

Clegg: rioters deserve compassion, not rough justice in the courts

By Andrew Grice, Independent, Wednesday, 21 September 2011

Nick Clegg called for a compassionate response to those who took part in last month's riots, in marked contrast to David Cameron's call for them to face tough punishments.

In his closing speech to the Liberal Democrat conference in Birmingham, the Deputy Prime Minister declared that many of the rioters seemed to have nothing to lose. "It was about what they could get, here and now, not what lies in front of them, tomorrow and in the years ahead. [It was] as if their own future had little value." Too many of these young people had simply fallen through the cracks. Not just this summer but many summers ago when they lost touch with their own future. So often the people who have gone off the rails are the ones who were struggling years earlier."

In another sign of tension over the Coalition's response to the riots, Lord McNally, the Liberal Democrat justice minister, revealed that Downing Street was pressing for new offences to be added to the Legal Aid, Sentencing and Punishment of Offenders Bill now going through Parliament. Lord McNally told a conference fringe meeting he was "having to fend off" the No 10 Policy Unit's efforts to insert new offences and stricter sentences into the Bill. "It's in grave danger of becoming a Christmas Tree of a bill on which baubles are hung. We are not fighting only on one front," he said.

MPs reject directive on right to lawyer in criminal proceedings

The right to a fundamental safeguard for defendants facing criminal charges in the UK slipped away as MPs voted not to opt into a proposed directive on the right to a lawyer in criminal proceedings.

The draft directive, presented in June, aims to ensure that suspects arrested at a police station have access to a lawyer at all times. It is being adopted using the European Union's ordinary legislative procedure – which requires only a majority of member states to agree – but it falls in an area where Britain has negotiated a so-called opt out.

Endorsing a government motion, MPs voted by a 303/192 majority not to opt into the directive. As a result, although Britain will still be able to take part in negotiations, it will not have a vote.

Roger Smith, director of human rights charity JUSTICE, sought solace in the fact that MPs had not voted to opt out – merely not to opt in – which left the door open to joining into the directive at a later date. Smith nonetheless called the move "regrettable", saying Britain had missed an opportunity to help raise the standards of criminal proceedings across Europe. "It is regrettable," he said, "because we had much to gain and little to lose. Now, who is going to listen to us in these negotiations? All we've done is undermine our negotiating position."

Hostages: 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, Talha Ahsan, George Romero Coleman, Gary Critchley, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Peter Hakala, 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, Frank Wilkinson, Stephen A Young, 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 & Keith Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Timothy Caines, Ray Gilbert, Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844

MOJUK: Newsletter 'Inside Out' No 338 (25/09/2011)

The Case of Hyrone Hart

'I will have the truth uncovered and the real perpetrators brought to justice'

My name is Hyrone Hart and I am a Jamaican national, born on the 13th September 1971. I am also the father of two children. I arrived in the United Kingdom, for a visit, on the 27th March 1998 at the invitation of my Aunt. I was initially refused entry by immigration officers at the airport but they eventually granted me 24 hours leave and then I was allowed access to UK soil. During this time I took the decision to stay illegally on a somewhat permanent basis.

Around 5 months later, on the 5th August 1998, I was arrested, in Birmingham, on suspicion of offences committed in London and was then subsequently transported to London and interviewed under caution at Brixton police station. In all I was subject to fourteen interviews spanning a four month period. My final interview was on the 8th December 1998 of which I was then charged with 1 x attempted murder, robbery and possession of a firearm, 1 x murder and attempted murder and robbery and possession of a firearm, 2 x murder and robbery and possession of a firearm. The police say these crimes were all linked to crack cocaine wars.

I later attended Crown Court for a full trial beginning on 22nd November 1999 and ending on 21st December 1999, at which I was found guilty on the following counts. Two counts of murder, two counts of attempted murder, two counts of robbery and three counts of possession of firearms. I received two life sentences

My trial representatives submitted an application for leave to appeal which was refused by a single court judge on the 16th October 2000. I still maintain my innocence of the offences of which I was convicted of and I assert in the strongest possible terms that I am victim of a terrible miscarriage of justice. I also later asked the Criminal Cases Review Commission to review my case. Sadly they failed to further investigate my concerns or order any further forensic testing. This resulted in them informing me that, in their opinion, I had no grounds of appeal.

I will now give a brief background summary to my case.

In the space of about four weeks, between 15th June 1998 and 17th July 1998 there were four armed raids in the north, south and east areas of London, during the course of which, grotesque homicides were committed. Two other suspects were charged alongside myself and they were, Raymond Johnson (AKA Kurt Johnson) and Adrian Francis. I stood trial with Raymond Johnson and Adrian Francis stood trial on his own as he had an agreement with the prosecution and turned against us and provided Queens evidence. Adrian Johnson was therefore later acquitted.

The first incident which occurred was on the 15th June 1998 at 7 Whittaker Court, on the Studely Estate in South London, a flat occupied by a man known as Mervin Fuller. It was alleged that at about 21:15 hrs three black men raided his property after being let in by his girlfriend Ms. **** who answered the knock at the door. According to Ms. **** as soon as she opened the door she was grabbed by the arm and propelled back into the flat. She became aware of one of the men holding a gun and described this man as having 'cats eyes'. I myself certainly do not have eyes like a cats. It was also alleged that the gunman ordered Mr Fuller to lie on the floor and tied him up. It was also alleged that the gunman stole Mr Fullers phone and put it in his pocket. The men, it was alleged, demanded money and ransacked the flat

looking for cash. Ms. **** was dragged to the kitchen by one of the assailants, described as Man 1, and raped. Man 3 is also said to have attempted to rape Ms. ****. Mr Fuller was then stabbed in the chest and back by Male 2. I have been labelled as Male 2 throughout and have never been accused of rape.

