

'Deaths in Custody March' - Police Attacked Peaceful Demonstrators

When the march reached Downing Street, Sunday 30th October, moving testimonies from family members and relatives of Smiley Culture, Mark Duggan and Charles de Menezes left the crowd both moved and frustrated. Cries for 'justice!' over the beats of local African drummers added to an atmosphere of tension.

As campaigners stood outside the gates of Downing Street, dozens of police encircled them, forming a line around the protest, moving in closer.

While the testimonies from the families were being read, one woman was told to "get inside." Another young male, the nephew of a man killed in police custody, was pushed by an officer. Every year at this march, a letter is written, signed and handed to the Prime Minister, highlighting the fact that no officer has ever stood trial for the murder of an innocent civilian, and demanding justice for the families, friends and communities affected by police violence.

Many of those who attended the initial march had started to leave, feeling the job had been done for another year and it was time to go home. This year, the thirteenth in the history of this demonstration, roughly half the attendees felt that their current methods were not effective. Campaigners peacefully occupied the road outside the gates of Downing Street, led by the families of the deceased. Within moments, over 300 officers surrounded the protest, stepping on those sitting crossed legged on the ground.

Without warning, two elderly women, one of whom had delivered a speech earlier that afternoon about the killing of her grandson at the hands of police, were dragged by officers across the pavement. The women protested with shouts, but at no moment did any of them fight back. Following this, other protesters began to be dragged from the peaceful occupation, many of whom were put in stress positions. Two more protesters, one male and another female, were detained in a 'holding pen' outside Downing Street for what police described as having a "threatening demeanour".

All those attacked by police at this point were African Caribbean. Minutes later, officers also detained a young white male, whose uncle had been killed by police and who was visibly distressed by what was happening to him. He had, at no point, touched an officer.

By this point, roughly 500 officers had been deployed, vastly outnumbering the protesters. Inevitably, arguments broke out, yet protesters remained peaceful throughout. A number of complaints, and likely civil action lawsuits, will almost certainly be filed by those victimised by today's police violence.

Since 1998, there have been almost 350 deaths in police custody, yet not a single officer has been convicted as a result. As the brutal repression of today's march demonstrates, the quest to bring to justice those responsible must, and will, go on.

Hostages: 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, 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.

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MOJUK: Newsletter 'Inside Out' No 347 (27/11/2011)

Justice and Freedom for Ricardo Morrison

In July 2009 Ricardo Morrison was tried and sentenced to 24 years for the murder of his fiancée Amy Leigh Barnes. As a hard working tax payer it is costing you £40,000 a year to keep an innocent man in prison. Please take time to read this information as it is your hard earned money that is helping to keep him in prison.

On 08/11/2008 Ricardo left Amy at home to go to the bank. While he was away she was brutally attacked in her grand-mother's home where she subsequently died from her injuries. At the time of the alleged attack Ricardo was on the bus travelling home.

Ricardo worked full time in Stockport, he would leave home at 07.30am in the mornings, not getting home until very late in the evening. He worked 5/6 days of the week and was unaware that Amy Leigh Barnes was entertaining other males while he is at work. Condoms were found hidden the house.

The Judge started off by confirming that Amy Leigh Barnes had several lovers & the dark unidentifiable figure seen walking could no be Ricardo Morrison.

The timeline used in the trial was incorrect & the direction the prosecutor stated he walked was untrue. They failed to produce CCTV footage of Ricardo on the bus & getting on/off the bus.

The witness who gave evidence in court has a questionable background. He was wearing similar clothing to the person he described to the police, and he identified another male from the viper who ticked all the boxes. He never once picked out Ricardo Morrison.

A witness reported to the police seeing a man driving away from the scene of the crime on the morning of the murder, but the police failed to take a statement. This was not presented in court.

The forensic report stated that there was no evidence linking Ricardo Morrison to the death of Amy Leigh Barnes. Forensic found DNA belonging to an unknown female/male at the scene of the crime. This was not presented in court at the trial. Small bloody hand print not belonging to Amy was found on the wall & blood splatter to left side of the bathroom wall. This was not presented in court.

Medical report said that Amy Leigh Barnes injuries were all to her right side. She had a cut to her right cheek and the medical report said that there was no indication to say that she was talking. Amy had two mobile phones & one them was taken from the scene of the crime. This was not presented at the trial.

All the case papers were re-typed and the witness gave conflicting evidence in court to the statement he had made. Andrew Barnes who had blood on his clothes was taken to his place of work then home to change his clothes. Members of the jury were allowed outside to smoke, two were asleep during the defence speech, and one of the male jurors was seen to have nodded to the police when they came back in with their verdict.

At the end of the trial it was alleged that Ricardo has numerous convictions for attack against women. This is totally & wholly false. It can be proven that the police lied about his character in order to get a conviction. His mother who is a serving police officer was attacked in her home by police officers, damage was caused to her property & they fabricated evidence against her to take her to trial. Please read this with an open mind because the truth in relation to the death of Amy Leigh Barnes has not yet been told.

Ricardo Morrison: A2489AG, HMP Garth, Ulnes Walton, Leyland, PR26 8NE

Clarke's rehabilitation revolution failing as authorities oppose changes

By Raymond Peytors - theopinionsite.org, 13th November 2011

Rehabilitation Revolution - What revolution?

It has emerged that Ken Clarke's 'rehabilitation revolution' is completely failing prisoners with IPP and long term determinate sentences and is also failing to reduce prisoner numbers. Mr Clarke's proposed changes are only being directed at those prisoners serving 12 months or less and completely ignore those with longer sentences. The excuse is that short term prisoners receive no statutory help when released while those serving long sentences fall under the (somewhat dubious) control of the Probation Service and the Police.

