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Times Online

September 29, 2005

## Judge explains why life could not mean life

BY TIMES ONLINE AND AGENCIES

Ian Huntley's sentence was announced only today because he fell in a transitional period when the power to set tariffs was transferred from the Home Secretary to judges.

He was convicted and sentenced to life on December 17 2003 - the day before the new Criminal Justice Act came into force.

Up to this time it was the Home Secretary who had the final say in setting any tariffs, but this power was transferred to the judiciary after a House of Lords ruling.

Because the Home Secretary had not notified Huntley of his minimum tariff or whether he would stay in jail for life, he referred the case to the High Court, where it was heard by the original sentencing judge, Mr Justice Moses.

The judge said that the 2003 statute cannot be used to impose a longer sentence than that which would have been notified before it came into force - no defendant may receive a harsher penalty than that for which the law provided at the time he committed the offence.

He said he had reached the conclusion that the starting point should be a 30-year tariff rather than whole life.

Under the 2003 statute, the principles state that "whole life" prison terms are given for:

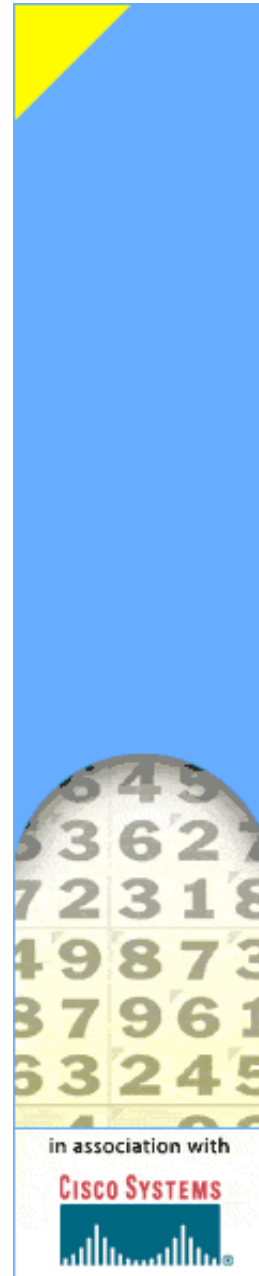
- Multiple murders that show a high degree of premeditation, involve abduction of the victim or are sexual or sadistic
- Murder of a child following abduction.

Mr Justice Moses said the Huntley case lacked a proven element of abduction - the meeting between the girls and Huntley while Carr was away was plainly by chance.

"It is likely that the defendant took advantage of the girls' acquaintance with Carr to entice them into the house but that could not be proved.

"Their presence in the house, thus, remains unexplained.

"There is a likelihood of sexual motivation, but there was no



evidence of sexual activity and it remains no more than a likelihood.

"In those circumstances the starting point should not be a whole life order."

But he said the case did involve the murder of children and the appropriate starting point was 30 years.

He said the aggravating features of the case were no different from those which would have been taken into account under former guidelines for sentencing, which stated: "A substantial upward adjustment (from 15/16 years) may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present."

The judge said: "Having regard to the principles which I have identified, I take the view that the minimum period should be substantially higher than the appropriate starting point.

"For the reasons I have given, the minimum period I set is one of 40 years, less the period of 14 months and six days spent on remand."

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