At an identification parade on the 8th August 1998 Ms.**** picked me out as one of the men who was at the flat on the day of the incident. Mr Fuller attended the same identification parade and picked out Raymond Johnson as being one of those present at the incident. He failed to identify myself. It was also said that a finger print found on a photograph at 7 Whittaker court matched mine. A telephone call made from Mr Fullers mobile phone, which was stolen from the flat, was traced to a phone registered to a lady believed to be my sister, who was living in Jamaica.

The second incident occurred in Brixton at 4 Crosby Walk, Cressingham Estate. It is alleged that at about 22.00 hours on the 25th June 1998 Kirk Johnson and his wife, Avril, and their children were at the above address when there was a ring on the doorbell and Mr Johnson opened the door thinking that it was the next door neighbour, the only eye witness to this incident. Mr Johnson stated that when he opened the door three black males forced their way into his flat and tied up their victims. It is alleged that the men had a gun and demanded money. The flat was ransacked during the men's search for cash and it was alleged that items of jewelery were stolen including distinctive rings and a mobile phone. Mr Johnson was said to have been stabbed in the neck when he tried to fight back. It was alleged that as the men left the premises the gunman leaned towards Avril's head and fired two shots. It was said that the two shots were aimed at both of the victims. Avril sadly died from her wounds in hospital the following day.

On the 8th August at identity parades, Mr Johnson picked out myself and Raymond Johnson. I was also identified as the man who fired the shot which killed Avril Johnson. Raymond was identified as the man who took the jewelery. Finger prints lifted at the scene related to Mr Johnson but not to myself.

The third incident occurred at residential premises on Alma Street in Stratford where the victim was a Michelle Carby. She was a single mother who lived with her three young children. Michelle Carby's body was found on the morning of 30th June 1998 on the sofa of her living room by a neighbour whose attention had been drawn to the victims address by the deceased children who were standing on the pavement looking distraught. Michelle had been shot in the head twice. There were no eye witnesses. Ballistics experts concluded from the fragments received from the scene that the same firearm used in the Crosby Walk incident had been used on the occasion at Alma Street.

The police stated that on keeping a watch on an address in Weir Road, Balham, in London a black female Annette Jones was seen entering the flat and later emerged carry a black plastic bag which she placed in the communal bin. The black bag was retrieved by the police soon after. On examining the contents of the bag a metal ring was found, according to the police. This was later described by a friend of Miss Carby as coming from a bracelet belonging to Miss Carby. The bag, according to the police, also contained an earring matching one found by Kirk Johnson in his flat in August. The Weir Road address is one which myself and Raymond Johnson's finger prints were said to have been found. Annette Jones was my girlfriend and I occupied these premises.

The fourth incident was on the 17th July 1998 and a Mr Patrick Ferguson was killed, receiving a single shot to the head. The incident happened at Highfield Avenue, North London,

although medicines management required improvement.

Prisoners at Chelmsford received more time out of cell than at many comparable prisons. Activity places had increased – although more were needed – and arrangements to allocate prisoners appropriately and ensure attendance had improved. Learning and skills provision was well managed, with good education provision for the less able and some excellent opportunities to gain vocational qualifications, although there remained little for the more able learner and too few accredited activities. The library and PE were both very good.

Chelmsford had developed some innovative approaches to resettlement, with an excellent resettlement centre and some good support for prisoners to find employment, training or education on release, address substance misuse and maintain family ties.

However, some aspects of the strategic management of resettlement required further development and custody planning for the many short term prisoners remained disjointed.

Over recent years, the Inspectorate has raised concerns about treatment and conditions at Chelmsford and about the prison's inability to shrug off a negative and outdated culture. As a result, we have returned frequently and repeatedly recommended improvements. It is therefore hugely reassuring to find a senior management and staff group that has – at last – risen to the challenge and fundamentally improved the prison.

As in any busy local prison many challenges remain, but Chelmsford is now an exemplar of the improvements that even a troubled prison can achieve with strong leadership, staff commitment and clear values.

Troy Davis executed after supreme court refuses last-minute reprieve

The execution of Troy Davis in Georgia amid overwhelming evidence that he might have been innocent was greeted by protesters outside the prison with tears, prayers and a pledge to continue the fight against the death penalty. The killing by lethal injection went ahead at 11.08pm ET, four hours after Davis had been scheduled to go to the chamber.

Members of his family who had been waiting all day to hear whether there would be a last-minute stay of execution were immediately surrounded by supporters who had turned up in their hundreds to protest against what is being seen as one of the most egregious miscarriages of justice in recent US history.

Larry Cox, the head of the US branch of Amnesty, which has led the campaign to save Davis's life, said minutes after hearing the court's decision that he would "redouble our efforts to make sure that no other innocent person goes through this again".

Benjamin Jealous, head of the civil rights group NAACP who was also outside the prison, said that a "tragedy has been committed". He called on the many supporters still assembled in the prison grounds, some holding candles, to "remain calm, to show the same discipline as Troy Davis's family is showing". Jealous said he expected that "what happens here tonight will propel the movement for the abolition of the death penalty forward".

For the fourth time in as many years the prisoner, 42, was put through the agonising – some say inhumane, even torturous – experience of waiting to learn whether he would be strapped to the gurney and given lethal injections in the next few hours. This time it was the turn of the US supreme court to deliberate on whether to allow the execution to go ahead – or to stay it.

Now Davis looks destined to become the 52nd man executed in Georgia since the federal supreme court reinstated the death penalty in 1973. In the process, his lawyers and thousands of supporters around the world insist, an innocent man will have gone to his death.

education had improved and there was better access to the library. There had been insufficient progress on work to assess and respond to the resettlement needs of short-term and remand prisoners, who constituted the majority of the population. Offender management and public protection procedures were sound. Work along the resettlement pathways varied, with some reasonable support to improve employability on release and to address health and substance abuse issues, but support to meet accommodation needs was limited.

