Greg Lewis, programme manager for the charity Age UK, said: "There are a number of factors here. One is the change in social and police attitudes towards older people, particularly with regards to sexual offences, and society is becoming less tolerant in its attitude towards older people. There also appears to be less tolerance in the courts in dealing with older people and a greater readiness to imprison them. "There is tougher sentencing in general. That's been the trend over the last few years. We're seeing longer sentences for sex offences and there are more mandatory life sentences than there should be," said Mr Lewis. He added that the increase could also be a result of increased use of DNA technology yielding prosecutions for crimes which might otherwise have remained unsolved. People in their 70s and 80s who committed crimes 30 or 40 years ago, are increasingly likely to receive a knock on the door from the police. Age UK says it wants to ensure that older prisoners are not being treated any worse than younger prisoners. "There appears to be some evidence of that," said Mr Lewis. "Are older people being discriminated against in prison, simply because they are old?"

The elderly crime wave doesn't appear to be confined to the UK. The Netherlands has undertaken research and found the same sharp increase over the last decade. They found that a large percentage of over-60s appearing in court had undiagnosed dementia. A Prison Service spokesperson said: "We are committed to ensuring that older prisoners are treated fairly and that aspects of the regime are suitable, available and accessible. Prisons reflect society and, as such, the numbers of older prisoners have increased gradually. Governors are working to ensure suitable facilities are provided and healthcare needs are met, as well as working with charities such as Age UK and Recoop, who focus on resettlement."

HMP Manchester Governor 'Moved' Over Conduct Claims

The Governor of Strangeways prison has been removed from his post for allegedly sending inappropriate e-mails to a female colleague. An investigation has now been launched by Prison Service chiefs and John O'Sullivan has been moved to “alternative duties” while the probe is carried out. O'Sullivan only took the top job at HMP Manchester four months ago having previously been governor at HMP Stocken in Leicestershire and HMP Onley in Warwickshire. O'Sullivan took over the 1,300-capacity Category A prison in the wake of a string of high profile blunders at the jail.

In August, it was revealed four inmates, including an arsonist and a violent criminal had been wrongly released from the jail. In February government inspectors announced every member of staff was to be retrained following concerns over the prison's high suicide rate. The prison, rebuilt after the notorious 1990 'Strangeways riots'currently houses prisoners remanded from courts in the Greater Manchester area, as well as a number of Category A prisoners.

Current inmates include high-profile murder suspects Dale Cregan and Mark Bridger.

Hostages: Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter ‘Inside Out’ No 402 13/12/2012)

One In Five Young Prisoners Are Muslim *Alan Travis, Guardian, 07/12/12*

The proportion of offenders in youth jails who are Muslim is rising sharply and they now account for more than one-fifth of all inmates, the chief inspector of prisons has said. Nick Hardwick said the figure had risen from 13% in 2009-10 to 21% in 2011-12.

He said that while they were less likely to say they felt unsafe in youth jails and more likely to say they were treated with respect, they still felt they were treated significantly worse than non-Muslims. "They reported that they were more likely to have been restrained, more likely to be victimised by staff and found it more difficult to stay in touch with friends and families," says the chief inspector in a joint report with the Youth Justice Board.

Hardwick said the number of children and young inmates had continued to fall and stood at 1,543 youths aged 15 to 18. He said this sustained decline had been apparent over the past four years, over which time numbers have fallen by more than a third, down from 2,365. As a result, 231 youth jail places have been removed, reducing the size of young offender institutes at Stoke Heath, New Hall and Cookham Wood.

But the chief inspector said that it might have been expected that the reduction in numbers would have led to significant improvements in this annual survey of perceptions of those in custody: "In fact, it is striking how little has changed and that may cast doubt on the assumption that as the population decreased, it would include a greater concentration of young people with a serious offence background and major problems." The survey of 925 young men and 25 young women confirms that almost a third of those in youth offender institutions had previously been in local authority care. The proportion of those who said they felt unsafe at some time in custody has risen from 27% last year to 32% this year.

DNA Test Frees Man On Death Row For 15 Years *Ed Pilkington, Guardian, 07/12/12*

Every morning Damon Thibodeaux wakes up in his temporary digs in Minneapolis and wonders when his newfound freedom is going to come crashing down. "You think you're going to wake up and find it was just a dream," he says. When he stepped out of Angola jail in Louisiana several guards were at the gate to wish him well, addressing him for the first time in 16 years as "Mr Thibodeaux". "No offence," he said, "but I hope I never see you again."

He walked out as the 300th prisoner in the US to be freed as a result of DNA testing and one of 18 exonerated from death row. With the help of science he has been proved innocent of a crime for which the state of Louisiana spent 15 years trying to kill him.

For those years Thibodeaux was in a cell 1.8 metres by 3 metres for 23 hours a day. His only luxury was a morning coffee, made using a handkerchief as a filter with coffee bought from the prison shop; his only consolation was reading reading the Bible; his only exercise pacing up and down for an hour a day in a the "exercise yard"– a metal cage slightly larger than his cell.

Like most death rows in the United States, the prisoners in Angola are treated as living dead things: they are going to be executed so why bother rehabilitating them? He watched as two of his fellow inmates were taken away to the death chamber, trying unsuccessfully not to dwell on his own impending execution. "It was like, one day they may be coming for you. At any

time, a judge can sign an order and they can come and take you and kill you."

At the lowest point, he says he felt such hopelessness that he considered dropping all his appeals and giving up. He would become a "volunteer" – one of those prisoners who are assumed positively to want to die but so often simply lack the will to live. He read the Bible some more, shared his fears with other prisoners through the bars and found a new resolution. "I came to terms with the fact that I was going to die for something I didn't do. Truthfully, we're all going to die anyway; it made it a lot easier."

