked the store, and removed them all into the back offices, locking the doors to those back offices. He then watched what was happening to the store of the CCTV system. It must have been immensely frightening. At 20.10 the store doors were forced open, and a large group of men entered, stealing mainly cigarettes and alcohol. A police officer who was nearby realised what was happening, and with other officers approached the store and checked it. The appellant was seen, together with a juvenile co-accused, running through an “insure” door into the store where they were caught and arrested as they were attempting to steal cigarettes and alcohol.
95. When he was arrested the appellant said “I was on my way home. I only did it because everyone else was”. In interview he said that he had been told that there was a riot, and thought he would go into Manchester where his friends would be. Although he did not intend to become involved in the rioting, he followed the crowds into the store. The appellant is 19 years old. He has numerous previous convictions since 2008 for a variety of different offences, including robbery, possession of an imitation firearm, handling stolen goods, shoplifting, breaches of anti-social behaviour orders, using disorderly behaviour or threatening abusive or insulting words likely to cause harassment alarm or distress.
96. In the pre-sentence report he maintained that he had entered the city out of curiosity, but had become swept up in the atmosphere and so involved himself. He now asserted that he was ashamed and disgusted at what he had done. His offending had begun at the age of 18, and had been serious, but he had been very young when it started. And for the past 3 years he had lived between hostels and friends, having fallen out of the education system at 14.
97. The mitigation, and basis of the submission that the sentence was manifestly excessive are based on the early guilty plea and admission of the offence at interview. There was nothing to suggest that he had been involved with the first wave of rioters who had broken into the store, causing the staff to take refuge, and had come in to the city knowing of the disturbances, only out of curiosity. The part he played in the disturbances was minor, and his offence involved no specific aggression, violence or attempts to resist arrest.
98. In his sentencing remarks the judge took account of the early guilty plea, and the appellant’s relative youth. He also noted, however, that he had “amassed a very considerable record”. He had chosen to enter Manchester knowing the disturbances were “underway” and when he saw that the store had been broken into by others, he took his chance and went in and took some goods.
99. In argument before us no specific criticism is directed at the judge’s sentencing observations. The contention is that the overall sentence was, in the circumstances, manifestly excessive. We disagree. It was within the appropriate range. This appeal is dismissed

Hassan Koyuncu

100. On 1st September 2011 the appellant pleaded guilty at Highbury Corner Magistrates Court to burglary. Following committal for sentence, on 13th September he was sentenced at Wood Green Crown Court before His Honour Judge Ader to 12 months' detention in the Young Offender Institution.
101. This offence took place on 7th August 2011 at the Comet store in Tottenham Hale as described in paragraph 24. These premises had been vandalised. £35000 worth of damage was caused during the attack on it, and no less than £855000 was stolen. A group of police officers who had been dealing with burning vehicles were re-directed to the retail park to deal with reports of this attack. When they arrived they witnessed large numbers of people breaking in to stores and making off with property.
102. The appellant was identified by the police as he climbed out of the broken entrance to the store. He ran away, but was followed and detained. He was arrested. When he was searched a pair of speakers, a media player and a camera were found on him. When he was interviewed he explained how he had arrived at the retail park and seen that the windows had been smashed and that people were inside the store stealing. So he went in, and decided to take "a couple of stereos and a camera".
103. The appellant is 18 years old. He had previous convictions for robbery and attempted robbery when he received a 9 month concurrent referral order for each offence. He had however completed the referral orders without problems.
104. The pre-sentence report referred to his learning difficulties, but there were no psychiatric problems as such, and he displayed reasonable interpersonal skills in interview. He had difficulty in recognising the anti-social nature of his offence, or in appreciating that he had placed himself in the middle of serious public disorder.
105. Before the Crown Court it was accepted that the offence had, in the overall circumstances, crossed the custody threshold, but it was emphasised to the judge, as it was to us, that the appellant was only just 18 years old when the offence was committed, and that the correct sentencing approach was to treat him as if he was 17 at the time of the offence. He had not been to a mainstream school, and he had only ever had 2 weeks work in his life, a job which ended when he was made subject to curfew. The appellant should be treated as someone who had passed an open shop when had already been looted.
106. In his sentencing observations, the judge summarised the relevant facts. He took account of the guilty plea offered at the first opportunity, and that there had only been one previous court appearance. Unfortunately the appellant had not learned his lesson from the leniency of the sentence. He took account of the appellant's age, and acknowledged a level of special educational needs, but added that the appellant knew that what he was doing was wrong. The judge was unimpressed with a note in the pre-sentence report that the appellant had regretted leaving the store via the front because if he had left by the back he would have avoided arrest. The appellant should have regretted ever having entered the store at all.
107. The argument on appeal is that the sentence was manifestly excessive on the basis that the facts of the case merited a sentence other than immediate custody, and that the