The various law enforcement authorities, charities and others who benefit from the current situation where public opinion is driven by an artificial fear generated by those with vested interests, have consolidated themselves into a formidable opposition to Mr Clarke, frequently predicting rising crime levels and trying to sell the public the false prospect of hundreds of 'dangerous' criminals being allowed to 'roam the streets of Britain'.

Clarke's 'Rehabilitation Revolution' sounded like good news when it was first announced 18 months ago but since then it has failed to deliver. Faced with political opposition from right wing Tories on one side and Labour public protection zealots on the other, Clarke has had to water down his proposals so that they are now far less 'revolutionary' than was intended but are more politically acceptable.

Changes to the IPP sentence are still a long way from being introduced and it has been made clear by the government that the existing 6,500 IPP prisoners will not benefit from any changes that are eventually introduced. Meanwhile, more IPPs are being handed down every week.

In Justice Questions in the House of Commons last week, when responding to a written question Mr. Clarke admitted that prison numbers could rise as high as 94,000; a complete contradiction of his stated intention to reduce the number of those held in custody. The UK hands out some of the longest prison sentences in Europe and it is now becoming apparent that the number of long term prisoners is likely to rise, not fall.

The prisons minister, Crispin Blunt last week visited Peterborough prison in order to inspect the new 'payment by results' system of rehabilitation but it later became clear that this scheme only applies to short term prisoners; it is these prisoners that are most likely to repeat offend and return to custody, sometimes several times during a 2 year period.

The real problem however is one of public perception and of those who have power trying desperately to hang on to it.

Those serving sentences of over 4 years are regarded as 'serious' offenders and on release often face long licences. Probation officers have ignored guidance from the Ministry of Justice and are still 'recalling' record numbers of offenders back to prison rather than spend valuable resources on trying to rehabilitate them. This is particularly the case with violent offenders and is even more prevalent when dealing with sexual offenders.

Probation officers – who are often straight out of university and have little or no experience of the real world – are more 'risk averse' than ever and are terrified of criticism. As a result, they recall offenders back into custody for the slightest breach of their licence which often contain 'conditions' which are almost impossible not to breach.

The police are equally to blame as they form part of the Multi Agency Protection Panel Arrangements (MAPP) and are just as keen to use any excuse to send sex offenders and others back to jail. MAPP functions under a cloak of secrecy and offenders get no chance

Health care was very good. However, during the inspection an announcement was made about the implications of the re-role which, because there was expected to be a more stable and less needy training population, involved major reductions in the health care budget. In particular, the inpatient facility was to close and it was not clear where some young men with very significant mental health issues would end up. It will be essential to revise the establishment's health needs assessment as the nature of the new population becomes clear, adjust provision accordingly and ensure that no damaged young men fall through the cracks of this change.

Time out of cell remained limited and we would certainly expect it to improve once Lancaster Farms becomes a training facility. By the same token, it was both timely and commendable that there had been very significant improvements in the quality of learning and skills provision. This would provide an important underpinning for the establishment's new role. Both the library and PE had also improved.

Less progress was visible in resettlement. Although the management of resettlement was generally sound, there was a lack of strategic direction. There was still insufficient custody planning and offender management remained variable. Public protection and work with indeterminate sentenced prisoners was good. Most resettlement pathway provision was adequate.

Lancaster Farms has made significant progress since our last visit. It is now a safer place, although the continuing levels of violence mean that there is no scope for complacency. It is now also a decent place, with a more engaged staff and some improved relationships. These are important changes which, together with a step change improvement in the quality of learning and skills, mean that the establishment is in a sound position to re-role to a training function. There will be major challenges ahead, not least ensuring adequate health care and resettlement services to meet future needs but, overall, Lancaster Farms is to be congratulated on how far it has already come.

India: Over 14,000 people killed in custody in 10 years

More than four persons per day were killed in police and judicial custody in India between 2001 and 2010. The total of 14,231 persons includes 1,504 deaths in police custody and 12,727 deaths in judicial custody from 2001-2002 to 2009-2010 as per the cases submitted to the National Human Rights Commission (NHRC).

The NHRC registered only six deaths in police custody in Jammu and Kashmir from 2001-02 to 2010-11. This is despite the fact that on March 31, 2011 Chief Minister Omar Abdullah in a written reply before the Legislative Council stated that 341 persons had died in police custody in the state since 1990.

The New Delhi-based Asian Centre for Human Rights in its report, Torture in India 2011, released today said that a large majority of these deaths were a direct consequence of torture in custody. These deaths reflect only a fraction of the problem with torture and custodial deaths in India as not all the cases of deaths in police and prison custody are reported to the NHRC. Further, the NHRC does not have jurisdiction over the armed forces and the NHRC also does not record statistics of torture not resulting into death.

"The failure of the Ministry of Home Affairs to introduce the Prevention of Torture Bill drafted by the Rajya Sabha Select Committee headed by Ashwani Kumar, the current Minister of State for Planning, in December 2010 in the Parliament session beginning on November 22 demonstrates India's lack of political will to stamp out torture," said Suhas Chakma, ACHR Director.

with community resources in the main London boroughs to which prisoners were released. This process needed more development and probably more resources, but it was a welcome and innovative approach that should be of interest to the wider prison system. Good work was done to support prisoners with the practical needs they would have on release including an excellent job club. In rather surprising contrast, arrangements to help prisoners maintain contact with their families and children were not good. However, during the inspection a new visitor centre was opened and it is hoped that this will mark an improvement.

