did not see enough evidence of officers out on the wings during association, engaging with prisoners positively and being seen to keep an eye on what was going on. It was pleasing to see that the prison had plans to develop a prisoner council with help from User Voice.

Black and minority ethnic prisoners reported worse relationships with staff than the prison population as a whole. Health care was reasonable and there was an excellent day care centre for older prisoners and others less able to cope on the main wings.

Too few prisoners were engaged in useful activity. A third of the prisoners were unemployed and most of them were convicted men who could be required to work. Attendance at workshops and classes was only 70%. The leadership and management of learning and skills activity were weak. The quality of activity and the achievements of prisoners were only satisfactory. Success rates for literacy and numeracy - an acute need if prisoners are to resettle successfully, were very low. HMP Birmingham was lagging behind other prisons in the provision of work and other activity and the development of a challenging learning, work and skills strategy now needs to be a priority.

Work to reduce the likelihood that men would reoffend after release and to help them settle successfully back into the community still had a long way to go. It certainly was not seen as something all parts of the prison should contribute to, it was insufficiently resourced and there was very little for short-term and remand prisoners who made up almost half the population. Many men had problems with drugs and alcohol. The one alcohol worker was overwhelmed. Half of prisoners thought money problems were linked to their offending but few knew who to turn to for help or advice.

Birmingham prison has recently made some relatively simple but nonetheless important improvements but the prison also has a number of significant strategic challenges it needs to resolve. It is a cleaner, safer and more decent place. However, first night and vulnerable prisoner arrangements are significant exceptions to that overall picture. Two important areas of the prison - purposeful activity and resettlement - are weak and a determined strategic effort is required to improve them. *Nick Hardwick, HM Chief Inspector of Prisons*

US Supreme Court: Positive Youth Sentencing Ruling

The Supreme Court decision on June 25, 2012, barring the mandatory sentencing of juvenile offenders to life without parole recognizes children's capacity for change, it also recognizes their distinct status from adults under international human rights and constitutional law, Human Rights Watch said. The court's ruling in Miller v. Alabama and Jackson v. Hobbs brings the United States closer to being in line with the rest of the world.The ruling makes any mandatory sentence of juvenile life without parole unconstitutional and recognizes that in other cases in which life without parole may still be an option, judges should take into account the differences between children and adults.

Hostages: Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, 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, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Fax: 087 2023 1623

MOJUK: Newsletter 'Inside Out' No 378 28/06/2012)

Justice at Last for Liam Holden - Murder Conviction Quashed

Army 'waterboarding victim' who spent 17 years in jail is cleared of murder Quashing of Liam Holden's 1973 conviction may lead to appeals by others interrogated during the Troubles

Ian Cobain, guardian.co.uk, Thursday 21 June 2012

Liam Holden was 19 years old when he became the last person in the United Kingdom to be sentenced to hang. After deliberating for just 90 minutes, at the end of a murder trial that had lasted four days, the jury returned a guilty verdict and the judge told him: "You will suffer death in the manner authorised by law." Holden was led down the steps from the dock at Belfast's City Commission, handcuffed to a prison officer, and escorted along the underground tunnel that led to Crumlin Road jail on the opposite side of the road. There he was taken straight to C wing - to the condemned man's cell. This was larger than most cells, and airy. Holden was permitted a black and white television and two bottles of beer a day: luxuries no other prisoner was granted. He shared the cell with two-man teams of prison officers who watched him around the clock.

One officer - a Roman Catholic, like Holden - delighted in telling him that it wouldn't be long before they broke his neck. In the event, Holden's neck wasn't broken. His sentence was commuted to life imprisonment, and shortly afterwards capital punishment was abolished in Northern Ireland, bringing it into line with the rest of the UK. It was 1973, the Troubles were at their savage worst, and hanging a man, Willie Whitelaw, the Northern Ireland secretary, later explained, "would only succeed in promoting the mayhem and killings".

But Holden did spend the next 17 years behind bars.

Now, almost four decades later, his murder conviction has been quashed by the court of appeal in Belfast, and exposed as a miscarriage of justice: one that would have been allowed to stand, had the hangman done his work.

In its attempts to establish Holden's innocence, his defence team explored some of the darker aspects of British counter-insurgency operations in the 50s and 60s, and the manner in which troops interrogated their prisoners - including waterboarding. More significantly, the Criminal Cases Review Commission (CCRC) discovered evidence that the army's practice of detaining and questioning suspects at that time was completely unlawful, potentially opening an avenue of appeal for other people convicted of terrorism offences during the early years of the conflict in Northern Ireland.

"Mr Holden and his family are grateful that they are dealing with a quashed conviction," said his solicitor, Patricia Coyle of the Belfast firm HarteCoyleCollins, "and not a posthumous pardon".

Holden had been convicted of the murder of Private Frank Bell, of the Parachute Regiment. One Sunday afternoon in September 1972, Bell and five colleagues from B company of the regiment's 2nd battalion had been on patrol in the mainly nationalist Ballymurphy district of west Belfast; as they rounded the corner of Springhill Crescent from Springhill Avenue, a single round fired by an unseen sniper hit Bell on the left side of the back of his head. A few sympathetic local people emerged from their homes with blankets for the stricken soldier. One produced a large ball of cotton wool. Bell was still conscious when taken to hospital, where he

underwent a number of operations and was given 18 pints of blood, but his condition deteriorated and he died the following Wednesday morning.

At their home, members of the dead soldier's family spoke to a reporter from their local paper, the Liverpool Echo. Young Frank had joined the army only because he was unemployed, they said, and had been looking forward to a month's leave before a posting to Malaysia. He had been engaged to marry his childhood sweetheart, Christine. "Wirral man is IRA victim" ran the headline. He was the 100th British soldier to die in Northern Ireland that year.