Bedford faces all the typical challenges of a crowded and largely Victorian local prison, including limited accommodation, a rapid turnover of prisoners and a vast array of risks and needs to manage. To the prison's credit, it continues to rise to most of these challenges, providing a generally safe and respectful environment but with scope to develop further, particularly in the resettlement of short-term prisoners.

Report on an announced inspection of HMP/YOI Chelmsford, 16–20 May 2011 by HMCIP. Report compiled July 2011, published Wednesday 21st September 2011

Inspectors had some concerns:

- while those at risk of self-harm were generally well cared for, recording on self-harm prevention documentation required improvement;
- some aspects of the strategic management of resettlement required further development and custody planning for the many short-term prisoners remained disjointed.
- Incidents of violence, particularly among young adults, remained high but had begun to reduce

Introduction from the report: Chelmsford is a local prison serving the courts of Essex and London, with a transient population of remanded and sentenced adult and young adult prisoners. In recent years, there has been extensive new building on the site but frequent recent inspections have been heavily critical of the prison, not least its inability to develop a progressive culture to suit its improving environment. It is therefore impressive that this announced inspection found that the prison and its approach had in many ways been transformed.

Chelmsford has to manage an enormous range of risks and needs, including some challenging young adults and the full panoply of substance abusers, the mentally ill and prolific offenders who populate most local prisons. It is therefore commendable that the prison was now an essentially safe place. Early days were well managed, with good use of prisoner peer supporters. Incidents of violence, particularly among young adults, remained high but had begun to reduce and violence reduction arrangements were excellent. For example, many staff had received specific training in recognising and reducing aggressive behaviour among young adults, which was an example of good practice that we rarely see.

Our previous concerns about the governance of use of force and the segregation unit had largely been addressed, although the unit's environment remained poor. Vulnerable prisoners and those at risk of self-harm were generally well cared for, although recording on self-harm prevention documentation required improvement. Security procedures were sound and levels of illicit drug use were relatively low. Detoxification and drug treatment had improved with the arrival of the integrated drug treatment system.

The environment varied from grim Victorian accommodation to light, bright newer wings, but levels of cleanliness were generally good across the prison. Staff-prisoner relationships were much improved, supported by excellent communication arrangements and good use of prisoners to represent and support particular groups. Diversity was well promoted and the chaplaincy had a central role in the life of the prison. Health care was generally reasonable,

in a residential property belonging to the eye witness Primrose Johnbaptiste. Her account was that she was at home with her daughter when she the door bell rang at about 20:45 pm and she met two black males at the door. They were looking for Mr Ferguson but he was not at home. Miss Johnbaptiste recalled that Mr Ferguson returned home at about 21:15pm and when told about the visitors he seemed quite edgy and left the house but came back a few minutes later. Miss Johnbaptiste recounted that the door bell rang again shortly after Mr Ferguson returned and he went to the door. Miss Johnbaptiste said she was in the bathroom with her daughter when the door rang the second time. She heard shuffling and an exchange of words between Mr Ferguson and someone. Having detected anxiety in Patrick's voice she put on a robe and when she looked out of the door she recognised one of the men as one of the two who had been to the property earlier. She saw Patrick and one of the men holding each others throat. She shouted at the men and another male, whom Miss Baptiste recognised as the other of the two who called earlier, appeared from the bedroom. Patrick and the man he was grappling with broke up and this male pulled out a gun with his left hand and fired the gun towards Patrick Ferguson, whereupon Patrick fell backwards having received a fatal shot to the head. At a later identification parade Miss Johnbaptiste failed to pick anyone out. The ballistics expert however did conclude that the cartridge case found at the Highfields Avenue address was fired from the same weapon used on the 25th June at Crosby Walk and 29th July at Alma Street where Michelle Carby was murdered.

Prosecution case is that they had strong reliance on the account and positive ID of myself by Ms.****, and the assertion that my fingerprint found on the photograph from the premises of the incident on the 15th June 1998. The Crown concluded that I was party to the offence perpetrated on the victims, Mr Fuller and Ms. ****.

Similarly, in relation to to the incident of 25th June 1998 the Crown relied on the eye witness account of Kirk Johnson and his positive ID of myself. He said I was the one who fired the gun. In addition the Crown relied on the ID of Mr Johnson of items of jewelery coming from his premises.

In contrast, the incident of 29th June 1998, when Miss Carby was murdered, yielded no eye witnesses. The Crown relied that it was the same gun used in the other crimes. The Crown also believed the case against me was strengthened by the results of a watch kept by police at the address at Weir Road. A ring retrieved from a black bag from the communal bin was later identified as belonging to the victim Miss Carby. I was later linked to that address by police by the discovery of my fingerprints at that address. This was my girlfriends address as stated earlier.

Again, in relation to the incident of 17th July 1998 I was not picked out in any ID parade. Again, reliance was put on the same firearm being used. It was also part of the Crown's case that a pair of trainers seized from the address in Junction Road in Birmingham had blood on which DNA profiling identified as being Patrick Ferguson's.

My defence is that in relation to all incidents I was neither present nor involved in the commission of the offences. I also take issue with the prosecution on every aspect of the particulars of the various offences.

In response to being picked out by Ms. **** during the ID parade, I assert that I am known to Mr Fuller and had been to Whittaker Court on two previous occasions in the company of my friend Denise Campbell who was a prolific shoplifter. I further assert that Ms. **** was mistaken when she picked me out during the ID parade and that the positive ID may have been down to the fact that she had seen me at Mr Fuller's flat before, having opened the door to me on an occasion. After her ordeal she made a mistake and identified two innocent men at the job

centre and said it was them that raped her. She then failed to identify Kurt Roberts, only DNA revealed he was the attacker.

In respect of the finger print on the photograph, said to have come from Mr Fullers flat, it is my defence that on one occasion when I went to Mr Fuller's flat I was invited into the living room by him and there were two photographs on the table which I picked up and inspected.