Wormwood Scrubs has risen to some formidable challenges. It is an improving prison that has now got many of the basics right and has some innovative plans to address those areas that still need improvement. It is a safer and more decent place than in the past but it now needs to ensure that its plans for learning and skills and resettlement achieve a similar improvement.

Report on an unannounced full follow-up inspection of HMYOI Lancaster Farms

1–10 June 2011 by HMCIP. Report compiled Sept 2011, published Tuesday 22/11/11

Concerns: - levels of violence among this volatile age group remained high and required further preventative work;

- there was a need to reduce further the heavy reliance on adjudications and use of force
- although early days were generally well managed, some first night risk assessments were inappropriately deferred to the next day;
- time out of cell remained limited, - petty restrictions on wearing own clothes
- tinsufficient custody planning and offender management remained variable
- the re-role would mean reductions in the health care budget and, in particular, the inpatient facility would close: the establishment must revise its health needs assessment and adjust provision as the nature of the new population becomes clear so that no damaged young men fall through the cracks.

Introduction from the report

Lancaster Farms is the only dedicated young offender institution in the north west. At the time of the inspection, it had a local prison function: holding both remanded and sentenced young adults. It was due to re-role to become a training establishment. On our last visit, we were highly critical, including noting a lack of staff engagement and pervasive poor relationships. On our return for this unannounced inspection we found a much improved establishment which was generally well equipped for its proposed new role.

There had been some improvements in safety, but levels of violence among this volatile age group remained high and required further preventive work. Similarly, there was a need to reduce further the heavy reliance on adjudications and use of force, although governance of the latter had improved. Early days were generally well managed, but some first night risk assessments were inappropriately deferred to the next day. Suicide and self-harm prevention work was impressive. The segregation unit was a decent facility. Security was proportionate and there was little substance abuse.

The physical environment at Lancaster Farms remained impressive and this was enhanced by good levels of cleanliness. There was now better access to basic facilities such as showers and phones, although petty restrictions on wearing own clothes remained. Staff appeared more engaged with prisoners and the personal officer scheme was effective. The expectation that prisoners would dine communally had a civilising effect. Diversity was well promoted and there was a well respected chaplaincy.

to check the evidence upon which decisions are made. This gives the authorities 'carte blanche' to do anything they like to offenders with nobody being held to account for wrong or dishonest decisions.

The presumption that all sexual and violent offenders will reoffend also continues to drive poor decision-making and evaluation procedures, often with the results of Home Office and MOJ risk assessment tools being replaced by personal opinion when the risk assessment does not give probation or police the result they want to see. Once again, secrecy prevails and so it is almost impossible to hold those responsible to account.

Mr Clarke has done nothing to address any of these problems, though it is inconceivable that he is not aware of their existence. The political necessity of being seen to lock up as many people as possible is now so firmly ingrained in British politics that it is hard to see any way in which common sense and fairness can be brought back into the system. This is the real problem that Clarke faces.

Meanwhile, prison numbers continue to rise and more and more criminal law is introduced, though not to the hysterical extent that was apparent under Tony Blair's government which introduced more than 3,000 new criminal offences during its reign.

Nevertheless, the government seems steadfast in its intent to ignore the elephant in the room that is long term prison sentences. With the new proposal that IPP sentences should be scrapped, TheOpinionSite.org and other organisations hoped that logic would prevail. Given that Clarke has announced that, where appropriate, mandatory life sentences will be given instead of IPPs, it now seems likely that the number of prisoners serving indeterminate sentences will go up, not down.

Mr Clarke said once that he wanted to 'get rid of the nonsense populism' of New Labour but so far, even with the minimum of real examination, it has become very clear that David Cameron is as scared of accusations of being 'soft on crime' as ever Blair was and is putting pressure on Clarke.

The much hoped for restraining influence of the Liberal Democrats seems to have evaporated as they continue to enjoy the trappings of government, though many would argue that we are probably better off with the Liberals than without them. Meanwhile, the Home Secretary, Theresa May is stirring up as much opposition to Mr Clarke as she can.

As policemen and probation officers across the country try to prove that they are worth their jobs and the huge amount of money that they get paid together with their protected status and the excessive power that they now have, one must ask whether in reality anything has actually changed or not. Certainly, TheOpinionSite.org has seen very little real change and the many comments from our thousands of visitors seems to confirm this view.

The real problem with prisons is that there are too many prisoners serving long sentences and it is far too easy for the authorities to return offenders to custody when they are eventually released, often doing so on a whim, for the sake of political expediency or simply because they can. Until these critical issues are addressed, Mr Clarke can say or do what he likes but none of it will make any difference.

To its shame, Britain still locks up more adults and more children than any other country in Europe. It does so because British society is a highly repressed society where people live under the illusion of freedom and democracy when in reality, neither truly exist. The whole sociological system in Britain is designed to keep the powerful in power, make the rich richer and keep the rest of the population in its customary subservient position whilst trying to convince it otherwise.

If anyone strays from the prescribed path for even an instant, sooner or later they are likely to find themselves in jail. If they protest or take direct action against the power of the State, they are likely to suffer the same consequences. If they steal in order to feed their children – something that nowadays is far from uncommon – they will end up behind bars, no consideration being given as to why they were forced to steal in the first place.

If this is what Mr Clarke's 'rehabilitation revolution' is about he may as well pack up and go home. He has always been the only voice of common sense with regard to criminal justice issues but it seems that his voice is being drowned out by all those with vested interests. From children's charities to women's groups; from police to probation officers; from prison warders to prison psychologists – they all have only one aim.

That aim is to keep things as they are; to maintain the status quo. To stifle real democracy, maintain the position of the rich and powerful and to persecute those who cannot and never will be able to defend themselves.