Four weeks after the shooting, acting on a tip-off from an informant who said Holden had been the sniper, soldiers from the Parachute Regiment's 1st battalion raided the bungalow two streets from the scene of the shooting where he lived with his parents and seven brothers and sisters. It was shortly before 1am, and Holden had returned from a night out a short while before. He and his older brother Patrick were told they were being detained as suspected IRA members, and driven away in a Saracen armoured car. Their destination, curiously, was not a police station or regular army barracks, but a primary school on the nearby Protestant Springmartin housing estate.

Some months earlier, the army had decided that the Black Mountain Primary school would make a useful base from which to patrol the district. No doubt one consideration was that soldiers inside the grounds were unlikely to attract too much incoming fire from Republican strongholds nearby - at least during the school day. Successive British army battalions were based at Black Mountain: their commanding officers took over the office of the headteacher, who returned from one holiday to find his playing field had been asphalted over, to prevent armoured cars from getting stuck in the mud. Photographs from that time show young soldiers sharing the school canteen with laughing children; in 2009, workmen repairing the building found a submachine gun in the roof space.

The Holden brothers were taken straight to a portable building in the corner of the playground that was the home of 1 Para's intelligence section. Inside, they recall, were around eight small cubicles without doors. They were taken to separate cubicles for questioning. In the cubicle between them was a tape recorder playing loud music. Patrick Holden was released after an hour, while the soldiers concentrated on Liam. By 5am they were almost finished. A captain from the Royal Army Medical Corps was brought in to examine him - "no injuries … no bruising anywhere" he recorded - and a military police sergeant drove the prisoner to Castlereagh police station in east Belfast. There, Holden agreed to sign a statement admitting shooting Pte Bell.

Six months later, Holden was brought before the Belfast City Commission, as the crown court was then known, to be tried solely on the basis of the confession that he had signed. The judge began by ordering the jury and the defendant out of the court while the Parachute Regiment sergeant who had led the questioning at Black Mountain Primary gave evidence about an interrogation course he had undergone at the Intelligence Corps' headquarters at Ashford, Kent. Then Holden was called in to give evidence. He told the jury that he had once been a member of the IRA, but that he had left the organisation several months before the shooting of Pte Bell; he was working long hours, six days a week, as a chef at a hotel in Newtownabbey, north of Belfast.

After being led into the cubicle, he told the jury, he had been forced to stand spread-eagled against the wall before being punched in the stomach. Then, he said, the sergeant shouted for a towel and a bucket of water. A reporter from the Belfast Telegraph who was in court recorded what Holden said next: six soldiers held him down, the towel was folded over his face, and

This announced inspection was not in any way an assessment of whether that transfer was right or will be successful- it is much too early to say that and, in any case, the evidence from a single inspection will only be relevant to some of the issues involved in such a transfer. However, it does provide a useful benchmark against which some important aspects of the prison's future progress can be judged. It can also be said now that the process of privatisation, which went on over a number of years, took far too long and the uncertainty it created was damaging. At the time of the inspection, most staff just seemed relieved that the process was over and looked forward, if a little warily, to a more stable and positive future.

For most prisoners, HMP Birmingham was reasonably safe. Prisoners' perception of their current safety had improved since the last inspection although the proportion who had felt unsafe at some point was worse than at other local prisons. Some key indicators of safety were positive. There had been six self-inflicted deaths in the two years since our last inspection in 2009 - but none in 2011. The numbers were very low so should be treated with circumspection but they were at least encouraging. The use of force had dropped significantly since the last inspection and it was well scrutinised. Few prisoners were placed in segregation. The prison's policy for reducing suicide and self-harm had been recently reviewed. Care for prisoners at risk of suicide and self-harm was reasonable but could have been improved, in particular by systematically applying learning from previous incidents.

There were important exceptions to these improving trends. Strategies for addressing bullying were weak and if a prisoner needed to be moved, it tended to be the victim rather than the bully. There was a high rate of positive drug tests and as I walked past an exercise yard close to a road, prisoners joked how easy it was to throw drugs over the wall into the yard. This was indeed a regular occurrence; 54 'throw-over' packages had been detected in the previous three months alone. It was surprising that netting had not been put up to help prevent this, which I was advised could easily be done. Escort, reception and first night facilities required improvement. Vans were often dirty. Large groups of prisoners often arrived together and then had long waits in reception because the first night centre was not big enough to cope with the number of prisoners who came through.

The lack of space in the first night centre was a particular problem for prisoners who were vulnerable because of their offence; they were intimidated by other prisoners in the centre and spent nearly all their time locked in their cells. The regime for vulnerable prisoners was unsatisfactory in other respects. Their induction was poor. Even once they had moved to the vulnerable prisoner wing, these men continued to be harassed because of the mixture of men who were there due to their offence and those who needed protection for other reasons. This was a toxic mix that the prison thankfully planned to change. Two out of five vulnerable prisoners told us they felt unsafe at the time of the inspection compared with about one in seven of mainstream prisoners. Vulnerable prisoners' access to a range of services the prison offered was poor. Very few vulnerable prisoners told us they had been helped to prepare for release.

The prison was overcrowded. Its certified normal accommodation was 1,112 but, at the time of the inspection, its population was 30% more than this. Many prisoners shared small cells with inadequately screened toilets and insufficient furniture; there was a shortage of some basic kit such as sheets and towels. Many unconvicted and convicted prisoners shared cells.