With little hope, he pressed on with his appeals and, almost imperceptibly at first, fortune's wheel began to turn. A lawyer assigned to his post-conviction appeal became concerned by his case, and she in turn enlisted the help of the Innocence Project in New York, a national group devoted to exonerating wrongfully convicted people through DNA testing.

Also drawn into the fray were a pair of Minneapolis-based lawyers from the commercial firm Fredrikson & Byron. In his day job Steven Kaplan works on mergers and acquisitions, not rape and murder, but he threw himself at the Thibodeaux case pro bono. As soon as Kaplan began reading the legal papers relating to Thibodeaux's death sentence, he was astonished. He had never worked on a capital case before and, like most people unversed in the finer details of the death penalty in America, had assumed that the judicial process must have adhered to the very highest legal standards. After all, a man's life was at stake. "When I read the transcript of the trial for the first time, I thought to myself that the high school mock trial team that I coached of 15- to 17-year-olds would have run rings around the lawyers in that courtroom," said Kaplan. "We put more energy into a $50,000 contract dispute than went into the defence at the Damon Thibodeaux trial."

The sequence of events that put Thibodeaux on to death row began on 19 July 1996. He was 22 and worked as a deckhand on Mississippi river barges. Two weeks earlier he had moved back to New Orleans, where his mother and sister lived, to help out with his sister's wedding. He started hanging out with the Champagne family, distant relatives, who had a flat in a neighbouring suburb. He spent 19 July at the Champagne home with the father, CJ, mother, Dawn, and 14-year-old daughter, Crystal. At about 5pm Crystal asked Thibodeaux to go with her to the local Winn-Dixie supermarket but he was busy mending CJ's watch. She left the house on her own at 5.15pm. When she was not back more than an hour later her mother became alarmed and they began a search, Thibodeaux joining the effort. They called the police and searched through the night and through the following day.

It was not until after 6pm on 20 July that Thibodeaux went back to his mother's house and lay down to rest. He was just falling asleep when police arrived and asked him to come with them. That was at 7.32pm. At 7.40pm Crystal's body was found on the banks of the Mississippi, about five miles from the Champagnes' home. The news was transmitted to the detectives quizzing Thibodeaux and instantly a routine missing-person interview became a homicide interrogation.

It started lightly, then the detectives began piling on the pressure. They repeatedly told him he was lying, putting their faces close up to his. When he gave them the names of the people he had been with over the previous 24 hours as alibis, the officers said they had talked to the individuals who had denied it. "That felt like I was being abandoned, because they were the only people who could put me in their presence away from the crime scene," Thibodeaux said. The police gave him a lie-detector test. When they returned to the interview room and told him he had failed, he fainted. Several hours into the interrogation, they delivered the coup de grace: they warned him what would happen if he kept on lying. "They described to me death by lethal injection: organs collapsing, the brain shutting down, extreme pain. That's what they said would happen to me if I didn't give them what they wanted."

the public', it has now become almost impossible for any released person with serious convictions to survive outside of prison. Little wonder then that so many convicted people feel that they really might be better off inside rather than out.

And before those sanctimonious people with jobs, families and homes start gloating and screaming, "Well, it's their own fault; if you can't do the time, don't do the crime" etc, they should understand that under the laws active in Britain today, anyone who has ever had any type of personal relationship with another person can now be accused, tried and convicted of an offence that will lose them their job, wreck their family and lose them their home, even if there is little or no evidence.

TheOpinionSite.org would suggest that those same 'respectable' members of the public should be very careful about criticising those who have been convicted as, without any warning whatsoever, an event from 30 or 40 years ago could suddenly materialise on their doorstep at 6.00am in the morning in the form of seven or eight police officers who will willingly rip their life apart, based purely on the unsubstantiated complaint of a former girlfriend, boyfriend, wife, husband, pupil or ex-colleague.

Once that happens, that 'respectable' individual's life will be over for ever and, ironically, they too may find themselves better off in prison than trying to survive on no money, with no home, no family, no job and with no one around to support them in the community.M

Pensioner Prisoners: Old Lags Just Got Older

They could be enjoying a spot of gardening or volunteering in a local charity shop. Instead, they are serving time. Figures obtained by The Independent on Sunday show that record numbers of elderly people are being held in prison. Ministry of Justice data reveals a 20 per cent increase since 2008 in the number of over-60s – or "Saga louts" as they have been dubbed – who are behind bars.

The figure has trebled over the past 20 years, and the over-60s are now the fastest-growing age group in prisons in England and Wales. The increase in the number of "old lags" has led to concern about how prisons cater for ageing inmates. Prisons in the UK were mainly built during the 19th century, making the vast majority of them unsuitable for older people, especially those with disabilities. In June 2008 there were 2,811 prisoners aged 60 and over in England and Wales. As of September this year, there are 3,333. In Scotland the comparable figure is 177, most of whom were jailed for sexual offences. The oldest man in prison in England and Wales was 92 as of last year and the oldest woman, 78.

A lack of research into this trend, however, means that no one is sure why it is happening. Rather than hordes of delinquent elders embarking on a "grey crime wave", experts believe one of the driving factors is tougher sentencing. The average crown-court custodial sentence has increased by three months to 25.2 months over the past decade. There is also less tolerance towards the over-60s from the judiciary, as well as society as a whole.

The first report into the issue, published in 2008 by the former HM Chief Inspector of Prisons Dame Anne Owers, criticised the prison service for having "no national strategy for older prisoners" and it added that their needs were "too often not met".

Charities said this weekend that, just as young offenders need special provision within the penal system, so, too, do the over-60s, adding that their needs are not being met. A recent survey by the Prison Governors Association found that most prisons lacked the facilities to cope with growing numbers of elderly inmates and the issues which arose from mixing frail and elderly people with the general prison population. Kingston prison in Portsmouth was the first prison in the country to provide a specialist elderly wing, equipped with stairlifts and other adaptations. Others are likely to follow, as the elderly prison population grows.

of people will go to prison for much longer." That is exactly what the disgraced former Home Secretary, David Blunkett said when he introduced the IPP in the first place – and ended up jailing 6,500 individuals for life.