The truth is that the 2 million people who are 'protectors of the public' could themselves, from a certain point of view, be regarded as the biggest threat to a truly free society.

TheOpinionSite.org thinks back to Cromwell, the French Revolution and other conflicts that had their origin in the unfair treatment of the poor and unfortunate. Have we learned nothing? Can people really not see what is taking place under their very noses? Are we all really as stupid as the government would like?

Sadly, despite Ken Clarke's best efforts, prison numbers will continue to rise as more and more people stray, willingly or otherwise, from the path forced upon them by those in power. Expect to see more riots, more theft, more conflict and more imprisonment as those who seek to wield power over the nation try to protect their position – and their wealth.

The Dilemma of Maintaining Innocence

A discussion paper by Matt Evans (Managing Solicitor at Prisoners Advice Service) sent for consideration and distribution at the 'Progressing Prisoners Maintaining Innocence' earlier this month.

Introduction: It is 20 years ago since the Birmingham six were released as innocent men, but the stark reality is that if their appeals has not been successful they would in all likelihood either have died in prison or still been incarcerated because of their absolute insistence of innocence and wrongful conviction.

The Parole Board and Prison Service will say that there is no rule or policy which automatically prevents a lifer who denies guilt from progressing through the lifer system, or from being released. This may be technically correct but it is a highly mendacious line of argument because clearly denial of guilt does affect the timing of release and despite the ongoing debate around prisoners maintaining innocence in the last few years neither the Prison Service or the Parole Board have made any real progress to resolve the issue.

My understanding is that only 2 mandatory life prisoners have ever been released by the Parole Board on tariff (i.e their earliest date of release) whilst maintaining complete denial of the crimes for which they were convicted. Suzanne May, who has always maintained her innocence (and is still seeking to overturn her conviction) of the murder of her aunt was released in 2005, and most recently John Taft in April of this year.

Indeterminate sentenced prisoners who maintain their innocence are especially affected. It is they who have to jump through a series of hoops, relying on the prison service lottery to provide them with courses to 'show a reduction in risk' and so as to ultimately satisfy the Parole Board that

have trouble finding a job when they were released.

These are not untypical challenges for a big local prison in London or elsewhere, but the progress recorded in this follow-up inspection needs to be seen in the context of those challenges.

It was, therefore, pleasing to see that the prison was safer than at the time of our last inspection. There were some supportive first night and induction arrangements and although violence and anti-bullying procedures needed development to ensure more vulnerable men were not victimised, more prisoners reported feeling safe than at the time of the last inspection. There had been a number of deaths since the last inspection and the prison had a good focus on learning the lessons that arose from these. It was welcome that a Listener scheme had been reintroduced.

The segregation unit was well run but with a sparse regime not only for those who were there as a sanction but also for those who were segregated for their own protection. There was good work both to reduce the supply of drugs through effectively targeted security measures and to reduce demand by good treatment and support. About one in ten prisoners tested positive for drugs in random tests, which was still too high but significantly reduced from before.

Relationships between staff and prisoners were reasonably good but lacked depth with no scheme for named officers to have responsibility for overseeing the progress and welfare of individual prisoners. The prison was generally clean but a few cells were in very bad condition: shared, covered in graffiti, with poorly screened toilets, broken windows patched up with cardboard or plastic and sheets used as curtains. Most prisoners could not wear their own clothes and there was sometimes an inadequate distribution of prison issue clothing with shortages of socks and underwear. Health care was generally good but mental health services were overstretched.

There was some energetic work on diversity but black and minority ethnic prisoners had worse perceptions of the prison as a whole and there was some evidence that they were adversely over-represented in some disciplinary processes without an adequate explanation. The prison worked hard to manage its large foreign national population effectively and while there were some issues that needed attention, foreign national prisoners reported relatively positively on their treatment. Almost one in ten of the prisoners identified to us that they were of a Traveller or Gypsy heritage - a very significant over-representation of people from that background compared with the population as a whole. There was no attempt to identify and meet the needs of this population in the prison and the wider issues behind this over-representation need to be better understood and addressed in the community.

As with most other local prisons, prisoners simply spent too much time locked in their cells with nothing productive to do. We found two out of five prisoners locked in their cells in the working part of the day and opportunities to socialise with other prisoners or carry out domestic tasks were very limited. There were some promising plans to improve the learning and skills provision but these were still at a very early stage. There were insufficient activity places but those that were available were not well used. Attendance at vocational training was unacceptable at 55%. Some of the courses run were not geared to the short time many prisoners spent in the prison. The prison could not meet many prisoners' basic need for help with reading and writing. Overall, there was too little opportunity for prisoners to acquire the habits, skills and experience that might improve their prospects of getting and holding down a job on release.

Other aspects of resettlement were much more positive. The prison took a realistic view of what could be achieved and what would be better done for some prisoners when they moved on to a training prison. A custody action planning system for short-term prisoners had just been introduced and the prison had invested in a senior operational manager to support this by developing links

Should swearing at a police officer be illegal? Maybe so, but that is a matter for parliament to decide, not the courts. Melda Wilks a former police officer commenting on the case said: 'Police officers regularly used the "Fuct" word in the station and in public when they are dealing with people they have stopped. They are happy to use it frequently around the station when they are talking, , in the cars, and when they are frustrated. The Judge is right they are used to it, bcause they dish it out as well.'

Full follow-up inspection of HMP Wormwood Scrubs, 20 - 24 June 2011, by HMCIP.
Report compiled September 2011, published Friday 18th November 2011

Concerns: - violence and anti-bullying procedures needed development to ensure more vulnerable men were not victimised

- black and minority ethnic prisoners had worse perceptions of the prison as a whole and there was some evidence that they were adversely over-represented in some disciplinary processes without an adequate explanation.