However, the prison was clean and relationships between prisoners and staff were generally good and very much improved. Although there were exceptions, we saw some good interactions and more prisoners said they had an officer they could turn to for support than in the past. The atmosphere was generally friendly and relaxed - a bit too relaxed at times - we

More places had become available since we last visited but we still found about half of the population not engaged in any purposeful activity. The provision of vocational training was limited and had reduced since our last inspection and the education places on offer were underused. The quality of learning and skills generally was just satisfactory but the reasonable amounts of time out of cell mitigated some of the worst effects of this situation on individual prisoners.

Offender management for higher risk prisoners and those who could access it was reasonably good although the profile of offender management generally in the prison needed to increase. Resettlement need was identified early among those arriving at the prison and provision across the strands and pathways that contributed to effective resettlement was reasonably good. Prisoners, however, claimed limited knowledge of the services on offer, arguably linked to the fact that too few benefitted from meaningful sentence management. Public protection arrangements also required improvement.

Overall this inspection describes a prison little changed from when we last inspected. The complexity of the establishment is managed reasonably well and the vast majority of prisoners are not disadvantaged because of the additional security needs of the few. The prison is stable and generally safe but more management attention is required across a number of high risk areas such as self-harm prevention, segregation and the CSC. The need to occupy the prisoners more fully and purposefully remains unaddressed.

Report on an announced inspection of HMP Birmingham (Managed by G4S)

Inspection took place, 9th – 13th Jan 2012, report compiled Mar 2012, published 21/06/12

Inspectors had concerns

- Black and minority ethnic prisoners reported worse relationships with staff than the prison population as a whole.

- Strategies for addressing bullying were weak and if a prisoner needed to be moved, it tended to be the victim rather than the bully

- There was a high rate of positive drug tests

- Lack of space in the first night centre was a particular problem for prisoners who were vulnerable because of their offence: they were intimidated by other prisoners in the centre and spent nearly all their time locked in their cells

- The prison was overcrowded. Its certified normal accommodation was 1,112 but, at the time of the inspection, its population was 30% more than this

- Many unconvicted and convicted prisoners shared cells - (An unconvicted prisoner must not in any circumstances be required, against their will, to share a cell with a convicted prisoner - Prison Rule 7(2)(b).)

- HMP Birmingham was lagging behind other prisons in the provision of work and other activity and the development of a challenging learning

- Work to reduce the likelihood that men would reoffend after release and to help them settle successfully back into the community still had a long way to go.

- Many had problems with drugs and alcohol. The one alcohol worker was overwhelmed

Introduction from the report: HMP Birmingham is in many ways a typical, inner-city local prison on a largely Victorian site. It holds the same sort of short-stay adult men with the wide range of needs and challenges that you would find in almost any local prison. What makes it untypical is that in October 2011, three months before this inspection, amid some controversy, it became the first public sector prison to transfer to the private sector. HMP Birmingham is now run by G4S.

water was poured slowly from the bucket and through the towel, on to his face. "It nearly put me unconscious," Holden said. "It nearly drowned me and stopped me from breathing." This is said to have happened five or six times over the next couple of hours.

There were allegations of further mistreatment. At one point, Holden told the jury, he was hooded, taken from the school, and driven to the outskirts of the city, where he was told he was to be shot dead. He finally agreed to admit shooting Pte Bell, and was told that if he didn't sign a statement for the police at Castlereagh he would be brought back to the school for more of the same. The water was mopped up, and he was questioned by a Parachute Regiment captain before being handed over to the police.

When the sergeant who was said to have called for the bucket and towel gave evidence, he denied there had been any mistreatment whatsoever, and insisted that Holden had readily admitted to being a member of the Provisional IRA. Eventually, the sergeant added, Holden also admitted being the sniper who shot Pte Bell. "He then made an admission to me. He said he had shot a soldier - a Para. It was on his conscience. He wanted it off his chest."

Implausible as it may seem that an IRA gunman would so readily admit membership of the organisation, and shooting a soldier because he wanted to get the matter off his chest, the jury was clearly unimpressed by a defendant who complained that he had confessed because water had been splashed over his face. Today, however, in the post 9/11 world, with so much more known about methods that interrogators may bring to bear, Holden's testimony of 1973 appears to have been a classic description of the torture technique known as waterboarding.

Holden refused to appeal at the time, telling his family that he believed the entire investigation and trial had been rigged. It was far from certain that he would hang, however: two weeks earlier Whitelaw had reprieved a Loyalist gunman, Albert Browne, who had been convicted of the capital murder of a police constable, Gordon Harron. Few believed the Northern Ireland secretary would fail to reprieve Holden, too.

Holden spent the next 17 years in jail, however, much of it in the Maze prison. "The first four years there was protest after protest, and riots too. No point in saying I didn't take part. We were denied beds and sheets for a time, and had no visitors for a year. But whether you were innocent or guilty, you were looked after by the others in prison. Whether you were in the IRA or weren't in the IRA made no difference."

Holden was finally released in September 1989. "They put me back in the Crum and said: 'You're getting out in three hours.'" It was a terrifying experience: Belfast city centre was an alien place, his family had aged, and his old friends had all moved away. Policemen would stop him and harass him, he says, and he lived in perpetual fear of being targeted by Loyalist gunmen.

Ten years ago, when Holden first approached the CCRC, the body that examines alleged miscarriages of justice, the fact that he had not appealed against his conviction at the time appeared certain to undermine his claims of innocence.

The CCRC has been receiving increasing numbers of applications from people convicted of terrorism offences during the Troubles. Since the body began its work in 1997, it has referred 33 such cases back to the court of appeal in Belfast: in 26 cases those convictions have been quashed, while three are still waiting to be heard. In just four cases have the convictions been upheld. Around 65 other people convicted of terrorism offences in Northern Ireland are waiting to have their cases considered by the CCRC, among them 28 who were convicted when they were juveniles.