In respect of the telephone calls made from Mr Fuller's stolen phone to my sisters in Jamaica I state that a Kishon Black whom the police arrested and found with the phone in question is known to my sisters and Kishon Black calls them at times. I therefore take issue with the suggestion that calls traced to a phone registered to my sisters in Jamaica were made by me. No witness came forward to substantiate the Crown's assertions.

In further support of my assertions that I was neither present or involved in the commission of the offences I gave the following alibi evidence.

In respect of the offence on the 15th June 1998 I stated that from or at about 17:00 hrs of that day I was with a girlfriend Annette Jones. Of the offence on the 25th June 1998 I stated that I left 38 Calendar Road, Catford at or about 19:00 hrs and arrived at 13 Weir Road between 19:30 hrs and 20:00 hrs where I remained until the following day. I further stated that during that period I was in the company of Annette Jones and others at various times in the flat.

Of the offence of the 29th June 1998 I stated that I was at 38 Calendar Road where I remained until approximately 02:00 hrs when I travelled by taxi to 13 Weir Road arriving at between 02:00 hrs and 03:00 hrs and remaining there until the early afternoon of that day.

Of the offence of the 17th July 1998 I spent most of the day at 13 Weir Road. At between 17:00 hrs and 18:00 hrs I travelled a short distance to an address at Alderbrook Road by taxi. I remained at the address with the occupier of the property, Debbie, until some time between 10.00 hrs and 11.00 hrs when I returned to Weir Road by taxi and remained.

No firearm was ever found. Kurt Roberts accepted guilt in part but always stressed that I was not involved in any of the crimes.

I contend that my original case for trial was ill prepared by trial solicitors in that the pertinent factors in respect of various incidents and allegations made against me were not fully appreciated and considered by my legal team. Consequently, the learned trial counsel was not able to put my case sufficiently and challenge the evidence against me.

A big part of evidence of which the prosecution relied upon was a pair of trainers linked to myself which was said to have a speck of blood on one of them. This blood was said to belong to Patrick Ferguson. The trainers were claimed to have been found at 143 Junction Road Handsworth, where I was arrested. I had cast doubt in interview on the veracity of the police assertion that the pair of trainers were found at the address where I was arrested. Notwithstanding having admitted that I had a similar pair of trainers to the one in question I was adamant I had not travelled to the address with the trainers because my pair had gone missing for some time. I contend that my doubts as to the veracity that piece of evidence shows is supported by an eye witness, Mr Mannion, who said he saw the gunman and described the clothing and footwear he was wearing in clear detail and said that he wore white trainers and not blue and yellow as what was now said belong to me.

My legal team, despite requests by myself, failed to challenge any DNA evidence, including the trainers. My trial solicitors also failed, (despite requests by myself) to contact defence witnesses and to carry out full checks on possible suspects and any reasons why I would be set up.

My solicitor also prepared and served several documents and defence case statements

Mr Tomlinson's widow, Julia, said: "This is a disgrace and we all feel devastated. When the CPS told us in May this year that they intended to prosecute, the impression was that it would be scheduled for this year as there had already been a long wait and they recognised how agonising that was for us. We have already waited two-and-a-half long years already and our lives are on hold in the meantime. If there are problems with the proposed barristers' availability, why can't others be appointed? This makes a mockery of the justice system."

Prisoners' Transfers

Mr Andrew Smith: To ask the Secretary of State for Justice how many prisoners in C category prison accommodation approved for transfer to D category prison accommodation have been waiting (a) more than three months, (b) more than six months and (c) more than a year to be transferred.

Mr Blunt: This information is not held centrally and could be obtained only at disproportionate cost as it would be necessary to contact every Category C prison and request them to consult individual prisoner records.

House of Commons / 14 Sep 2011 : Column 1223W

[Though MOJ is refusing to give data, reliable information passed to MOJUK, say that as of today a prisoner will have to wait at least 12 months to find a place in Cat D]

Report on an unannounced short follow up inspection of HMP Bedford, 2–5 May 2011 by HMCIP. Report compiled June 2011, published Tuesday 20 September 2011

Inspectors had some concerns:

- there was still scope to improve aspects of the management of early days in custody;
- a need to develop further the prison's approach to diversity, particularly with the disabled;
- there had been insufficient progress on work to assess and respond to the resettlement needs of short-term and remand prisoners, the majority of the population.

- time out of cell had decreased with the reduction in the amount of evening association

Introduction from the report: HMP Bedford is a small, elderly, town-centre local prison serving the courts of Bedfordshire and Hertfordshire. Like all such local prisons, it has to manage a transient population of often needy prisoners in a limited and crowded environment. Despite these challenges, our last inspection applauded much of what we found. Commendably, this unannounced follow-up inspection found that there had been progress on many of our recommendations, although still not enough was being done to effectively resettle the many short-term prisoners.

Bedford continued to be a generally safe prison, despite the many challenges posed by its population. There was still scope to improve aspects of the management of early days in custody but work on preventing self-harm had improved and violence reduction work was generally sound. Detoxification arrangements had improved.

The prison had made considerable efforts to ensure that the sometimes dilapidated environment was kept clean and in a decent state of repair. Staff-prisoner relationships remained good, supported by improved consultation arrangements. There was a need to further develop the prison's approach to diversity, particularly for those with disabilities, though support for foreign nationals had developed well. Faith provision had improved. The health care environment remained poor but services were satisfactory.

The prison's cramped and elderly accommodation restricted the quantity and quality of purposeful activities, and time out of cell had decreased with the reduction in the amount of evening association. Nevertheless, a little more accredited vocational training was now available, some aspects of

McGurk families demand to see pulled report

Belfast Media 20/09/11

The families of those lost in the McGurk's Bar Massacre have demanded to see the original withdrawn Police Ombudsman's report into the 1971 atrocity after a report into the watchdog's office questioned its independence. Al Hutchinson's first report into the UVF bombing of the North Belfast bar was pulled after the families highlighted serious inaccuracies, including errors in chronology and mistakes about those who had died.