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- prison could not meet many prisoners' basic need for help with reading and writing.
- too little opportunity for prisoners to acquire the habits, skills and experience that might improve their prospects of getting and holding down a job on release.

Introduction from the report

Wormwood Scrubs is probably the most famous prison in the country, its image produced in countless dramas and documentaries. A large TV crew was in the prison on a day I visited, filming an episode of a popular crime drama, and incidentally, earning the prison a useful fee to put towards its activities.

Of course, the reality behind the image is much less glamorous than many TV programmes suggest. This report picks out the challenges its population of some 1,200 men presents.

At the time of our inspection, almost half the men were unconvicted and held on remand. A third of those sentenced had less than six months to serve. On average, the prison reception processed 1,200 men (equivalent to the total size of the population) moving in and out of the prison each week.

Two out of five prisoners were foreign nationals and under a quarter of these had English as their first language.

The mental health in-reach team looked after more than 50 prisoners with the most severe and enduring mental illnesses, and 14 prisoners had been transferred to specialist mental health services in the six months before the inspection. However, many more prisoners with less acute or treatable mental health problems needed support.

Almost 300 prisoners were receiving interventions from the drug and alcohol team.

There were 232 prisoners waiting for literacy classes and 72 for numeracy.

Sixteen per cent of prisoners entered the prison without accommodation. Twenty per cent of prisoners had debts they were very worried about. Just under half thought they would

they are ready for release. And it is they who continue to be confronted with the same problem: either admit guilt and comply with their sentence plans, or face the prospect of serving many years over their minimum tariffs and possibly never achieving parole.

It is currently for the courts and the independent Criminal Cases Review Commission to review alleged miscarriages of justice in England, Wales and Northern Ireland. The effectiveness or otherwise of these institutions is not something dealt with by this paper.

However prisoners whose appeals have failed for whatever reason, or whose cases are ongoing are left to satisfy the key consideration to granting release on parole or life licence; namely is their current risk to the public manageable? And when looking at this the Prison Service and Parole Board will always assume that the prisoner was rightly convicted.

Risk Assessment: Innocence-maintaining prisoners present many problems for the risk assessment process, problems which will only intensify with the exponential growth in the number of IPP, high risk, determinate and recalled prisoners needing risk assessment, coupled with the acute shortage of appropriate offending behaviour programmes and prison psychologists working on an individual basis with such prisoners.

The starting point, one would have thought, is that if someone is innocent they are not a risk to society. The credibility of such claims could be looked at, through for instance, the steps taken by a particular prisoner to clear their name, their behaviour in prison and their attempts to undertake work whether related to their index offence or not. However, neither the Prison service nor Parole Board seems currently able, or indeed willing to look at this as a part of their assessment processes.

On the specific issues of the validity of denial as a measure of risk, this is based purely on clinical wisdom rather than any scientifically founded measure of risk . On a more general level, risk can be calculated only to a limited extent anyway. However, whilst the Parole Board are aware that a maintaining of innocence is not an automatic bar to release and that it is unlawful for the Board to refuse to consider the question of release solely on the ground that the prisoner continues to deny guilt increasing and unhelpful political pressures on the Prison service and Parole Board has meant a risk averse culture permeates across these assessments. Factors such as denial of guilt, attitudes to treatment and absence of risk reduction work are all therefore added into the mix of risk assessment despite their neither being reliable or valid.

Another related issue is that both the Prison Service and Parole Board have formed a view that the assessment and minimisation of risk is premised through the successful completion of behaviour modification programmes which require an acknowledgement of guilt and a preparedness to discuss self-critically the salient features of the offence.

This presents an obvious problem to prisoners who continue to maintain their innocence, as they are unable to co-operate over something they have not done. Programmes such as the Sex Offender Treatment Programme (SOTP), Controlling Anger and Learning to Manage It (CALM) and the Cognitive Self Change Programme (CSCP) depend on an offender admitting to and discussing their offences, either during the initial assessment stage, or during the programme itself, and so are not open to individuals who deny their offences.

Management of "deniers" in prison: In my own experience it is a fallacy to suggest that it is common for prisoners to deny the offences for which they have been convicted. It is true that some do and this may be for all sorts of reasons. They may not be able to accept what they have done, may be trying to protect others, or may not want people close to them to know the truth, or in more complex cases believe themselves legally guilty but factually innocent (mercy killings or joint enterprise being obvious examples). Finally of course they may be entirely innocent.

PSO 4700 sought to address the issues of 'deniers' (as they are referred) by at least acknowledging that they form part of the prison population and their stance on guilt or innocence should be recorded. However the real difficulty is that it fails to offer any sensible approach to those who might have a genuine case of miscarriage of justice.

Such individuals are simply left in limbo. Even if they undertake courses, they are unable to give a full and frank account of their offence for the purposes of analysis for obvious reasons, given their claim that they did not commit it; simply looking at previous and often minor offences is not going to demonstrate a reduced risk in, for example, the case of murder.

The Incentive and Earned Privileges Scheme (IEPS) highlights another difficulty. Since the introduction of the IEPS there have been a number of challenges brought by prisoners who, because they have maintained their innocence and therefore have not fully participated in their sentence planning, were denied access to the Enhanced regime despite impeccable behaviour. However these arguments including the fact prisoners denying their offence are discriminated against in their access to the right to family life under article 8 of the ECHR, as prisoners on Standard regime receive less or shorter visits than those on Enhanced have consistently been rejected by the courts.