The CCRC referred Holden's case back to the court of appeal three years ago, saying it had

unearthed new evidence that cast doubt upon "the admissibility and reliability" of the confession that led to him being convicted of murder and possession of a firearm. There was a real possibility, the body added, "that the court will conclude that they are unsafe and quash them".

At the insistence of the Ministry of Defence, however, key passages of the CCRC's file were concealed from Holden and his lawyers. Even when the Public Prosecution Service in Belfast said that it was planning to oppose the appeal, the MoD refused Holden all permission to see the bulk of the contents of the secret file that supported his claims of innocence.

There followed a further 18 months of legal wrangling, during which time his lawyers considered whether they should agree to resort to the use of a security-vetted special advocate and the controversial "closed material procedure" that lies at the heart of the coalition government's controversial new secret justice bill, published last month.

When Patricia Coyle finally won permission to see the contents of the closed CCRC file, the reason why the MoD did not want it to see the light of day was immediately apparent.

Within the file were a series of documents which showed that by the second half of 1972 British soldiers had been warned that they could not lawfully detain any suspect for longer than four hours. Furthermore, in July that year, government lawyers had warned the MoD that the practice of questioning prisoners at length at army posts - "which has apparently grown up without the authority of Whitehall" - was completely unlawful: prisoners must be handed over to the police at the earliest opportunity, must not be taken to army posts under any circumstances, and must not be questioned by soldiers once detained. All this was incorporated into a simple written order, known as the Blue Card, which was issued to every British soldier serving in Northern Ireland. Holden's counsel, Barry McDonald QC, told the appeal court that these instructions, "issued from on high", had been explained to all of the army's company commanders and senior NCOs in Northern Ireland.

So Holden had "confessed" to the shooting while being unlawfully detained. And any other individual who was convicted of terrorist offences on the basis of a confession made while being detained and questioned by the army at that time may now have grounds to appeal.

"The rules were absolutely crystal clear," said Coyle. "There is no doubt that the illegality of arrests by the British army must impact upon a significant number of other cases."

For several months, even when the contents of the secret file became known, the Public Prosecution Service insisted that it was going to oppose Holden's appeal. The MoD, meanwhile, insisted that it had never used waterboarding when giving resistance-to-interrogation training to servicemen. Last month, Holden's lawyers submitted a statement detailing the British military's use of waterboarding during counter-insurgency operations in Cyprus in the 50s and during the training of some of its own personnel during the following decade. This appears to have been the final straw: the prosecution indicated that it was no longer planning to oppose the appeal. Holden was hugged by members of his family as he left court: a once condemned man, cleared after four decades.

How the evidence was built up: Liam Holden and I first met more than two years ago, very briefly, not long after I reported on his case. A reticent, slightly withdrawn man, he is now aged 58, and a widower with two grown-up children. Until his conviction was quashed he remained a lifer out on licence, a fact that has impeded his attempts to find steady employment. And he remains bitter about what happened. "I have lived with the torture for these last 40 years. I have lived with the time in jail, because you've got no choice. But does it get to me? Yes it does." And he loathes the term waterboarding. "It wasn't waterboarding. It was torture."

ferring patients to mental health hospitals.

- concerns about the accessibility of mental health services for those held in the CSC.
- provision of vocational training was limited and had reduced since our last inspection
- too few benefitted from meaningful sentence management.
- Public protection arrangements also required improvement.
- too few benefitted from meaningful sentence management.

Introduction from the report: Woodhill is one of the more complex establishments in the prison system and a significant management challenge. As one of three core local prisons in the high security estate, Woodhill combines a normal local prison function serving courts in the South East Midlands with an additional responsibility holding high risk and category A prisoners, many either unconvicted or only recently convicted. Added to this, on house unit 6, the prison has a number of smaller more specialist facilities, including two protected witness units and two close supervision centres holding some of the country's most disruptive prisoners.

Recent inspections acknowledged the prison's success in managing these competing pressures: in maintaining a proportionate approach to the very real challenges of security at this prison and in ensuring reasonable standards of safety and respect. Our principle criticism was the lack of sufficient activity to occupy prisoners. This inspection found, to a great extent, that the situation remained much the same.

The prison had solid systems in place to tackle bullying and violence and few prisoners reported feeling unsafe. Vulnerable prisoners, in contrast, expressed more qualified views about their safety, which was not helped by the weak induction arrangements they experienced. Risk assessments for young adult prisoners located on the vulnerable prisoner wing and more generally around the establishment needed to be more robust. The prison continued to successfully manage the balance between the security requirements of the high risk minority without needlessly impacting on regime outcomes for the majority. Segregation usage was low but use of force was high and the use of special accommodation was excessive. In both situations management supervision needed to improve and specific incidents required further enquiry.

The number of self-harm incidents had risen considerably over the previous 12 months and we sensed a lack of focus in addressing this trend. A number of procedures aimed at supporting those in crisis were just adequate and there was evidence that some prisoners were unnecessarily subject to suicide and self-harm processes rather than being supported with alternative measures.

The quality of accommodation generally at Woodhill was among the best in the estate and relationships across the prison continued to be a strength. The close supervision centre (CSC) was, however, concerning: A wing, for example, essentially constituted a locked down regime despite being described as an assessment facility. Risk assessments and unlock protocols meant that prisoners were usually only unlocked singly and under heavy supervision. We were not fully assured about all aspects of these risk assessments or that adequate quality assurance and safeguards were in place.

Equality was well promoted and there were useful initiatives concerning nearly all the various strands of diversity. Most prisoners however, expressed negative perceptions about the quality of health care. Access to some services was reasonable but staff shortages had impacted delivery. Primary mental health provision was inadequate and there were long delays in transferring patients to mental health hospitals. We also had concerns about the accessibility of mental health services for those held in the CSC.