This government's obsession with populist policies is as appalling as that of Tony Blair's administration, pandering to those who make their living from maintaining public fear of violent and sexual offenders whilst giving no thought whatsoever to what happens when those prisoners are eventually released from prison. Last week saw the jailing of 70 and 80 year old men for sexual offences alleged to have been committed 50 and 60 years ago, something that would not happen in any other European country as it is effectively a death sentence; convictions arrived at with no evidence other than the word of the complainant.

Juries, frightened to death of not convicting anyone charged with a so called 'historic' sexual offence for fear of criticism, inadequate and incompetent defence counsel forced upon the defendant by cuts to legal aid together with a public anxious to offload responsibility for their own miserable lives onto anyone who is charged with any emotive offence, have all caused an increase in conviction rates and the long-term prison population.

Nevertheless, with the provision of a guarantee of a roof over their head, free medical care and three meals a day guaranteed, it is still the fact that with no life now possible outside, many people found guilty of publicly sensitive offences may indeed feel better off in prison.

Local councils are reluctant to house ex-offenders when there are 7,000,000 'ordinary' members of the public on the waiting list for social housing; prisoner support groups have run out of money and Job Centres have told TheOpinionSite.org that there is nothing they can do for those who have been released from custody having served long sentences for 'serious' offences.

With almost any personal contact between two people now being able to be translated into a 'serious sexual or violent offence' if one party decides to lodge a complaint with the police, previously employed individuals find themselves easily convicted and with no hope for a normal life when and if they are released.

Ministers are only interested in votes and re-election; charities, solicitors and self-styled 'child protection experts' make millions of pounds from 'exposing' alleged historic offences whilst encouraging those dissatisfied with their life to make accusations that may or may not be true but which will result in automatic compensation being paid.

One well known firm of abuse solicitors even have a calculator on their website designed to work out how much a claimant will receive, dependent on the gravity of the alleged abuse.

Police officers, anxious to protect their own jobs urge people to 'come forward', even if those people don't actually want to; probation officers take every opportunity to write pre-sentence reports insisting, often against the evidence (or lack of it) that a convicted person is 'dangerous' and at 'high risk of reoffending' even if that person is nothing of the sort; the NSPCC and other organisations hype up the figures saying that a child is 'abused' every minute.

Domestic Violence lawyers are now also cashing in on the ease with which convictions can be attained, especially if they are 'historic'.

All these people and organisations make it even more difficult than it would normally be for released offenders to find work, find housing or live anything resembling a 'normal' life by saying that such offenders can never be rehabilitated, never reformed and never be trusted again.

With even more people being jailed for longer, a reduction in early release following the new Legal Aid, Sentencing and Punishment of Offenders Act, a huge cut in Legal Aid and a desire to please those with vested interests in locking up more and more individuals and 'protecting

The detectives who interrogated Thibodeaux have consistently denied using techniques that put pressure on him. But having studied the case for years, his current lawyers are convinced he was subjected to a prolonged questioning that interacted with his vulnerabilities and broke down his resistance. About 4am on 21 July he gave the police what he thought they wanted. He had been under interrogation for nine hours, and had no meaningful sleep for 35 hours. "I had no sleep, I was hungry, I was tired of it. At that point I didn't care, I just wanted to stop it."

He began to confess, repeating details of the crime scene that the detectives had given him. "I'm not the smartest person on the planet, but I was able to figure out how Crystal died and how she was found from what they were telling me. I just put the pieces together and gave them the confession they wanted." He told them how he had picked up Crystal in his car and driven her to the crime scene. They began having sex, then she asked him to stop and he refused. He raped her, hit her on the face with his bare hand, squeezing her neck and strangling her with a length of white, grey or black speaker wire that he procured from his car.

At one point Thibodeaux told his interrogators: "I didn't know that I had done it, but I done it." Case closed. Within three hours of his confession, details emerged that refuted key aspects. Examination of the crime scene determined the cord that had been wrapped around Crystal's neck was a red electrical conductor wire that had been hanging on a nearby tree, and not the speaker wire Thibodeaux had confessed to. Crystal's mother also told investigators within three hours of the confession that Thibodeaux had been with her in the their flat when she called the police to report her daughter's disappearance – undermining any possibility of him getting to and from the crime scene in time to have murdered Crystal.

Further evidence came out that punctured his confession. The autopsy found that Crystal had been hit around the face with a blunt object, not Thibodeaux's bare hand as he had testified. Contrary to his statement that he had had sex with her and then raped her, the forensic examiner observed no injuries consistent with violent rape. More than that, he concluded that Crystal had had no sexual intercourse of any kind, consensual or otherwise, for at least 24 hours before she died. All those discrepancies were known to the authorities before Thibodeaux was put in the dock for murder and rape. They also knew that there were other potential suspects who conceivably merited further investigation. One individual was a local man with a conviction for paedophilia. Another was a relative of Crystal's who lived in a flat two blocks from the crime scene – a paranoid schizophrenic with a long history of drug abuse and violence against women.

Being poor, Thibodeaux could not afford his own lawyer and was assigned a public defence attorney by the courts. His attorney happened to be a former detective who had retrained as a lawyer, and this was his first murder case. At the time of the trial he was, unbeknown to Thibodeaux, applying for a transfer to the same district attorney's office that was prosecuting his client. "I was willing to overlook the fact that he was an ex-detective," Thibodeaux says now. "But if I had known my lawyer was filing to be transferred to the DA's office I would have asked to have him removed from my case." The trial lasted just three days. Over the course of it the prosecution tried to explain away the lack of any evidence of sexual intercourse or rape on Crystal's body by speculating that "semen-destroying maggots" had been at work. Thibodeaux's lawyer, for his part, did not even refer to the confession. "You will read the entire trial transcript and he never utters the word 'confession', as though if he didn't mention it, it would go away," Kaplan says. The jury was out for just 45 minutes before they delivered a guilty verdict. The next day the same jury sentenced Thibodeaux to death for murder and aggravated rape, even though no rape – indeed no sexual contact of any sort – had taken place.