An added complication is that PSI 33/2009, which came into force on 1st January 2010, has introduced Pre-Tariff Sift Reviews. The effect of this is that all lifer cases are now subject to a prison service assessment, as to their suitability for a Parole Board review 2 years before their tariff date expires. The test applied is whether there is a reasonable prospect or 'is there a case for consideration' for open conditions by the Parole Board? PSI 33/2009 impacts on all prisoners but its impact is most keenly felt on those maintaining innocence and who for that reason have not been able or willing to undertake offending behaviour programmes.

It is also part of a move away from full judicialisation of the parole and release decision pertaining to lifers and those who maintain their innocence, along with things such as the removal (by the Parole Board (Amendments) Rules 2009) of the right to an oral hearing. Oral hearings are essential for those maintaining their innocence. Given that their paper dossiers are unlikely to reflect favourably on them if they are not engaging with courses etc, prisoners maintaining innocence rely on oral hearings to put forward their case and their side of the story to the Parole Board.

Conclusions: The Parole Board has been given only one power by Parliament which is to decide whether or not to release a prisoner. There is no mechanism to allow the Board to look behind the court's verdict and this is not going to change. Therefore those advising innocent prisoners (and those whose decision making affects such prisoners) need to try to operate within this framework and look at how the crucial question of risk assessment in particular is dealt with.

There is a need for the risk assessment process to take greater account of all forms of innocence assertion. In particular, the nature and extent of, and reasons for, any assertion of a prisoner's innocence should be explored and challenged in much greater detail than at present; using perhaps archived material that may not be readily available in prison files or the parole dossier.

The key issue affecting a lifer's progress should not be weighted to, as it seems currently, what offending behaviour work has been undertaken, but whether or not the risk he or she poses to the public is acceptably low. This can be measured (as it used to be) through their interaction with prison and probation staff and importantly how they conduct themselves with other prisoners. Prison lawyers can also do their bit by obtaining (within the restrictions of current legal aid funding) expert reports to challenge often intransigent prison and probation risk analysis.

The Prison Service themselves also need to accept that their general presumption that the conviction was correct does not meet the case of the person who is genuinely innocent,

regard to preserving life and ensuring that no one is subjected to inhuman or degrading treatment. The family is to receive €34,000 (£29,000) from the government in an ex gratia payment and to cover legal costs.

The unusual step of issuing a statement of that sort is a form of settlement and invites the court to strike out the case. The government had fought not to have the case heard in Strasbourg, before lodging an official statement and apology to the Alder family. Its apology is on behalf of Humberside police. The text of the apology states: "The government of the United Kingdom regrets the occurrence of the actions which have led to the bringing of the present application, in particular the treatment in custody of the applicant's brother, Mr Christopher Alder, and the anguish that this treatment and his death have caused to his family. The government accepts that the lack of an effective and independent investigation in this case constitutes a violation of the procedural obligations in articles 2 and 3 of the Convention. Further, the government accept that the treatment that the applicant's brother received in police custody amounted to a substantive violation of article 3 with 14 of the Convention."

Is swearing at a police officer a criminal offence?

A simply enough question you might think, but one that has given rise to quite a lot of case law over the years, including a ruling from the High Court on 17th November, which has sparked fury in the newspapers today. Last week's case is *Harvey v Director of Public Prosecutions, AC*, 17 November 2011, and the facts are as follows:

Harvey was part of a group standing in the public area of a block of flats. The police wished to search Harvey and he objected in these terms: "fuck this, I haven't been smoking anything."

He was warned as to his behaviour and threatened with an arrest under s5 Public Order Act 1996. Following the search, which revealed nothing, Harvey said: "I told you you wouldn't find fuck all." He was further warned, and in response to a question to give his full name he replied: " I have already fucking told you." He was then arrested for a section 5 offence, and subsequently convicted before the Magistrates' Court.

So, why all the fuss today? This is due to the fact that the High Court overturned that conviction. But why? Is it the case that swearing at police officers (and others) is now legal? Or something else? The first thing to point out is that however unattractive the language might be, swearing per se is not a criminal offence. The section 5 offence is concerned with words or behaviour that are said within the hearing of a person likely to be caused harassment, alarm or distress.

The conviction was overturned for the following reasons:

1. The Crown Prosecution Service adduced no evidence at all from the officers that the words had caused them harassment, alarm or distress. The court noted that police officers in particular regrettably hear this language all too frequently as part of their job and are less likely to be affected by it. The case of *Southard v DPP* is on point.
2. The same could be said, in the absence of evidence to the contrary, in relation to the group of young people assembled at the time.
3. There was no evidence that any other persons (eg neighbours) heard the exchange.

So, this case is not a licence for people to cause police officers harassment, alarm or distress through the use of bad language, it simply reflects the reality that many people, particularly police officers who hear this day in day out, will find it more boorish than alarming. Everything depends on context however and the courts have not, despite what the press are reporting this morning, given people a free reign to abuse police officers.

investigation will consider whether all investigative lines were promptly identified and acted upon by officers from the Metropolitan police service and to what extent, if any, the conduct of this investigation may have impacted on the supply of the firearm found at the scene of the shooting of Mark Duggan." In a statement the Met said: "Due to concerns about the quality of the investigative response the MPS has voluntarily referred the investigation to the IPCC.