A structural problem at Woodhill remained the lack of sufficient activity to occupy prisoners.

be dealt with by the probation service as it used to," he said.

Linklater warned the review was dangerous and a real worry. "There's a real risk that people who are not properly and adequately supervised in a relevant and expert way are more likely to reoffend," she said. "The quality and the scope of the relationships developed are absolutely crucial and require the skills and expertise of generations of probation service and other agencies in the voluntary sector." It would be "absolutely tragic" if the review goes ahead in its current form, she said. "The review looks like taking away from the probation service the kind of work it has traditaionally done ever since its inception 100 years ago, which is supporting and working with people in the community."

Chapman agreed. "Probation is always forgotten, always an afterthought," she said. "The big risk if this bill goes forward is that the magistrates will lose confidence in the options available to them in probation, and so do what they feel safe doing, which is sending people to prison. That is not just expensive, but the kind of sentence they will hand down will be too short to do anything of any benefit for offenders," she added. "That means the reoffending rate will get worse."

The consultation paper on the future of the probation service outlines plans to put a significant proportion of probation work out to tender. The new options include the management of low and medium-risk offenders in the community and many innovative "payment by results" pilot partnership schemes. The only area not recommended for private sector tender is the management of high-risk offenders.

Harry Fletcher of Napo (formerly the National Association of Probation Officers) said the reduction in the number of probation areas would be "chaotic". Hundreds of staff will have to be employed to liaise with the courts, police, local authority and health areas," he said. "There is no evidence that previous mergers in probation or elsewhere in the justice system resulted in any cost savings. Indeed in the medium and long-term, in all probability, they were more expensive. This flies in the face of all available research which shows that the most efficient way of reducing reoffending is through the establishment of a supportive relationship between probation supervisor and offender," he said.

A Ministry of Justice spokesman said on Friday: "We will consider all contributions and publish our response in due course."

Report on an unannounced inspection of HMP Woodhill by HMCIP

Inspection 3/13th Jan 2012, report compiled Ma 2012. published 22/06/12

Inspectors had concerns:

- use of force was high and the use of special accommodation was excessive
- The number of self-harm incidents had risen considerably over the previous 12 months and we sensed a lack of focus in addressing this trend
- there was evidence that some prisoners were unnecessarily subject to suicide and self-harm processes rather than being supported with alternative measures.
- The close supervision centre (CSC) was, however, concerning: A wing, for example, essentially constituted a locked down regime despite being described as an assessment facility. Risk assessments and unlock protocols meant that prisoners were usually only unlocked singly and under heavy supervision. We were not fully assured about all aspects of these risk assessments or that adequate quality assurance and safeguards were in place.
- Most prisoners however, expressed negative perceptions about the quality of health care
- Primary mental health provision was inadequate and there were long delays in trans-

Holden's lawyers knew that I was writing a book, 'Cruel Britannia', tracing the UK's involvement in rendition and torture, and that I had researched the dark history of the interrogation techniques that were developed by the British army since 1945. Asked to submit a statement to help the court learn more about these matters, I explained that while there was no evidence that UK forces had commonly employed waterboarding, it could not be said to have been alien to them; that there was evidence to support allegations of its occasional use during counter-insurgency operations; and that the International Committee of the Red Cross had been particularly concerned by its use by British forces during the fight against Eoka guerrillas in Cyprus in the 50s.

Moreover, while the MoD maintained that waterboarding played no part of its resistance-to-interrogation training, a number of men who served in the military in the 60s - including two who went on to serve as Conservative government ministers - have assured me that it played a role in their own training. Facing this evidence, the prosecution announced that it would no longer be opposing the appeal, paving the way for Thursday's court decision. "The court of trial was ... deprived of relevant material that might have led to a different outcome," a spokesman said.

The sergeant who interrogated Holden served in the Parachute Regiment for many years before returning to civilian life. Eventually he moved to Spain. The man who commanded 1 Para's intelligence section retired to the West Country, and has no wish to discuss Holden's appeal.

Meanwhile, Pte Bell's younger brother and sister both still live on the Wirral, not far from the family home. They said they did not wish to comment on the case. *Ian Cobain*

R (Smith) v Independent Adjudicator - Conviction Quashed

This was a judicial review application [IR v IA 2011 EWHC 3981 Admin] to quash the conviction of the appellant in disciplinary proceedings in prison. He was charged with and convicted of two breaches of the Prison Rules: one was assaulting a prison officer by throwing a punch and the other was using threatening, abusive or insulting words.

The appellant's solicitors had written to the prison service asking for copies of relevant documents and for the names of witnesses to the relevant incident. The information was not supplied. At the close of the case against the applicant but before he himself had given evidence, his solicitor asked for an adjournment to get in touch with those witnesses, whose relevance had become apparent for the first time during the hearing.

The Independent Adjudicator did not allow the application for an adjournment. It was apparent from paragraph 2.20 of the Prison Manual that there was a breach consisting of the failure of the Prison Service to provide the names of witnesses to the incident that the accused might not know. In addition, paragraph 5.16 states: "If, unknown to the accused, someone has witnessed the incident, and a member of staff knows this, s/he must bring this to the attention of the adjudicator." This also was not done. In the court's judgment the procedure at this hearing was fatally flawed. Leaving aside any question of the prison manual it was accepted that this was a criminal procedure for the purposes of the European Convention of Human Rights.