deduction for the early guilty plea had only been 25% rather than the 33% to which, following the guidelines, he was entitled. There was no such entitlement. The appellant was caught literally climbing out of the broken entrance to the store carrying property stolen from it. This offender was one of many who contributed to the ransacking of the Comet store. Making due allowances for his age and his personal disadvantages, the sentence was within the appropriate range. This appeal is dismissed.

Lorraine McGrane

108. On 10th August 2011 at Camberwell Green Magistrates Court the appellant pleaded guilty to burglary and following committal to the Crown Court for sentence, on 1 September 2011 in the Inner London Crown Court before His Honour Judge Fraser she was sentenced to 13 months' detention in a Young Offender Institution.
109. This offence arose from the attack at about 21.25 on 8th August 2011 of a large group of rioters on an Argos store in a Retail park in London SE1 as described in paragraph 29. The cost of repairing the damage to the store was estimated at £40000 and estimated £80000 worth of stock was stolen. When the break-in was reported, the police attended the scene. They saw the appellant. She was carrying a television and a large box. When she saw the police she attempted to run away. They stopped her. She told officers the television was hers. The television was put down in the road while the officers were dealing with the appellant. It was then stolen by someone else. The appellant was arrested. She said "I was stopped at the wrong time. These people are nicking everything from Argos. There was stuff lying around outside and I took it. There was worse stuff going on than me just nicking a television".
110. When she was interviewed on the following day she explained that she had been returning home when she saw a mob attacking the Argos shop, and she followed the mob inside. She watched the store being raided. A man carried a television out of the stock room and put it on the floor. She picked it up and walked out of the store.
111. The appellant is 19 years old, and of previous good character. She was unemployed but she is a serving member of the Territorial Army, which supplied a positive character reference. She said that she had been "swept up in the hysteria" of the events. Her involvement in the public disorder had led to her father, with whom she lived, receiving an eviction notice.
112. In mitigation it was accepted that the custody threshold had been passed, but it was argued that any custodial sentence should be suspended. Credit should be given for the early guilty plea and full admissions at the scene and at interview. She had not set out that night intending to become involved in any looting, but was on her way home, and only in a moment of spontaneity had become involved and taken the television.
113. Her father was no longer at risk of eviction. She had been named and shamed in the local news.
114. In sentencing remarks the judge noted that the appellant had initially run away from the police and asserted that the television was her own. She had given differing accounts about how she came to be in possession of the television. The judge took account of the appellant's age, previous good character, and personal circumstances.

There was however the further consideration of the protection of the public in the context of a serious offence committed during a second night of rioting and looting. The sentence could not be suspended, and so, with a starting point of 20 months, reduced to allow for the mitigation, a sentence of 13 months detention was appropriate.

115. The submission is that the sentence was manifestly excessive or wrong in principle, and arising from the judge's application of too high a starting point. Although it was conceded that Sentencing Council Guidelines do not apply in these circumstances, the sentence was significantly higher than the sentence normally imposed in the context of a commercial burglary. It was suggested that there was a potential disparity argument, other defendants having been less severely treated than the appellant.
116. On the material before us there is nothing in the disparity argument. It is, we accept, dispiriting that a young woman of good character should have involved herself in this offence, but her criminal activities were self-evidently intrinsic to the rioting and looting which was in progress. Even allowing for her positive good character, this sentence was appropriate. This appeal is dismissed.

(c) Handling

117. We now come to three offences of dishonest handling. In cases like these, a line needs to be drawn between the offences which arose from and were directly connected with the disorder (which is an aggravating feature in itself) and those which were intrinsic to the disorder (an even more aggravating feature). None of these cases of dishonest handling involves someone who handled stolen goods by way of encouragement of the commission of burglary and theft as part of the disorder. Rather each represents opportunistic involvement after the burglaries had occurred, and although in close proximity to the scenes of disorder, the appellants did not participate or contribute to them. The connection between the offences which they committed and the burglary and theft committed during the disorders takes them outside the ordinary guidelines for handling offences, but not every handling offence committed during the public disorder was as intrinsic to it as, say, the burglaries of shops which had been smashed and looted. The sentences must recognise these distinctions.