Adviser quits Duggan inquiry with attack on 'shoddy investigation'

Two members of a group set up to ensure community confidence in the investigation of the police shooting of Mark Duggan have resigned, the Guardian has learned. One member of the group claimed the police watchdog is, in some ways, worse than the force it is investigating. He also raised concerns about the handling of key evidence at the scene of Duggan's death, claiming police were allowed to move it. The IPCC appointed the group at the start of its investigation. The two members who have resigned, saying their confidence in the police watchdog's inquiry was damaged, are community activists Stafford Scott and John Noble. In a piece for the Guardian's comment pages, Scott says IPCC errors led him to lose faith in its investigation. Scott says the taxi Duggan had been travelling in was taken away from the scene by police just after the shooting, despite it containing "evidence of major significance". That Rachel Cerfontyne, the IPCC commissioner in charge of the Duggan investigation, was unaware of this. "Weeks after these revelations we were told by a very embarrassed IPCC commissioner that she had now been informed by her investigators that they had in fact sanctioned the removal of the vehicle. This was before they had even got to the crime scene.

Early day motion 2447: Death of Daniel Morgan

That this House recognises the urgent need for a full judicial inquiry into the Metropolitan Police Service's handling of the murder of private investigator Daniel Morgan in 1987; notes the failure of five police investigations to bring anyone to trial for the murder, the still unresolved allegations of Metropolitan Police involvement in the murder, the police corruption recently acknowledged by the Metropolitan Police in relation to the first investigation into the murder and recognised by Acting Commissioner Tim Godwin as being a debilitating factor in solving the crime and the repeated failure of the Metropolitan Police to confront the role played by this corruption in protecting those responsible for the murder from being brought to justice; and further notes the long-standing and much publicised relationship of two of the suspects with the News of the World (NotW), the interference by NotW journalists with the fourth investigation into the murder and allegations, never fully investigated by the Metropolitan Police Service, that Daniel Morgan approached a senior NotW journalist with allegations of serious police corruption shortly before he was murdered.

Government to apologise to Alder family over police cell death

Maya Wolfe-Robinson and Owen Bowcott, The Guardian, 22/22/11

'Unilateral declaration' made by UK to European court of human rights is highly unusual admission of failures in investigation. The government will formally apologise through the European court of human rights (ECHR) to the family of Christopher Alder, a black ex-soldier who choked to death in handcuffs on the floor of a Hull police station 13 years ago. The "unilateral declaration" made by the United Kingdom to the court is a highly unusual admission of widespread failures in the investigation into the cause of the Falklands veteran's death. In its statement to the ECHR, the government will concede that it breached its obligations in

but who has exhausted all avenues of appeal without success. Suitable sexual and violent risk reduction work should be devised for those maintaining innocence.

Furthermore, one to one motivational work should be more readily available for such prisoners, particularly when their stance is holding back their sentence progression.

Reports and assessments, including the OASys form, should be adapted to allow for details to be provided about the maintenance of innocence and the reasons for that position. Finally prison and probation report writers, when commenting on offending behaviour programme work, should distinguish between cases of non-cooperation or refusal to participate by the prisoner and cases where the prisoner is excluded from courses on account of their denial.

R v Nguyen [2011] EWCA Crim 2634

N was sentenced for the production of a class B drug. It was believed that at the time the offence was committed N was 17 years of age, and had turned 18 prior to sentencing. He was sentenced to 4 years 6 months youth detention in a young offender institution.

It later transpired that N was in fact aged 23, and the case was taken to the court of appeal on the basis that a sentence of imprisonment as opposed to detention was the proper sentence.

Held: An appeal to the Court of Appeal is not necessary:

We have considered whether in a case such as this in the future which falls outside the slip rule, the Secretary of State can deal with the matter by exercising his powers under sections 99 and 164 of the Powers of Criminal Courts (Sentencing) Act 2000. Section 99 caters for those who celebrate their 21st birthday in custody. Under section 99(1)(a) when an inmate "has attained" the age of 21 the Secretary of State "may direct that he should be treated as if he had been sentenced to imprisonment for the same term" and thereby have him sent to an adult prison. "Attained" is not defined. Mr James submits that it can properly be construed to mean anyone in a young offender's institution who simply is over the age of 21 and "has" thereby attained the age of 21. Section 164 deals with the power of the courts and the Secretary of State to determine the age of any defendant as "required" and allows both entities to determine age as required on the available evidence. As Mr James observes, there is a body of case law dealing with the fair procedures and mechanisms that the Secretary of State must abide by in making such determinations. Simply put, he submits that the Secretary of State has the power to fairly determine the age of an inmate and thereafter have him treated as if he had been sentenced to imprisonment for the same term.

Investigation after murder at HM Prison Grendon

BBC News, 16 November 2011

An inquiry has started after an inmate who beat a sex offender to death in prison was jailed for life for murder. Lee Foye, 26, stamped on Robert Coello, 44, so hard at HM Prison Grendon, Buckinghamshire, that the tread of his shoes could be seen on Coello's body. Luton Crown Court heard Foye despised the serial child sex offender. Lee told a psychiatrist he wanted to eat Robert Coello's brain. Judge Richard Foster called for an inquiry and the Prison Service said the death would be investigated. Foye will serve a minimum term of 35 years. After convicting Foye on Tuesday, the jury was told he was serving life for murdering a former lover in front of her son. Judge Richard Foster said Foye's jail sentence would run concurrently to the 16-year sentence he is serving for his first murder.

Ombudsman inquiry: Judge Foster said Foye had "manipulated the prison authorities to facilitate" his move to Grendon, a prison which tries to rehabilitate violent criminals

through group therapy, saying he had chosen Coello as his victim. "I hope there will be a full inquiry into how appropriate it was for Lee Foye to be kept at HMP Grendon."