Held: "It is clear from the decision of Jespers v Belgium [1985] 3 EHRR CD 305 that "facilities" is to be given a benevolent construction and that the objective in the prison context must be to create what in modern parlance might be called a level playing field between prisoner and the State. It seems to me that depriving the applicant of the opportunity of obtaining the evidence of other witnesses and calling them if thought appropriate, supported as it was by no properly recorded reason of the adjudicator, is fatal to the integrity of the convictions."

Accordingly, the convictions were quashed.

Police Inspector Richard Munro Withheld Fife Murder Evidence BBC News, 22/06/12

Steven Johnston and Billy Allison were jailed for the murder Drew Forsyth, 34, in Dunfermline in November 1995 and given life sentences then later acquitted.

A former policeman has been convicted of withholding evidence from prosecutors while investigating a murder in Fife 17 years ago. Richard Munro, 53, was found guilty of attempting to defeat the ends of justice after a trial at the High Court in Edinburgh. As a detective inspector he led the investigation into the killing of Andrew Forsyth in Dunfermline in 1995.

Munro's trial heard that he engineered the case which led to the Mr Johnston and Mr Allison's convictions for the murder of Mr Forsyth during a drunken row. He withheld information from prosecutors which could have helped the two men's defence. He was finally caught after the pair's defence lawyers managed to show that the retired detective chief superintendent could have acted illegally at an Appeal Court hearing in March 2006.

Appeal Court judges thought Munro's actions constituted so much potential illegality that they had no choice but to quash the pair's convictions. Lothian and Borders Police spent two years investigating Munro and found they had enough evidence to prosecute him. He was brought to trial earlier this year and after 11 weeks of proceedings was convicted by a majority verdict by the seven men and eight women of the jury.

The Andrew Forsyth investigation was the first time Munro was put in charge of a murder probe. When Mr Forsyth's body was discovered on 9 November 1995, Mr Munro decided that he had been murdered on 3 November. He told prosecutors that they should base the 3 November date as the time of death in their prosecution against Johnson and Allison.

But as the murder probe progressed, policemen uncovered evidence that Mr Forsyth had been alive on and after 3 November. Munro then suppressed witness statements and on some occasions even altered the content of what people had told officers. He failed to tell prosecutors about how he had access to information which showed Mr Forsyth had been alive after 3 November.

During the trial, Munro's defence QC Mark Stewart said his client had accepted that he had made mistakes during the probe. However, he said this was because he lacked training, managerial experience and had been misled by junior colleagues. Munro was found guilty by a jury of seven men and eight women after a day of deliberations. After hearing the verdict, judge Lord Doherty deferred sentence until next month for background reports. He told Munro: "You should be under no illusion that a custodial sentence is inevitable in this case."At the end of proceedings, the former detective's wife - who accompanied her husband to court during every day of the trial - started crying loudly. He turned to her - and said: "It's alright."

A spokesman for Lothian and Borders Police, who carried out the investigation into Munro's conduct, said: "It is vital that the public have confidence in the integrity of police investigations, and today's conviction demonstrates that the police service in Scotland will act professionally and effectively when investigating crimes of this nature."

Campaign group, Miscarriages of Justice Scotland, said the case was the first time that a corrupt policeman in the UK, in relation to a miscarriage of justice, had been convicted of a wrongdoing.John McManus said: "This is a victory for justice. It's the first time in British history that a corrupt policeman - in relation to a miscarriage of justice - has been convicted of a wrongdoing. Hopefully it sends a message to police today that they won't get away with "fitting people up". But sadly it doesn't catch the killer of Drew Forsyth - who's been free for the last 16 years."

they could have made an application under the appropriate statutory provisions, or they could have elicited any admissions in relation to the image which were considered necessary'.

They added "Since the appeal, the matter of disclosure of DVDs of video ID parades has been resolved, and the CPS branch responsible [Sheffield] for going off on a frolic of its own has been brought back into line with national policy. We are reassured to hear that. No doubt the national policy was decided for good reason and branches should not be departing from national policy without proper reason".

Former Prisons Inspector Condemns Probation Service Reform Plans

Former prisons inspector Lord Ramsbotham said the proposals to fragment the probation service were a 'complete distortion of the whole criminal justice system'. Promises to lead rebellion unless 'muddled' government plans to fragment probation service are rewritten

Amelia Hill, guardian.co.uk, Sunday 24 June 2012

Lord Ramsbotham, a former prisons inspector, has condemned government plans to overhaul the probation service and promised to lead a rebellion of peers and politicians unless they are rewritten. Rambotham, who sits on the crossbenches of the House of Lords, said the government's plans to fragment probation services, and open them up to competitive tendering were wrong and represent "a complete distortion of the whole criminal justice system".

The probation review was commissioned last summer and has been the subject of at least half a dozen rewrites since the its conclusions were first presented to the criminal justice board at the Ministry of Justice in September last year. The final draft says that economies of scale mean the number of probation areas will be reduced from the current 35 to between six and 10. This has sparked fears that the private sector could bid to take over probation work across entire regions. The paper also recommends that certain tasks currently undertaken by the probation service should be the subject of competitive tender, raising concerns that programmes proven to reduce reoffending will be curtailed and supervision of offenders will be depersonalised.

Ramsbotham told the Guardian that the review revealed a "misunderstanding and misappreciation" of the criminal justice system. He warned that it would create a postcode lottery of services for offenders. His concerns have been echoed by other peers and politicans, including the crossbench lord and retired police officer, Geoffrey Dear, and the Liberal Democrat peer and patron of the former Probation Association, Lady Linklater. Ramsbotham also has the support of the shadow minister for prisons and probation, Jenny Chapman. "I'm concerned and disturbed about the whole way probation is being handled," Ramsbotham said. "To make the probation service subordinate to the prison service is a complete distortion of the whole criminal justice system. The government has lost focus and probation has lost its way. At the heart of probation is the relationship between offenders and the person supervising them," he said. "You can't depersonalise what must remain an intensely personal involvement, and is absolutely crucial to rehabiliation. The government have got themselves into a muddle which stems from a basic misunderstanding of where the probation service sits in the criminal justice system."