It took Kaplan and the other lawyers just a few days to spot the glaring problems with the prosecution of Thibodeaux. It took them a further 12 years to free him. With the full co-operation of the current district attorney for New Orleans, they carried out a fresh round of DNA tests using world-renowned forensic scientists, such as Dr Henry Lee, who heads a forensic science school at the University of New Haven, and Dr Edward Blake, of Forensic Science Associates. They looked again at all the physical evidence, particularly the clothing of Crystal and Thibodeaux on the day of her murder. They found there was no evidence of Thibodeaux's tissue, blood or fluids on Crystal's clothing and none of hers on his – a significant finding as had Thibodeaux been the murderer and/or rapist, such evidence would certainly have existed.

In addition, witnesses were tracked down who gave him a watertight alibi for all but five minutes of the period between Crystal's disappearance and the time of her death. And lest there be any remaining doubt, a forensic expert on maggots – such people do exist – testified that the theory of "semen-destroying maggots" was balderdash.

Since his release Thibodeaux has travelled to the other end of the Mississippi to rebuild his life with the help of his new lawyers in Minneapolis. The town has a good rehabilitation programme that should provide a cheap home, renewed education and job training.

His 15 years on death row opened his eyes, he says. "We tell the world that our system is the best in the world, and it's not." But he says he still supports capital punishment in America for the most heinous cases – with the proviso that the conviction is sound. Not so Steven Kaplan. He cites academic studies that suggest that 2% to 4% of death-row inmates are probably innocent. "If that was the rate of failure of airplanes," he says, "would you fly?"

New Proposals Give Greater Focus To Impact Of Sex Offences On Victims

The Sentencing Council has launched a consultation today on its proposals for how guidance for courts on sexual offences should be brought up to date. It aims to give more focus to the impact on victims and reflect advances in technology, while making sure offenders are dealt with effectively. Its draft sentencing guideline, which covers a large number of offences including rape, child sex offences, indecent images of children, trafficking and voyeurism, proposes a variety of changes to how offending is dealt with by the courts.

The approach to assessing what victims have been through has been expanded to take into account a full picture of the harm suffered. The Council believes that as well as physical harm, the psychological and longer term effects on the victim should be more fully reflected; factors such as stalking and previous abuse including violence can make the victim more vulnerable to harm and are set out as factors that can be taken into account. An expanded approach to how courts assess offenders is also proposed so that courts look at the full context of their behaviour and motivation in committing any offence. This means giving focus to important aspects like grooming activity by both individuals and gangs, the targeting of vulnerable victims such as those in care and the abuse of trust and positions of power so that these are clearly reflected in sentence levels.

Public protection is a key element to the Council's proposals and the approach to setting sentencing levels in the draft guidelines has been to reinforce the importance of firm and proper punishment and the prevention of reoffending. This is either through significant custodial sentences or treatment programmes that will address the offender's behaviour. The review of sentencing guidelines for sex offences has also come about because the nature of offending has changed with, for example, the increased use of technology in offences involving indecent images of children and the

Repeating last year's warning over jury irregularities, Lord Judge, the Lord Chief Justice, said in his forward to the report:

"The Court continues to be concerned by the long and short term issue of the way in which modern technology will impinge on trial by jury. There have been an increasing number of cases in which grounds of appeal against conviction have featured allegations of jury impropriety relating to the misuse of technology. This is a matter that will require close attention over the coming year to ensure the continuing integrity of the jury system.

"… the Court is deeply indebted to the Criminal Cases Review for all aspects of their assistance, not least the way in which they carry out investigations into allegations of jury misconduct."

Conservatives Offer Many Offenders No Alternative To Prison

By Raymond Peytors - theopinionsite.org December 5, 2012

If ex-offenders cannot live on the outside, they have little alternative but to return to prison

Chancellor, George Osborne gave his Autumn Statement or 'mini budget' to the Commons and announced no help for the unemployed and certainly no hope for unemployed ex-offenders; indeed, in monetary and most other terms, if you have a criminal record and cannot pay your bills, you may well be better off in prison than living in the community.

For unemployed sex offenders and others with a criminal record – often highly qualified and experienced but also with no chance of a normal life after release – Osborne's announcement today that benefits will be cut for the next three years and the fact that there is a total lack of help from the government, prison may offer the only chance of a roof over their head and three meals a day.

The flagship 'Work Programme' is a disaster; employers will not even give an interview to anyone with a criminal record and police and probation officers are only to ready to wreck the prospects of ex-offenders who are fortunate enough to find a job by revealing details of offences to potential employers.

Work and employment courses in prison are effectively nothing more than an exercise and, as TheOpinionSite.org has pointed out many times, fail to recognize the very real difficulties faced by those with serious convictions seeking work after release.

In true 'nasty party' style, David Cameron and his cronies have written off hundreds of thousands of people with criminal records, forcing taxpayers to pay for convicted people living in the community. Instead of helping offenders back into society, the government has tried to make political capital this week by creating yet more criminal offences and announcing longer and mandatory sentences designed solely to satisfy Conservative backbench MPs, the tabloid press, money-grabbing charities and lobby groups.

It is hardly surprising therefore that one ex-offender has told TheOpinionSite.org that he will probably deliberately reoffend in order to get a long prison sentence because he feels that he will be 'better off in prison than on the outside'.