Stephen Craven

118. On 12th August 2011 at the city of Salford Magistrates Court, the appellant (to whom we refer at paragraph 43) pleaded guilty to handling stolen goods and theft. Following committal for sentence on 22 August 2011 His Honour Judge Henshall sitting at Manchester Crown Court sentenced him to a total of 12 months' imprisonment for handling stolen goods and 1 month imprisonment for theft.
119. The precise circumstances which led to the arrest of the appellant are not entirely clear, but initially he was arrested at his workplace on 11th August for an offence of burglary. However he was charged with dishonestly handling a 32 inch Samsung High Definition television valued at £300, and theft of a Tesco shopping trolley. On arrest he told the officers where the television was. He said he bought it for £20 from some children, and he told another officer he had been stupid and knew he should not have bought it.

120. In interview this explanation was expanded. The television was bought shortly after 23.00 on 9th August. He had been aware of the scale of the disturbance and had been in his father's home in Salford precinct. He had seen the disturbances with his own eyes and on the television, and he was aware that shops had been broken into when he left his father's home at about 23.00. On his way home a group of laughing youths passed him with the television, which he offered to buy for £20. They accepted. He knew the television was worth about £300 at the time, and he took it home by "a number of passageways". He had found the stolen shopping trolley some 2 weeks before and had stolen it.
121. The appellant was 24 years old. He had minor previous convictions without receiving a custodial sentence. He was employed as a caretaker, and had been living with his partner for 8 years. He had 2 children. With his father he ran a football club, the aim of which was to prevent problems arising in the community associated with boredom.
122. Counsel on his behalf accepted that the custody threshold had been passed, but he urged that any custodial sentence should be suspended.
123. In his sentencing observations the judge acknowledged the guilty plea to both offences. The offence committed during the disturbances. What the appellant had done was to provide an immediate market for a valuable piece of looted property. His offence was therefore aggravated by its proximity to the original offence when he knew perfectly well what was already happening in the streets locally.
124. The appeal proceeds on the basis that the facts advanced in mitigation show that the sentence was manifestly excessive.
125. The most significant feature of this case is its opportunistic nature. The appellant was out on the streets, on his way home. The temptation to "buy" a television at a huge undervaluation was too strong. The offence formed part of the process of public disorder, in the sense that when it was committed the appellant was in close proximity to those who had been involved in the rioting and looting. Nevertheless, given that he did not intend to and did not actually participate in any public disorder, but was, genuinely, walking home when the events occurred, we have concluded that the deterrent element in the sentence can be tempered.
126. A sentence of 6 months' imprisonment would be sufficient. To that extent the appeal would be allowed.

David Beswick

127. On 10th August 2011 at Manchester City Magistrates Court, the appellant pleaded guilty to handling stolen goods. Following committal for sentence, on 16th August he was sentenced at Manchester Crown Court by the Recorder of Manchester to 18 months' imprisonment.
128. Based on his interview following arrest, it appears that the applicant went into Salford City Centre to watch the disturbances. (see paragraph 44 above). He followed a crowd and watched them throwing stones at the police, but had not become involved

himself. At about 12.15am on 10th August he decided to go home. Although he was very low on petrol, did not want to leave his car in the vicinity, in case it was damaged through all the troubles. A friend offered to go and get some petrol for him, and while he was waiting for the return of his friend, another man he knew said he would give him £20 if he looked after a television. It was put in his car pending this mans return, and the applicant was pouring petrol into his car's fuel tank when police officers arrived. What happened then is clear. The officers told him that they would search his car. In the boot they found a 37 inch Sanyo television set stolen from "Cash Generators" and valued at £349-£399. The appellant was arrested. He immediately responded "well like a dick head I was just holding it for someone else". That night "Cash Generators" had some £3500 of damage committed to their store and £1000 of goods taken. CCTV footage did not show any evidence to suggest that the appellant himself had entered the premises, or that he had been in the vicinity at any time.