Ramsbotham said he was also concerned about the consistency of probation services. "Unless someone ringfences the money, there will be a postcode lottery for how much money is available for probation to do its work." Dear agreed. "If you want to help society generally, you need to help probation first," he said. "I'm very pro-probation. It has been very shabbily treated in the past. It is now under-resourced and under-supported by government. From an ex-cop point of view, the quickest way to help police is to take half problem away and let it

litigation friend, by Caoilfhionn Gallagher (led by Hugo Keith QC).

PH (father) and HH (mother) are British citizens, with three children now aged 3, 8 and 11. PH has become the children's primary carer as HH's mental health has deteriorated. Italy sought both parents' extradition to serve sentences for serious drugs offences, although PH's sentence is lesser as he played a more minor role in the conspiracy. HH has 9? years to serve, and PH has 8 years of his sentence remaining, of which he will only serve 4? years. As the children's primary carer, were the family living in Italy PH would be allowed to serve all but a few months of this at home. The Court unanimously dismissed HH's appeal, focusing upon both the limited role she plays in the children's lives and the central part she played in the serious offences committed. The Court held that that public interest in her extradition outweighed any interference with the rights of the children.

However PH's case was more difficult. Lady Hale (dissenting) held that the current effect on the children, particularly the youngest, could not justify extradition of their father at this time. However although Lord Hope and Lord Brown described his case as extremely difficult and troubling, they agreed with the remaining Justices that the public interest in PH's extradition outweighed the Article 8 interference. Detailed reasons for this are provided by Lord Judge in particular but the central issue for the majority is the serious nature of his offending. The Court also took account of evidence suggesting that PH could be promptly returned to serve his sentence in the UK, given the new European legal framework (Council Framework Decision 2008/909/JHA: Lord Mance at para 105).

Future Cases: These appeals are very significant as they clarify how the Supreme Court's earlier decisions in Norris v USA (No. 2) [2010] UKSC 9 and ZH (Tanzania) v SSHD [2011] UKSC 4 should be interpreted in extradition cases. The majority rejected the notion that extradition cases are of entirely different to expulsion or deportation cases. In all cases, there must be a careful analysis under Article 8 of the potential effects of extradition.

Lady Hale, in the lead judgment, gave guidance on the procedure in respect of gathering evidence where the primary or sole carer of a child is facing extradition (paragraphs 82 - 86). She adopted the Official Solicitor's suggestion that the courts may in some cases be advised to make a referral of the affected child to the local children's services department, under section 17, Children Act 1989, to obtain an assessment and care plan.

The F-K case is also particularly important as it makes clear that delay is now a factor to be considered under Article 8.

R v Wroe [2012] EWCA Crim 1304 - Disclosure of Video Recording ID Procedures

During the course of an appeal against conviction there was some discussion concerning a CPS policy concerning the disclosure of the video recording of ID procedures.

The court's attention was drawn to the fact that one of the reasons the jury was not given the DVD images was that a blanket policy decision had been taken by the local branch of the Crown Prosecution Service not to provide DVDs of identification procedures as a matter of course. Counsel informed the court of longstanding difficulties that advocates in criminal trials have faced in obtaining this material. The court said that 'plainly where there is a good reason for the DVD to be disclosed, it should be disclosed', and not surprisingly the trial judge took exception to a blanket policy. They also commented that 'however, in truth, the defence were given, even when this blanket policy was in operation, the opportunity of seeing the evidence by viewing it at a police station. If either party thought it necessary to produce the image,

Incident at HMP Frankland Shows Need for Stab Vests Dan Warburton, The Journal, 22/0612

Safety at a North East prison has again been called into question as union representatives said they are lobbying for stab vests for all guards. Maximum-security HMP Frankland, in Durham, has been at the centre of a string of high-profile clashes in recent years with inmates and prison workers targeted in horrific assaults. Now, after a prisoner Michael Parr admitted disembowelling and murdering a paedophile inmate, victims and union representatives have called for greater protection.Michael Parr, 32, pleaded guilty to murder during a brief hearing yesterday (21/06/12) at Newcastle Crown Court via videolink from prison.

Mitchell Harrison, 23, was disembowelled in his cell by Parr. Mitchell was serving an indefinite sentence at Frankland Prison for raping a 13-year-old girl when he was killed last October. Harrison, from Wolverhampton, was jailed in January 2010 for raping the girl in Cumbria in 2009.

Tom Robson, vice-chairman of the Prison Officers' Association, said: "HMP Frankland holds some of the most dangerous people. It's impossible to give 100% protection to prisoners and staff, but we have been lobbying the Prison Service to provide stab-proof vests for staff. We don't rule prisons by brute force - it's impossible to guarantee safety when you are looking after the sort of people inside Frankland.

They are murderers and terrorists, some of the most vicious people and peadophiles in the country. The incidents that happen here are particularly high-profile because of the nature of the establishment. We will always attempt to make it as safe as possible for our members."

Another attack left prison guard Craig Wylde, 30, with life-threatening injuries. He was targeted by convicted killer Kevan Thakrar, who was cleared by a jury following a trial after the court heard he was suffering post-traumatic stress disorder. The prisoner used a broken pepper sauce bottle to slash three guards - Craig, Claire Lewis and Neil Walker. All suffered serious injuries and have since left their jobs. Father-of-one Craig, who lives with his wife, Kat, 30, said: "Frankland is one of eight high-security estates in the country housing terrorists, Muslim extremists and gang-land bosses.