For those even without a criminal record but with no job and no money, Osborne's statement today promises nothing but more pain. For those who do have a record, the statement promises absolute misery – for life.

The Secretary of State for Justice, Chris Grayling has said he wants "…to see more people locked up" whilst completely ignoring the damage and cost to society that will result from following such a doctrine for what are his own purely political reasons. When he was questioned, Grayling said that under the new mandatory sentencing regime, introduced to replace the discredited IPP sentence (Indeterminate Sentences for Public Protection), "…a small number

year (7,442 in 2011/12 compared with 6,972 in 2010/11).

* The Court received 5,711 applications to appeal sentences (compared with 5,481 in 2010/11) and 1,731 applications to appeal convictions (compared with 1,491 in 2010/11).

* Almost 73% of conviction applications considered during the year were refused by a single judge. Sixty five per cent of sentence applications were refused by a single judge.

* The Court heard 377 full conviction appeals (compared with 535 the previous year) and 2,001 full sentence appeals (compared with 2,004 the previous year). In addition it dealt with 1,341 applications for leave to appeal conviction (compared with 1,251 the previous year) and 4,469 applications for leave to appeal sentence (compared with 4,039 the previous year).

* On average (taken over a three year period) 11% of conviction applications and 25% of sentence applications received are successful.

The Attorney General referred 98 potentially unduly lenient sentences pursuant to section 36 of the Criminal Justice Act 1988 (compared with 102 cases in 2010/11). Of those cases dealt with by the full Court, 73 resulted in an increase in sentence.

The Court also received 97 confiscation cases (compared to 102 cases in 2010/11). It also received 33 prosecution appeals under section 58 Criminal Justice Act 2003 (compared to 28 in 2010/11); one application under part 10 Criminal Justice Act 2003 for retrial for serious offences ('double jeopardy') and nine interlocutory applications (compared to 16 in 2010/11).

The Court has continued to make use of advances in technology to improve the efficiency of its work and reduce costs. The implementation of digital recording equipment in the Crown Courts enables a faster transcription service for all court users at a reduced cost. The Court has also increased its use of video-link facilities, with 128 successful video-links to prisons last year. This reduces security risks and the cost of transferring appellants between prisons. Video-links have also been used to enable counsel to appear from a remote location and two international links enabled witnesses to give evidence.

An important role of the Court is to provide guidance to the lower courts on issues arising from procedure, evidence and new legislation. The report highlights a number of significant judgments that do this:

* Riat & Others – this judgment on hearsay evidence stated that a Crown Court judge does not need ordinarily to concern himself with close analysis of the relationship between the Supreme Court in Horncastle and that of the ECHR in Al-Khawaja & Tahery and should generally look no further than the Criminal Justice Act 2003 and Horncastle.

* Clinton & Others – this judgment enabled the Court to give guidance in relation to the new 'loss of control' defence created by the Coroners & Justice Act 2009, and which replaced the common law defence of 'provocation'.

* Blackshaw & Others - this judgment enabled the Court to give sentencing guidance to judges dealing with offences committed during the riots and public disorder in August 2011.

* Joof & Others – following a lengthy investigation by the Criminal Cases Review Commission, it was found that the prosecution had withheld material regarding police misconduct in the witness handling arrangements for the protected witness. As a result of this serious case of non-disclosure the Court allowed these appeals against murder convictions. The prosecution did not seek a retrial.

* H and Others – the Court considered eight sentence appeals where the appellants had all committed sexual offences between 25 and 40 years ago. The Court set out principles for sentencing defendants in these cases.

facilitation of sexual exploitation and grooming of children. The Council also has an increased understanding of how offenders use technology to target children. The guidelines reflect these developments so they cover the ways these crimes are committed today.

The draft guideline is subject to a 14-week public consultation, which discusses how the courts should approach sentencing decisions, details the rationale behind the Council's thinking and explores the many issues involved in the sentencing process. Anyone can give their views on any of the offences covered by the guideline; due to the size and scope of the consultation, it has been designed so that respondents can focus on particular offences. People can respond by going to www.sentencingcouncil.org.uk

Sentencing Council member Lord Justice Treacy said: "We're improving guidance for courts to help them deal with these incredibly complex, sensitive and serious offences. The perspective of victims is central to the Council's considerations. We want to ensure sentences reflect everything the victim has been through and what the offender has done. We are looking at the whole context, not just the physical offence but also the tactics employed by offenders like grooming activity, the targeting of vulnerable victims or abuse of a position of trust. No one wants more people becoming victims, so protecting the public is a vital part of our proposals, whether this is by jailing offenders, or through rigorous treatment to stop them reoffending. This is a consultation: we want views on this extremely important subject."

The guidelines will replace existing guidance which was issued following the Sexual Offences Act 2003 by the Sentencing Council's predecessor body. Sentencing levels for sexual offences have been increasing since the Act, and current sentencing guidelines, came into force, and the new draft guidelines reflect these increases. They do not include any reductions in sentences from current sentencing.

The draft sentencing guidelines cover 54 very varied offences and aim to ensure appropriate sentences are given for the variety of manifestations of each. The Council considers that all sex offences are serious, so a baseline of harm is assumed in relation to all categories of offence, and any aggravating factors then push offenders into higher categories.