His revised report, published in February, found that the RUC investigation was biased, something the families have long suspected. Last Thursday, a group of campaigners for justice for the families were at Stormont as Mr Hutchinson went before the Justice Committee.

Last week it was announced that Mr Hutchinson is to quit his job in June 2012 after a damning report by the Criminal Justice Inspectorate questioned the watchdog's independence. The CJI report found that reports by the Ombudsman had been "heavily influenced" by families and their legal teams, the PSNI and others.

Ciarán MacAirt, whose grandmother Kathleen Irvine was one of fifteen people killed in the bombing, said the families have serious concerns about the independence of the office after he said Mr Hutchinson "tried to railroad our families into accepting a report in July of last year".

"The Criminal Justice Inspection report was a damning indictment of Al Hutchinson's tenure as Police Ombudsman. It confirmed grave concerns that we had regarding the independence of the office when Mr Hutchinson tried to railroad our families in July of last year," he said. Ciarán said the CJI investigation asserts that the report was sanitised to redact any criticism of the RUC. No reason was given for the changes.

"We also learn that a senior manager of the Police Ombudsman's Office believed that there was an understanding not to criticise Special Branch in further reports. Even after two generations of fighting RUC intransigence and lies, we are still left with disquiet. We are particularly concerned about the negative influence that certain members of our 'reformed' Police Service of Northern Ireland may have had on this debacle. As this was another attempt to bury the truth, we will be demanding to see the original report that was changed so that we can have the chance to judge for ourselves."

The McGurk's families were joined at Stormont by families who lost loved ones in the Ballymurphy and Loughinisland Massacres.

What can you do? - Write to Owen Paterson Secretary of State for Northern Ireland, Northern Ireland Office, 11 Millbank SW1P 4PN Demand the the families have access to the report. Also Write to David Cameron & your MP - House of Commons SW1AAA

Family upset over Ian Tomlinson trial delay

BBC News, 16th September 2011

PC Simon Harwood's manslaughter trial will not take place until October 2012.

The family of Ian Tomlinson have said they are "devastated" over a delay to the trial of the policeman accused of the newspaper vendor's death. Mr Tomlinson, 47, was hit with a baton and pushed to the ground by a police officer in central London on 1 April 2009. He later collapsed and died.

The trial delay is because of existing commitments for legal counsel, the Crown Prosecution service (CPS) said. Mr Tomlinson's death came amid protests over the G20 summit. The Tomlinson family said the decision to delay the trial was a "disgrace".

PC Harwood, 44, of Carshalton, south London, had been due to appear at the Old Bailey on 17 October. The 2012 trial is to be held at Southwark Crown Court.

without any input from myself. To date I have never signed anything or had the chance to review my statement. The solicitor did everything under his own volition and overlooked my instructions and suggestions as to how I wanted my case to be conducted. It is my contention that, even for the untrained legal mind, it is ludicrous for anyone to suggest that difficulties in respect of previous antecedent history was enough to invalidate the safety of the instructions.

I would also like to say that my case has a lot of similarities with R v Adams (2007) EWCA Crim 1, a case referred by the CCRC to the Court of Appeal. In the Adams case the solicitors were criticised by the Court of Appeal so as to call into question their honesty. The appeal court further stated that the failures and criticism were enough to deny Adams a fair trial. I argue that my case has the same characteristics as Adams.

Finally, I would like to say that myself and my legal team do have further evidence which shows huge police and solicitor investigation incompetence and prove certain persons wanted to see me set up and implicate myself as to the perpetrator of these horrendous crimes.

If anyone out there could assist myself in clearing my name or has any information regarding this case or factors surrounding it then I would be grateful if you could contact my solicitors: Alex Owusu. Graceland Solicitors, 315 Lewisham High Street. London. SE13 6HL

I am also seeking assistance in setting up a full website showing my entire case coming from all angles. There is much to this case of which you will all see that really does not make sense. I will have the truth uncovered and the real perpetrators brought to justice.

Hyrone Hart, A5976AI, HMP Frankland, 6 Avenue, Brasside, Durham, DH1 5YD

Yacht sinking case supergrass discredited

BBC News, 19 September 2011

Conspiracy to murder charges against three people have been dropped after a supergrass's evidence was discredited. The case involved the sinking of a yacht in Brighton in 2004. Career criminal Gary Eaton had claimed the yacht owner's wife Mandy Fleming, 47, from Sheerness, Kent, had offered him money to kill her husband, Adam.

But the judge said this testimony was "false and highly dangerous" - meaning Eaton's evidence to police has not yet led to any convictions except his own. 'Blatant untruthfulness' The evidence of Gary Eaton, who had been one of Scotland Yard's most important supergrasses, was also heavily relied on in the Daniel Morgan axe murder trial, which collapsed earlier this year.

The Double Dragon yacht sank in Brighton marina in 2004 after holes were drilled in the hull following the Flemings' acrimonious separation. Eaton had claimed Mandy Fleming offered him money to have her husband killed but Judge Richard Hone ridiculed his evidence.

Judge Hone described the evidence of 53-year-old Eaton as "not just unreliable" but "false and highly dangerous". "Gary Eaton is a person who is capable of inventing detailed accounts of events which never happened and shows either blatant untruthfulness or alternatively is a component of his personality disorder typified by folie de grandeur and self aggrandisement," Judge Hone said.

In October 2008 Eaton pleaded guilty to 20 offences, with 32 taken into consideration. They included conspiracy to murder, bribing police officers, blackmail, possessing firearms, robberies, burglaries and conspiracy to supply cocaine.

His sentence of 27 years was reduced to three years because of information provided to the police. But Judge Hone said on Monday there was a serious danger in a case where the only evidence of the conspiracy to murder came from Eaton himself. He there was evidence of "fabrication and fantasy" and he referred to Eaton's psychiatric history, where a series of lies had led to a diagnosis of personality disorder being made. "In short, Gary Eaton's propensity to lie is pathological and

can be extremely persuasive," he said, referring to a psychiatrist who wrote that Eaton was depressed following the death of his mother, when in fact she was alive and well.