129. The appellant is 31. He has a number of previous convictions, but none were for offences of dishonesty, and he had never received a custodial sentence. The pre-sentence report suggested that the offence had been committed for financial reasons, and suggested that the appellant did not fully recognise the seriousness of his behaviour and the wider social implications of what he had done.
130. In mitigation it was submitted that the appellant was in employment, and that his involvement was to provide transport to enable the stolen television to be removed from the area. He had been simply caught up in the event.
131. The judge considered that this was a cynical offence, committed by someone who knew what he was doing. He had stood and watched the offending for some hours. By accepting the television he had played his part in the overall public disorder. Grounds of appeal argued that the sentence is manifestly excessive. The judge failed to follow an appropriate guideline, but in any event he failed fully to take account of the available mitigation, and appeared to be punishing the appellant for offences committed by others.
132. We do not accept that the sentence punished this appellant for the actions committed by others. It reflected the context in which the offences were committed. That said, on the available facts this appellant fell to be sentenced for handling stolen goods on behalf of someone else. He was prepared to look after them when he must have appreciated that they represented the proceeds of looting during the course of the public disorder. That makes it a serious offence of its kind. It was closely connected with the public disorder, in which however the appellant himself played no direct part. A sentence of 9 months' imprisonment was appropriate. To that extent the appeal is allowed.

Stephen Carter

133. On 10th August 2011 at Manchester City Magistrates Court, the appellant pleaded guilty to handling stolen goods. On committal to the Crown Court he was sentenced by the Recorder of Manchester to 16 months' imprisonment.
134. As narrated at paragraph 44, at 12.50am on 10th August 2011 police officers attending King Street saw a man walking with some bags. He was asked to stop. He ran from

- officers. He was eventually detained. Within the bags they found boxes of shoes and shirts, all still within their packaging. They had been stolen from a clothing store. Their estimated value was £500. When the appellant was cautioned, he said he had found them on the floor. In effect, this was theft by finding.
135. In interview he amplified this explanation. He had gone into town to see what was happening, and he remembered a shop being broken into. He also witnessed considerable trouble and looting in the City Centre. In an attempt to find his friends he eventually returned to a hostel in which he was staying. As they were not there, he went back into town to look for them. As he could not find them, he decided to return to the hostel where he found the bags of clothes as his made his way back. He admitted the offences.
136. The appellant is 26 years old. He has previous convictions, including convictions for offences of dishonesty and battery. He had recently served a custodial sentence of 10 weeks' imprisonment.
137. The pre-sentence report noted that the appellant had recently separated from his partner who had left with their 16 month old child. He had briefly found himself homeless. He did not attempt to minimise or blame others for his offence, and recognised that the public disorder had adversely affected others.
138. In mitigation it was submitted that the appellant had been extremely intoxicated by alcohol and through misuse of cannabis when he was arrested. He had not intended to become involved in the troubles in Manchester. He had found the bag of clothes in unusual circumstances. He immediately admitted his offence and had made full admissions at the police station. On the night in question he had been asked to leave the hostel because he could not afford to pay the low rent. He was truly sorry for what he had done. His mother and sister have themselves received verbal abuse due to their association with him. He did not commit any offence of violence or looting that night and he had not been involved in the planning of any offence.
139. The judge took the view that this was an opportunistic crime committed by an individual who had entered the City Centre knowing perfectly well that public disorder was afoot. He accepted that the appellant had struggled with alcohol and drugs. Allowance should be made for the guilty plea, but the judge was concerned about the appellant's recent bad history of offending.
140. The submission on appeal is simple. The sentence was manifestly excessive. The issue, as it seems to us once again revolves round the circumstances in which the handling offence was committed. It was a serious offence of its kind. The property was valuable. It was stolen by someone else in the course of looting and public disorder. The appellant's crime stemmed from this public disturbance, but it was not intrinsic to it. The appropriate sentence in this case is 8 months' imprisonment. To that extent this appeal is allowed.

The Court Process

141. We cannot leave these appeals without highlighting the committed and dedicated way in which a number of Crown Courts and magistrates courts dealt with a large number of cases arising out of the public disturbances. Some magistrates' courts sat, literally,

through the night to dispose of the work. However their best efforts would have been unsuccessful, and the speedy administration of justice would not have occurred if the Police Service, the Crown Prosecution Service, the Probation Service and the Prison Service had not fulfilled their own responsibilities by preparing the cases and bringing them and the defendants to early hearings. The disposal of the cases in court represents the very end of a system in which these different services have distinct and independent responsibilities. At court, quite apart from judges and magistrates, the legal profession and court staff employed by Her Majesty's Courts and Tribunal Service made their own contributions to speed the processes along. The efficient administration of justice represented a combined effort by all of them.