When the definitive guidelines come into force, it will apply to all offenders, regardless of when offences took place, so while offenders will be subject to the law at the time of the offence, the guidelines will bring a modern and victim focused approach to how historic offenders are dealt with by the courts. The main changes to the guideline in relation to some of the specific offence areas are outlined below:

Rape: The guideline recognises the wide range of circumstances in which this offence occurs. It covers not just the stereotypical stranger rapes, but takes into account that most rapes are carried out by someone who the victim knows, and that many occur within families. The guideline takes a broader approach than existing guidance to cover effectively this range of scenarios, expanding the focus on factors that relate to rapes committed by people known to their victims, such as stalking and harassment and previous violence against the victim. A number of new factors are also being proposed. These include filming or photographing a rape, which has become more common since the current guideline was published, and rapes committed by groups or gangs of men. Those who target vulnerable victims, such as those who have experienced habitual sexual abuse previously which makes them especially prone to be victimised, will also be treated more harshly. In the existing guideline, repeated rape of the same victim over a course of time or rape involving multiple victims attracts the highest guideline sentencing levels – 13-19 years. The Council's view is that those levels should be available to judges when sentencing

for a single rape and the proposed guideline reflects that view.

Sexual assault: In relation to sexual assault, the Council believes that the current guideline takes too narrow an approach, focusing essentially on the nature of the physical activity done by the offender. While this is a key factor, the Council is of the view that considered alone, it can make it difficult for judges to reflect fully the harm caused to the victim, in particular the fear and intimidation that may be suffered. The new draft guideline aims to reflect both the emotional and physical harm that can be caused. Included therefore is a new factor that makes the offence more serious if violence is threatened, or threatening or violent sexual language is used – the Council believes that the fear of escalation of an attack is likely to increase the psychological harm on a victim. Other factors that take the offence into a higher sentencing level have also been introduced such asthe location and timing of offence, forced entry into the victim's home, additional degradation or humiliation and repeat victimisation by the same offender. This acknowledges the fact that a significant proportion of offences are committed by people known to the victim.

Child sex offences: The aim of the proposals in relation to child sex offences is to help courts assess their full impact on victims. The Council wants courts to increase the focus on the offender's behaviour and to look at how children may have been groomed or exploited.

The draft guideline also states clearly that where adults abuse a position of trust or target a vulnerable child – such as those in care – these factors should increase the sentence level.

In addition, the Council wants to highlight the issue of victims' vulnerability to ensure that the highest sentences are given to offenders who target children in care, or children whose home life is chaotic or dysfunctional, knowing that they are likely to be more susceptible to the attention of an adult who befriends them and claims to care for them.

It further proposes several other new factors that show the offender's culpability, such as evidence of grooming, the use of alcohol or drugs to facilitate the offence, and the use of gifts or bribes to coerce the victim.

The proposals also aim to make sure that longer term harm to children is considered by courts, such as having to leave their home or school, which can have a significant impact on their family, friendships, support networks and education.

Unlike the current guideline, in which offences against children over 13 are placed alongside offences committed against those under 13, the Council feels that as there are issues and sensitivities unique to offences against children under 13 they should be handled separately. The under 13 offences brings under its umbrella cases of victims groomed into acquiescing to sexual activity as well as those subject to forced sexual activity.

Indecent images of children: Advances in technology have meant increases in offences committed through the internet since the current legislation came into force in 2004. The Council wants to make sure guidance is up to date to cover the ways these crimes are committed today and in the future.

Current guidelines focus solely on the quantity and seriousness of the images and offender is caught with. As well as considering these factors, the Council's proposals go further in order to reflect the full context of the offence - for example, by including new aggravating factors related to involvement in paedophile networks or abuse of a position of trust to create images or videos.

The draft guideline also simplifies the way in which images are assessed since classifying images is a difficult and resource-intensive job for people investigating and prosecuting

parator prisons said staff treated them with respect and more said they had a member of staff they could turn to with a problem. We saw generally good relations and examples where individual staff reacted with care and compassion to prisoner concerns.

At the time of the inspection the prison was frequently disrupted by failure of the roll check - the process by which all prisoners are accounted for at regular times during the day. Numbers were miscounted and all movement ceased until the numbers tallied. This meant that prisoners were often returned to their cells from work or education, could not attend health care or other appointments, and in some cases remained locked in their cells for the entire session. We were repeatedly told by prisoners, staff and managers that this failure was deliberate and occurred because of a dispute between management and staff about new regime and rollcheck procedures. We were unable to verify if this was true - but the fact that so many people believed it to be so revealed much about the atmosphere in the prison.

We found up to half the prisoners locked in their cells during the working part of the day. There were not enough activity places and too many prisoners were under-occupied in desultory and ineffective wing domestic duties. There were good quality work, training and education places available in a new academy - but when visited during the working part of the day, it was almost empty and staff were unable to explain why this was so. There were good links with one employer and a few prisoners had opportunities to gain valuable experience outside the prison on temporary release. Prisoners who were engaged in activities were able to gain useful qualifications.

Offender management was weak and there were poor links between the offender management unit and other parts of the prison. However, this was offset by very good support for prisoners' practical resettlement needs - by far and away the best part of the prison. This was provided by the Lincolnshire Action Trust (LAT), whose staff in distinctive uniforms were instantly visible and accessible throughout the prison. There is no doubt that without their work, many more prisoners would have been released without any accommodation, work or education. Work with children and families was particularly good and there was a range of activities to help men maintain constructive relationships with their families.

This is a very concerning report. HMP Lincoln has some strengths it can build on: good relationships between staff and prisoners, some good new facilities either established or shortly to become available, and resettlement services that were better than we often see elsewhere. However, this was undermined by a serious lack of professionalism in many areas that compromised safety and the smooth running of the prison. Some of this required further investigation and action by the Prison Service nationally. The inspectorate will announce a date for its return to HMP Lincoln shortly so that the prison has a clear focus on the improvement it needs to put in place urgently.

Court of Appeal Criminal Division Annual Report *Summary by CrimeLine*

The Court of Appeal (Criminal Division) heard appeals against conviction and sentence more quickly last year than in previous years according to the Court's annual report published today (Tuesday 11 December).

In the legal year October 2011 – September 2012 the average time of cases disposed of by the Court over the previous 12 months was 7.8 months for conviction cases where leave to appeal was granted or the case referred to the full Court (compared with 9.3 months in 2010/11) and 4.5 months for sentence cases (compared with 4.6 months in 2010/11).