Fleming could still be jailed after admitting recklessly endangering her husband's life by damaging the yacht. She was remanded on bail to be sentenced on 6 October. Fleming's former boyfriend, David Brown, 50, of Sheerness, Kent, and Bradley Hanson, 27, of Littlehampton, West Sussex, were cleared of conspiracy to murder. David Camp, 67, from Gosport, Hampshire, was cleared of selling a Browning 9mm handgun to another man said to have been involved in the alleged plot.

Rioters fuelling prison tensions, says inspector

Nigel Morris, Independent, 15/09/11

The influx of rioters into jails has led to violent clashes between inmates as gangs attempt to recruit new members behind bars, the Chief Inspector of Prisons said yesterday.

Nick Hardwick said the surge of young troublemakers into custody had fuelled tensions in jails and left more young offenders on suicide watch. He said the increase threatened to undo recent improvements in prison conditions and protested over the Government's failure to embark on its promised "rehabilitation revolution". Mr Hardwick said the stream of new arrivals had caused "stresses and strains" in the prison system which had spilled over into violence. A gymnasium at Feltham Young Offenders Institution in west London had been "trashed" and offenders climbed on to the roof, while inmates at Brixton prison refused to return to their cells and threw objects at staff.

He said some of the gang rivalries in the outside world had been transferred to prisons, with some groups recruiting new members. "There have been some quite serious incidents of groups fighting, fights between individuals and gangs reconfiguring," he said. "Some young people who previously did not have gang affiliation have joined for self-protection. New gangs have also been established." After being locked up, members of rival "postcode gangs" from London had buried their differences to form city-wide groupings when they were moved to other parts of the country, he said.

The prison population in England and Wales stands at a record high of more than 86,800 – a rise of 900 since before the wave of riots in London and other major cities. Nearly 200 looters have already been jailed and hundreds more have been remanded in custody awaiting trial.

Mr Hardwick also disclosed that a "significant number" of rioters jailed for the first time, as well as inmates moved to new prisons, were considered to be at risk of suicide and self-harm. Producing his first annual report since succeeding Dame Anne Owers as Chief Inspector, he said many would have to sit out their sentences without any constructive activity or attempt to correct their behaviour. They would, he said, have "too much access to drugs and negative peer pressure and too little access to work."

Police agree £20,000 payment over Rizwaan Sabir arrest

BBC News, 14/09/11

Nottinghamshire Police have agreed to pay £20,000 to a Muslim student, who claimed he was wrongly arrested as a terror suspect. Rizwaan Sabir downloaded "the Al Qaeda Training Manual" for a PhD study into counter-terrorism at the University of Nottingham in May 2008.

Mr Sabir was held in police custody for a week and then released without charge. The force insists the arrest was necessary and proportionate. Mr Sabir emailed the manual to a friend, who was helping draft his PhD proposal. He said his arrest and detention were unlawful, and amounted to false imprisonment.

"We've got to put this document into context, one it was downloaded from an American

Thus, regardless of the existence or otherwise of a "family life", the expulsion of a settled migrant constituted an interference with his right to respect for private life.

In considering the proportionality of the intended deportation, the Court took the view that the justification relied on by the government was the "prevention of disorder or crime". In the light of this particular aim, the Court concluded that the period of time which has passed since the offence was committed and the applicant's conduct throughout that period were particularly significant.

Here the applicant's "exemplary conduct" and "commendable efforts" to rehabilitate himself and to reintegrate into society led the Court to conclude that the applicant's deportation from the United Kingdom would be disproportionate to the legitimate aim of the "prevention of disorder and crime" and would therefore not be necessary in a democratic society.

A "fourth-instance" court? Despite the fact that the Court chose to ignore it, this case turned on Section 364 of the Immigration Rules, prescribed by the Secretary of State under section 3(2) of the Immigration Act 1971. The relevant section provides as follows:

... while each case will have to be considered on its merits, where a person is liable to deportation the presumption shall be that the public interest requires deportation. The Secretary of State will consider all relevant factors in considering whether the presumption is outweighed in any particular case, although it will only be in exceptional circumstances that the public interest in deportation will be outweighed in a case where it would not be contrary to the Human Rights Convention and the Convention and Protocol relating to the Status of Refugees to deport. The aim is an exercise of the power of deportation which is consistent and fair as between one person and another, although one case will rarely be identical with another in all material respects ...

It is notable that the Court did not refer once to this Rule, which was the basis of the deportation order, and why it was upheld in the domestic courts. Instead of examining whether the rule and its application properly took into account the guiding principles established by its case law, the Strasbourg Court preferred to replace domestic authorities' weighing of interests by its own assessment of the facts de novo. In doing this the Court has arguably taken upon itself the role of a court of appeal, or, as is sometimes said, as a "fourth-instance" court (Maslov v Austria), not for the first time. Explaining its approach, the Court declared that

... the State's margin of appreciation in this regard goes hand in hand with European supervision and the Court is therefore empowered to give the final ruling on whether an expulsion measure is reconcilable with Article 8

It therefore went about finding a violation on the basis of its own somewhat inconsistent case law on what constitutes "family ties" for the purposes of Article 8 – in the past indicating that young non-dependent adults are entitled to claim family life (Bouchelkia v. France, Boujlifa v. France), more recently suggesting that they are not (Onur v. the United Kingdom, A.W. Khan v. the United Kingdom).

The appropriate approach for the Court, given the basis of the application, the arguments before it and most crucially its supervisory rather than appellate role, would have been to address the matter of the Immigration Rules.