The court heard Coello, of Whitley, Reading, was attacked after he upset prisoners with graphic details of his crimes. He had been placed in a wing with prisoners who were not sex offenders because the prison was so full and under its regime, had been encouraged to talk about his feelings with other inmates, the court heard. Foye carried out a ferocious attack on Coello after going into his cell and locking the door behind him.

Two women jurors cried when the prosecution revealed Foye's previous victim, Lauren Strachan, 19, of Corby, suffered 47 different stab wounds and 28 other injuries in August 2005. Patrick Mandikate, the prison's head of psychotherapy, admitted he was "uneasy" with the decision to place Coello on G Wing last year.

A Prison Service spokeswoman said: "We note this judgement and welcome the closure it brings. "As with all deaths in custody, the Prisons and Probation Ombudsman will conduct an investigation."

Revealed: Mark Duggan was not armed when shot by police

Investigators find no forensic evidence he was carrying gun when killed
Vikram Dodd, The Guardian, Saturday 19 November 2011

The investigation into the death of Mark Duggan has found no forensic evidence that he was carrying a gun when he was shot dead by police on 4 August, the Guardian has learned. A gun collected by Duggan earlier in the day was recovered 10 to 14 feet away, on the other side of a low fence from his body. He was killed outside the vehicle he was travelling in, after a police marksman fired twice.

The new details raise questions about the official version of events. The shooting triggered some of the worst riots in modern British history, which began in Tottenham, north London, in response to the treatment of the Duggan family. The investigation into Duggan's death is being carried out by the Independent Police Complaints Commission (IPCC), but the Guardian has learned new details of the shooting, and a much more complex picture than first revealed is emerging.

On the day Duggan was shot, there is overwhelming evidence he had obtained a firearm, and there is video supporting that. But the investigation is considering whether Duggan had a weapon in his possession when he was shot dead by the police. The revelations raise questions for the Metropolitan police about the intelligence they had and its interpretation, the planning of the operation, tactics deployed, and the actions of its firearms officers.

The Crown Prosecution Service may have to consider if any officer should face criminal charges. But the revelations also raise questions for the IPCC, whose public statements appeared to give a different impression of the shooting. The IPCC had to correct the initial information it released, which came from the Met but which it adopted, saying Duggan had fired and that a bullet had lodged in a radio worn by a police officer. The IPCC later admitted the bullet was in fact most likely a ricochet from one fired by a police officer.

The day he was shot, Duggan hired a people carrier from a taxi firm. Officers from the Met's Operation Trident, which investigates gun crime within the African-Caribbean community, followed it. Their intelligence that Duggan would obtain a firearm proved correct. A box, believed to have contained the weapon at some point, was found inside and at the back of the Toyota Estima people carrier. Duggan was followed from an address in Hackney and one in Leyton, east London. As he entered Tottenham, police decided they would halt his vehicle and, fearing he had a weapon,

decided to involve armed officers from their elite firearms unit, C019.

The new findings include:

- * The weapon Duggan obtained was in a shoe box, in a sock, with a small hole cut away for the barrel.

- * The weapon was a converted BBM "Bruni" self-loading pistol. It contained one bullet.

- * Neither Duggan's DNA nor fingerprints have yet been recovered from the sock or the weapon. His fingerprints have been found on the shoe box, which was found in the back of the hired vehicle.

- * Evidence suggests Duggan's weapon was not fired.

- * Duggan appears to have known police were not just following him, but were going to stop him. At 6.05pm, some nine minutes before police say they shot him dead, he sent a BlackBerry message: "Trident have jammed me," he wrote, adding that people should look out for a maroon people carrier in which he believed officers from Trident were travelling.

- * Toxicology tests indicate Duggan had some illegal drugs, namely ecstasy, in his blood stream. The effect on his behaviour, if any, is unclear.

- * The vehicle was moved by police after the shooting, before independent investigators examined the scene.

Police following Duggan were from Operation Trident and believed the situation developing was "a crime in action", and were aware a relative of Duggan had been killed recently and that he might seek revenge for that. A rival scenario detailed by a community source is that Duggan was obtaining a firearm after being attacked himself just days before.

Recent police shooting cases have shown that even where the person killed had no weapon, or it was some distance away, if officers can show they had a reasonable belief their life or that of others was in danger, they are highly likely to have a lawful defence.

Part of the reason the IPCC was set up was to have greater credibility within communities affected by police actions. But after the Duggan shooting, the dead man's relatives were critical of how they had been treated. The IPCC and police blamed each other for a failure to keep the family properly informed. An IPCC spokesperson said: "The ongoing IPCC investigation into the death of Mark Duggan is examining a range of issues. We are providing updates and, where possible, answers to the family of Mr Duggan. "This is a complex investigation that involves gathering information including witness statements, pathology, forensics and ballistics analysis and we have stated to the coroner that it will be completed within four to six months. We are unable to put information in the public domain until appropriate to do so. Ultimately, the evidence from our investigation will, rightly, be tested and challenged in a public forum before an inquest jury. We would urge people not to rush to judgment until they see and hear the evidence themselves."

In other high profile incidents involving death after police conduct, the first official version has proved wrong, adding to the damage and suspicion surrounding police actions.

Police insiders stress that firearms officers have a highly dangerous job, the risks and realities of which are little understood outside law enforcement circles.

In another development, it emerged police are under investigation over the weapon found where Duggan was shot, after it emerged it may have been used a week earlier in an assault by another person. The IPCC said tests suggested the gun may have been carried by another man in an assault, before somehow being transferred to Duggan.

The IPCC also announced that two Metropolitan police officers are under investigation over whether the assault was investigated properly. It was reported to police and no arrests were made immediately afterwards. Sarah Green, commissioner of the IPCC, said: "Our