Statistics published in the report show:

* A six per cent increase in the total number of applications compared with the previous

oners. The number of reported fights and assaults was high and there were evident opportunities for bullying. There was little attempt to investigate either individual incidents or patterns of violence. Prisoners who were too frightened to leave their wings to go to work but who refused to name the perpetrator were punished by being sent to the segregation unit. The vulnerable prisoner wing was mainly for sex offenders but others who were frightened on the main wings also sought sanctuary there. They applied for admission under rule 45 but there was no clear process for deciding whether this should be granted, and prisoners told us they had been denied admission without explanation.

Care for prisoners at risk of suicide and self-harm was very mixed. Too many prisoners at risk of suicide were held in the segregation unit with no record of the exceptional circumstances required to justify this. There was very little for these men to do that provided positive distraction. The constant observation cell in the segregation unit was particularly grim - dark, poorly ventilated and situated opposite the dirty protest cell. Use of the segregation unit as a whole was very high and it was welcome that its very poor environment would shortly be replaced.

The number of prisoners testing positive in random drug tests were well within the target figure. However, prisoners themselves told us it was easy to get drugs and alcohol in the prison. Suspicion testing was not carried out comprehensively or quickly. There was clear evidence of prisoners developing a drug addiction in the prison. One in five prisoners required opiate substitution treatment. Too few were on a reducing dosage and we were concerned that a number had been given considerable increases.

External and communal areas of the prison were dirty and some areas did not appear to have been cleaned for some time. Individual cells were generally clean but were overcrowded with unscreened toilets. Prisoners told us it was difficult to get enough clean clothes. The number of complaints was almost double that of comparable prisons.

Work on diversity was poor. Insufficient data were collected and we found no evidence that data had been analysed. The data provided evidence of unequal treatment of black and minority ethnic prisoners, including a disproportionate number segregated. Not surprisingly, in our survey black and minority ethnic prisoners were significantly more negative than the prison population as a whole. These prisoners told us that some staff used inappropriate language in their dealings with them. There was little support for prisoners with other protected characteristics. The prison could not identify the number of prisoners with disabilities that it held and not all prisoners who needed a personal evacuation plan had one. The chaplaincy team did good work in difficult circumstances but there was unsatisfactory provision for Catholic prisoners.

The lack of support for foreign national prisoners was a matter of great concern. General support such as the provision of interpreting or translated material was poor. Support from the UK Border Agency was sporadic. We found two foreign national prisoners who had been held for lengthy periods beyond the end of their sentence, one for a shocking nine years beyond the end of his sentence. These two men had each been awarded and served long sentences by the courts and then been kept in administrative detention for many years beyond the end of their sentence. These are both men who have committed serious offences who in normal circumstances would be returned to their own country after they had served their sentence. However, it seems that for reasons neither man can control, such a return is extremely difficult if not impossible. It cannot be right that they continue to be detained for so long without the authority of a court.

A saving grace for the prison was good staff-prisoner relationships - without this, the other problems may have had much more serious consequences. More prisoners than at com-

offenders. The draft guideline suggests the introduction of the option of prison at every level of offence, so that sentencers can use this whenever they feel it is appropriate. In current guidelines there are categories of offence where only non-custodial options are available.

Exploitation and trafficking: The draft guideline aims to ensure that those who exploit others sexually for commercial gain get appropriate sentences. The proposals make effective distinctions between those who are running exploitation operations and those who are involved because they have been coerced or exploited. The big players will get the longest sentences and only those very low down in any operation, who may have been coerced, would be likely to avoid a jail sentence. Offences involving children are particularly heinous and the Council is proposing that even those with a low level involvement in such an offence are jailed.

Five Kent Police Officers Arrested on Corruption Charges *West Sussex Gazette, 04/12/12*

An independent investigation into how Kent Police records and investigates crime is being launched following the arrest of five officers as part of an anti-corruption inquiry. Her Majesty's Inspectorate of Constabulary (HMIC) is to conduct an examination into how the force decides on a range of crime-recording issues, Kent's police and crime commissioner Ann Barnes said. The inquiry will look at what is classed as reported crime, how detections are accounted for and how crime figures are collated, a statement from her office said.

Last month five Kent Police officers were reportedly questioned on suspicion of persuading suspects to admit to offences they had not committed to boost their unit's performance statistics. The claims, reportedly involving a detective inspector, detective sergeant and three detective constables working in a group dealing with persistent offenders, are said to focus on the handling of undetected crimes which are later labelled "taken into consideration".

The five were arrested in Maidstone over claims of "administrative irregularities in the way prisoners had been dealt with" and later freed on police bail, Kent Police said. The investigation will be completed by the end of January and the findings will be presented at a meeting open to the public after the launch of two internal inquiries by Kent Police, Ms Barnes' office said.

After the arrests, Kent Police Chief Constable Ian Learmonth said any officer falling short of high standards of integrity and professionalism would be "dealt with appropriately". The officers have been suspended pending further inquiries, and are being supported by the Kent Police Federation, which represents the 3,500 men and women at Kent Police. Case was referred to the Independent Police Complaints Commission (IPCC), and the police watchdog said will supervise the Kent Police investigation. HMIC did not have any comment.

The Defence of Infanticide *Jo Morris, Barrister for Crimeline*

Infanticide is both an offence in its own right and a partial defence to the charge of murder. It is only available to a particular group of defendants. Only a biological mother who kills her own child within twelve months of the birth can rely upon infanticide whereas any defendant charged with murder can raise diminished responsibility.

The dilemma that lies at the heart of infanticide has not yet been resolved. A woman suffering from a disorder may refuse to accept that she has killed her child and give instructions amounting to a denial. In an adversarial system this would make raising the defence of infanticide impossible. Where infanticide is available to the defence it has significant advantages over diminished responsibility. The defence should consider whether it assists them nevertheless and pursue all post trial options.