In order to achieve what it no doubt viewed as a just outcome in this case it would therefore have had to find that Section 364 was incompatible with Article 8 of the Convention. Such a finding would no doubt have provoked a request from the UK to refer the case to the Grand Chamber, a dust up which the Court would have wanted to avoid, since it might force the issue on its jurisdictional basis for giving "final rulings" – in other words questioning the basis of its "empowerment".

times wait for a few months for a suitable bed. It said last year, 26 patients were transferred to secure mental units, while eight patients were transferred into Manchester from secure mental units. The report, which looked at the year up to February 28, also raised concerns over the number of prisoners arriving late from court and the need for some prisoners to eat in their cells.

The IMB praised staff for responding well to very difficult situations, and said the extension of family visits to Category A prisoners was a "positive step towards rehabilitation and resettlement".

In response to the report, the Ministry of Justice said: "Staffing levels across the prisons estate are strictly risk-assessed. "We take the safety of our staff and security within our prisons very seriously. Savings have been made without the removal of frontline staff and minimum staffing levels have remained unaffected."

HMP Manchester, formerly known as Strangeways, is a local prison which accepts people remanded into custody from the courts in the Greater Manchester area.

Criminal conviction carries no weight against right to family life, rules Strasbourg

Rosalind English, UK Human Rights Blog, September 21st 2011

The Strasbourg Court has ruled unlawful the deportation of a Nigerian man convicted of rape. Considering the facts of his case afresh, the Court came to the conclusion that the 24 year old student's right to family life would be violated if he were removed to Nigeria.

The applicant arrived in the United Kingdom in 2000 at the age of 13 join his mother. At the age of 15, he was convicted of rape. After serving less than two years of his four-year sentence he was released on licence in 2004. The Home Office served him with a notice of liability to a deportation order on account of the rape conviction.

Although the Immigration Judge of the Asylum and Immigration Tribunal ("the AIT") allowed the applicant's appeal, the Secretary of State's appeal against this finding ultimately prevailed since it was found that the various factors in respect of his family life and his good conduct in remand did not outweigh the presumption in favour of deportation in accordance with the current version of the Immigration Rules.

The applicant complained to the Strasbourg Court that his deportation to Nigeria would violate his rights under Article 8. He argued, inter alia, that the presumption in the Immigration Rules that when a person was liable to deportation because of a criminal conviction or some other reason, deportation was in the public interest, was incompatible with Article 8. In placing the burden on the applicant to show that deportation was not justified, he argued, paragraph 364 of the Immigration Rules departed from the approach adopted by the Convention and the Court.

His complaint was upheld and he was awarded 4,000 Euros in costs and expenses.

The Court considered that the applicant, though a young adult and living independently during the week, stays with his mother at weekends and has not yet founded a family of his own, and therefore could be regarded as having "family life".

Those factors aside, Article 8 had to be applied in its widest sense, protecting as it does the right to establish and develop relationships with other human beings and the outside world and can sometimes embrace aspects of an individual's social identity,

. . . it must be accepted that the totality of social ties between settled migrants and the community in which they are living constitutes part of the concept of "private life" within the meaning of Article 8.

government website and actually a fuller version can be obtained through the University of Nottingham's own library and in fact it can even be purchased from the likes of WH Smith, Blackwells and Waterstones book shops," Mr Sabir said. "This is hardly the stuff of terrorists. It was quite frankly disproportionate and over zealous action. I can now proudly say that some form of vindication has been achieved and my name has been cleared."

Records amended: Nottinghamshire Police agreed to settle the civil case out of court but did not accept the arrest was unlawful. A force spokesperson said: "The matter was settled without admission of liability save that the force admitted that one brief search of Mr Sabir and his vehicle carried out in February 2010 was the result of a mistaken belief on the part of the officers involved. "This was admitted in November 2010 and the force apologises for this search. Given that all litigation carries with it a risk this modest monetary settlement was viewed as a sensible way of keeping overall costs to a minimum." The force also agreed to amend intelligence records held on Mr Sabir.

A University of Nottingham spokesperson said: "This is a matter between the police and Rizwaan Sabir, who has not been a student at the university since he completed his studies here in September 2009."

Mikey Powell's family struggle on

By Harmit Athwal, Institute of Race Relations, 15/09/11

On 16 June 2011, the West Midlands Police Authority was directed by the Independent Police Complaints Commission to record a complaint made by the mother of Mikey Powell, who died in police custody in September 2003. The family have only now been able to release this information due to reporting restrictions.

Mikey's mother, Claris Powell, had complained to the Independent Police Complaints Commission (IPCC) after the West Midlands Police Authority (WMPA) failed to accept a complaint about a report[1] that it issued following the inquest in to Mikey's death.

The report, published in March 2010, 'The organisational response to the deaths of Michael Powell and Linda Burt', was 'commissioned at the request of West Midlands Police Authority following the conclusion of the inquests into the deaths of Michael Lloyd Powell and Linda Burt.' It was 'designed to update the Authority of any organisational issues and response following the narrative verdicts reached by the juries in those cases.'

Mikey Powell's family were unhappy with the report and found that it was misleading as to the circumstances surrounding his death and the conclusions of the inquest jury. As a result, Mikey Powell's mother Claris Powell made a complaint to the WMPA. But the Authority refused to record it as it was not about the conduct of the Chief Constable. The family appealed this decision and now the IPCC has ordered the WMPA to record the complaint.

The erroneous report: The contents of the misleading report are significant as it lays out the WMPA response to his death. An inquest jury in December 2009, after a month long inquest, decided that Mikey Powell died as a result of positional asphyxia after being placed on his front in the back of a police van. The jury also found that, on the balance of probabilities he had died in the police van. The report issued by the police however claimed instead that Mikey was unconscious when they arrived at the station which also appeared to cast doubt on the finding of positional asphyxia as the cause of death. The report suggested that 'ultimately the jury were persuaded' by the view of a single specialist as to the cause of death and that '[t]his view was not supported by the other medical evidence provided at the Inquest.'