The Infanticide Act 1938 sets down that where a woman kills her child 'but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child' she shall be guilty of infanticide rather than murder.

A woman convicted of infanticide can expect a reduced sentence to one convicted of manslaughter. Most convictions result in a community order although hospital orders are common. The leading case is Sainsbury (1989) 11 Cr App R (S) 533 in which a sentence of twelve months detention in a young offenders institution was replaced with a probation order for three months.

The burden of proof is upon the Crown to disprove a claim of infanticide whereas diminished responsibility demands that the defence prove what is claimed, albeit only on the balance of probabilities. The defence do need to raise some evidence of instability. As with any other partial defence to murder the exercise of the Court is to determine whether the real issues lie in the defendant's failure to control her temper. There must be some reliable evidence of a genuine psychiatric disorder triggered by child birth to distinguish this act from any other act of violence which causes a fatality. Once that is achieved, it is for the Crown to disprove infanticide.

Infanticide also does not require that the killing be caused by the disturbance of the mother's mind. There need only be a disturbance and a killing within twelve months of the birth. To succeed with diminished responsibility the defence must show that the defendant's 'abnormality of mental functioning … provides an explanation for D's acts or omissions' – S52(1)(1)(a & c) Coroners and Justice Act 2009. Under S52(1)B an abnormality provides an explanation if it 'causes, or is a significant contributory factor in causing, D to carry out that conduct.' Whereas diminished responsibility demands that the instability be causative, infanticide demands only a temporal link.

Infanticide is only rarely available. Only mothers who kill their own infants can ever use this defence. This limitation prevents other carers, including fathers, who may be subject to environmental stressors consequent upon child birth from raising this defence. It is also only available if the child that is killed is the one to whom the birth relates. The killing of an older child by a mother suffering from an imbalance of mind following child birth within twelve months would not be covered by infanticide.

The problem that bedevils the defence in such cases is what can be done without the cooperation of the defendant. A mother subject to a disorder triggered by child birth may be better served by raising infanticide but remain unable to accept that she has killed her child. Her denial may arise from the very condition that caused the killing. The defence are bound by their instructions. In these circumstances psychiatric evidence to found a plea or a charge of infanticide cannot be placed before the Court. If the jury reject the denial then this will lead to a conviction for murder with a mandatory life sentence. This problem was identified in the case of Kai-Whitewind [2005] EWCA Crim 1092 and later considered by the Law Commission (Law Com No 204) upon infanticide. The Commission did recommend that where infanticide is not raised at trial and the defendant is convicted of murder the Judge should have power to order a medical investigation of the defendant. However, this was not adopted by the Coroners and Justice Act 2009. The dilemma remains unaddressed.

If signs of infanticide are discovered after a conviction for murder then the defence could consider raising an appeal on the basis that this amounts to fresh evidence and so falls within the provisions of Criminal Appeal Act 1968. There will be considerable delay and the burden of showing fresh evidence will rest with the defence but it is the only route open to a woman in that position.

Aside from the Kai-Whitewind dilemma, infanticide is a useful defence. It is easier to raise and maintain than all other partial defences to murder and it carries a reduced sentence. Where infanticide is available in principle but cannot be raised in practice then an appeal should be considered.

Report on a Full Unannounced Inspection of HMP Lincoln

Inspection 20/24 Aug 2012, by HMCIP, report compiled October 2012, published 11/12/12

Inspectors identified some serious concerns:

- evidence of unequal treatment of black and minority ethnic prisoners, including a disproportionate number segregated
- The lack of support for foreign national prisoners was a matter of great concern.
- prison had deteriorated sharply since the last inspection in 2010
- 50% more prisoners than it was certified to hold
- environment was poor - areas that caused most concern - reception and the segregation
- The prison was not safe 24% of prisoners told us they felt unsafe, compared with 17% in comparable prisons and 14% the last time we inspected Lincoln.
- A third of prisoners told us they had been victimised by other prisoners
- number of reported fights and assaults was high
- little attempt to investigate either individual incidents or patterns of violence
- prisoners who were too frightened to leave their wings to go to work but who refused to name the perpetrator were punished by being sent to the segregation unit.
- There was clear evidence of prisoners developing a drug addiction in the prison. One in five prisoners required opiate substitution treatment
- External and communal areas of the prison were dirty and some areas did not appear to have been cleaned for some time.
- At the time of the inspection the prison was frequently disrupted by failure of the roll check
- We were repeatedly told by prisoners, staff and managers that this failure was deliberate and occurred because of a dispute between management and staff
- a serious lack of professionalism in many areas that compromised safety and the smooth running of the prison.

Introduction from the report: HMP Lincoln is a Victorian, city-centre, local prison. This inspection identified some serious concerns about the prison which had deteriorated sharply since our last inspection in 2010. These needed to be vigorously addressed as a matter of urgency.

The prison faced some challenges that were outside its direct control. At the time of the inspection there was considerable speculation about its future role and this may have caused uncertainty and poor morale among staff. It was overcrowded - with about 50% more prisoners than it was certified to hold. The environment was poor and although work was under way to replace those areas that caused us most concern - reception and the segregation unit - this had not yet been completed. Like other prisons, financial constraints and staffing changes caused difficulty. Managers in the prison complained of a lack of support from the centre.

However, that does not excuse our very poor inspection findings.

The prison was not safe. The violence reduction coordinator was committed but had other duties and did not have the time or support to carry out her role effectively. In our survey, 24% of prisoners told us they felt unsafe at the time of the inspection compared with 17% in comparable prisons and 14% the last time we inspected Lincoln. This was even higher on the vulnerable prisoner wing. A third of prisoners told us they had been victimised by other pris-