Background: Mikey Powell, a 38-year-old father of three, died on 7 September 2003 after being detained outside his mothers home in Birmingham. He was suffering from a mental

health breakdown and had smashed a window in the family home. His mother called the police assuming they would assist him or take him to hospital. However, once police arrived, Mikey broke a window in their car and, as a result, the officers drove at Mikey and he was injured. A friend tried to help by keeping him calm but police then used CS spray on Mikey and his friend. During the struggle, Mikey was also struck with a baton and held on the ground by up to eight police officers. After being held on the ground for up to 15 minutes Mikey, covered in blood, was then taken (face down) to Thornhill Road police station instead of a hospital. At the station he was again carried in face down where officers discovered he was not breathing. An ambulance was called, but it was too late.

Further IPCC investigation:

The IPCC is now also investigating another complaint by Mikey Powell's family. In a few weeks, the IPCC will meet Mikey's mother and other members of his family to discuss their investigation into her complaint about the evidence of the police officers in the van that transported Mikey to the police station. She complained about the conduct to West Midlands police in December 2010. They decided in January 2011 to take no action. Claris Powell appealed to the IPCC. In March 2011, it upheld her appeal and found that the complaint should be recorded by West Midlands police as potential misconduct. It was then decided that the complaint should be investigated by West Midlands police but under IPCC supervision. Mikey's family were unhappy with this decision and as a result of threatening a legal challenge, the IPCC has now taken over the investigation.

Tippa Naphtali, Mikey Powell's cousin, told IRR News: 'On behalf of the whole family I can only say that this has been a long and arduous process for us to have gone through. We are pleased that the West Midlands Police Authority will have to address my Aunt's complaint, and that there will now be an independent investigation of the accounts given by the officers in the van. For us, it felt like further injustices were being committed against Mikey, and we were unwilling to allow this to happen. Eight years on from Mikey's death these announcements give us further hope that justice is never out of reach if we persist. We fight on not just for Mikey, but also in solidarity and support of other families affected by deaths and abuses in custody.'

Death probe delays leave Croydon family puzzled

By Hannah Williamson, Croydon Guardian, Thursday 15th September 2011

The family of a university student who died after being restrained by police at a mental institution have said they are surprised a police investigation into his death has still not been completed one year on. Seni Lewis 23, died after he was restrained by up to seven police officers at the Bethlem Royal Hospital in Beckenham on August 31, 2010.

The student who had recently completed a masters degree in IT and business management, had voluntarily admitted himself as a patient to the hospital, but hours later officers were called to restrain him following a disturbance. He was taken to Croydon University Hospital after slipping into a coma from which he never recovered. He died on September 3, last year.

One year after his death, his parents and sisters Kemi and Lara, say they know nothing more about the circumstances of his death and are desperate for answers from the Independent Police Complaints Commission (IPCC). His mother, Ajibola said: "We want to know why he was restrained by so many people. He was handcuffed, so why was excessive force used?"

Seni's best friend Omari Faria, 23, added: "We don't understand why the police were called to do a job trained nurses should be doing. The police are used to restraining criminals, not patients."

The family say they have received a satisfactory report from the South London and Maudsley NHS trust (SLAM), which provides mental health services to people from Croydon, but are still awaiting reports from the IPCC and Health and Safety Executive. They said their faith in God and the support of their pastors, church members and other family members and friends, had provided great comfort to them as they try to come to terms with Seni's tragic death.

His father Conrad, added: "We appreciate that for IPCC to do a thorough job it takes time, but we didn't think it would take this long." Mrs Lewis added: "Nothing can bring Seni back now, but we want a conclusion and for the system to be improved so nothing like this happens again."

A spokeswoman for the IPCC said: "The IPCC concluded its investigation and passed a file to the Crown Prosecution Service on August 18 for its consideration."

Prisoners could have phones inside cells, MoJ says BBC, News, 18/09/11

Prisoners could soon have telephones fitted inside their cells, the Ministry of Justice has said. It was considering a trial, at one jail, which would allow calls to be made in cells rather than on communal phones on landings.

Officials are concerned about growing numbers of mobile phones being smuggled into prisons. Harry Fletcher, of the National Association of Probation Officers, said the scheme would need tight controls.

HMP Isis, a young offenders institute in south-east London, is believed to be the front-runner for the pilot scheme. It houses 622 under-25s within the walls of HMP Belmarsh.

Under the pilot scheme, calls to friends and family will be recorded, as they are currently, but conversations with lawyers will remain private.

A Prison Service spokesman said: "Access to land-line phones for prisoners is normal practice. The Prison Service is currently exploring possibilities of a pilot installation in a state-run establishment as we recognise the benefits of such a system. Any pilot will be monitored carefully before a decision is made on its roll-out."

Approved numbers: Officials are also concerned about the security issues of prisoners queuing to use public phones. Mr Fletcher, assistant general secretary of probation union Napo, said that bullying and cajoling was a problem at communal phones on landings. He said the scheme could "stop the squabble for landing phones every evening" and reduce the staff time supervising it, but he also warned of dangers of abuse. There would have to be absolute guarantees that, in private, men are not using the phones to hassle, harass or stalk previous victims, witnesses or partners - there would have to be strong monitoring to ensure that could not happen. Authorities should only allow approved numbers, for example six nominated numbers, like solicitor, family, close friends and associates - if not phones are potentially an accessory to a crime," he said.

HMP Manchester report: cutbacks have 'negative impact' on inmates

Savings made at HMP Manchester are having a negative effect on prisoners, a report has found. The Independent Monitoring Board (IMB) report said problems arose as fewer overtime shifts were being offered to cover for staff absences. It also found the transfer of inmates with severe mental health problems from the prison to secure hospitals was cause for "extreme concern". The Ministry of Justice said cutbacks had not affected core staffing levels.

The annual report, which was published on Tuesday, said inmates who have been identified as needing to be moved to a secure mental unit should be transferred within 14 days.

'Positive step': The IMB said this sometimes does not happen and patients could some-