I think what the public forget is that when these people - the rapists, murderers and paedophiles - are behind the prison walls they don't instantly become good men. They are being put in an environment with 20 of their mates already there. The gangs just get bigger in jail. There are incidents in Frankland where there have been gang-on-gang attacks.

Prison wardens don't wear bullet or stab-proof shirts. It's more and more tension and it reaches boiling point - I'm not the first warden to be attacked and I won't be the last. What is needed is more protection for prison staff. There is equipment that can protect people and if I had been wearing it I might not have been left without the full use of my hand."

In 2008, Malcolm Cruddas suffered horrifying injuries when terrorist Omar Khyam poured a pan of boiling chip fat over his head. It happened after al Qaeda dirty bomber Dhiren Barot was targeted in the same way. Both Barot and Cruddas were taken to Newcastle's Royal Victoria Infirmary under armed guard. The scaldings led to speculation about a race war inside the prison. In 2010 Soham murderer Ian Huntley was slashed across the neck with a makeshift weapon by convicted murderer Damien Fowkes.

A prison service spokesman said: "We take the responsibility of keeping staff, prisoners and visitors safe extremely seriously. That's why we have a violence management system in place to deal with incidents quickly and robustly, with serious incidents referred to the police immediately. Stab vests are issued to prison staff, where appropriate.The decision not to issue them to all staff is kept under review as part of our commitment to reduce violence in prisons.

Ban on television station interviewing a prisoner breached freedom of expression

In Chamber judgment in the case of Schweizerische Radio- und Fernsehgesellschaft SRG v. Switzerland(application no. 34124/06), which is not final", the European Court of Human Rights held, by a majority, that there had been: 'A violation of Article 10 (freedom of expression and information) of the European Convention on Human Rights.'

The case concerned the refusal to allow a television station to carry out a televised interview inside a prison with a prisoner serving a sentence for murder. The applicant company had intended to broadcast the interview in one of the longest-running programmes on Swiss television. The Court found in particular that the authorities had failed to justify their refusal, even though the interview was of particular general interest, and had failed to establish that the ban on filming met a "pressing social need".

Principal facts: The applicant company, Schweizerische Radio- und Fernsehgesellschaft SRG (the Swiss Radio and Television Company SSR), is a private-law entity based in Zurich. On 12 August 2004 it requested permission to have access to Hindelbank Prison (Canton of Berne) in order to film A., a prisoner serving a sentence for murder. It had intended to broadcast the interview in "Rundschau" - a weekly programme covering political and economic questions, and one of the longest-running programmes on Swiss television - in a feature on the trial of another person accused in the same case. The applicant company submitted that an interview with A., who had given her consent, was a matter of public interest given that even after her conviction, the case had continued to attract a great deal of media interest.

The prison refused the request, referring to the need to maintain peace, order and safety in the prison and to ensure equal treatment among the prisoners. On 1 July 2005 the Administrative Court of the Canton of Berne dismissed an appeal lodged by the applicant company - which had argued that it had planned to film the prisoner "in general and to interview her" rather than to film the technical installations - relying in particular on Article 16 § 3 of the Federal Constitution which merely allowed access to generally accessible sources. The court held that the organisation and supervision measures required for television filming exceeded what could reasonably be expected of the prison authorities and proposed instead an audio recording or a simple interview, considering that images of the prisoner were not necessary for the purposes of a thematic report.

The applicant company lodged a public-law appeal and an administrative-law appeal. It submitted that insufficient reasons had been given for the technical and security grounds on which its request had been refused and argued that the use of light, modern equipment would have limited the drawbacks of filming in the prison. It also submitted that filming could have taken place in the room set aside for prison visits. The Federal Court rejected both appeals. It held firstly that the importance of prison visits for prisoner rehabilitation did not grant entitlement to film in prisons and secondly that access by the film crew to the prison could violate the personality rights of other prisoners. It also endorsed the findings of the Administrative Court concerning access to generally accessible sources.

The Government's observations showed that A. 's conviction had attracted a high level of public interest and that A. had always protested her innocence. The organisation "Appel¬Au-Peuple", which takes various kinds of action in respect of alleged miscarriages of justice, had allegedly made threats against the judges involved in the case. The director of that organisation had also gone on a 60-day hunger strike in support of A.

Decision of the Court - Article 10 : The Court observed that in determining an issue of freedom of expression in the context of a very serious television broadcast devoted to a subject

of particular public interest, the Swiss authorities had had limited discretion (margin of appreciation) to judge whether or not the ban on filming had met a "pressing social need".

While acknowledging that there had, at the outset, been grounds to justify the ban on filming - in particular with regard to the presumption of innocence of the person who was the subject of the programme and whose trial was imminent and the interests of the proper administration of justice - the Court observed that the grounds for the courts' refusal had not been relevant or sufficient, either from the point of view of the other prisoners or from the point of view of maintaining order. The applicant company had, however, on various occasions, explained the conditions and limits of the filming. Furthermore, the courts had not examined the technical aspects submitted by the applicant company.

As regards the duty of the authorities to protect A., the Court noted that the latter had given her full and informed consent to the filming. The Court reiterated lastly, with regard to the alternatives to filming proposed by the authorities, that since Article 10 also protected the form by which ideas and information were conveyed, it was not for this Court, or for the national courts, to substitute their own views for those of the media as to what technique of reporting should be adopted by journalists. Thus the telephone interview with A. broadcast by the applicant company in "Schweiz aktuell" had not in any way remedied the interference caused by the refusal to grant permission to film in prison. While reiterating that the national authorities were better placed than the Court to make decisions concerning access by third parties to a prison, the Court concluded that the absolute ban imposed on the applicant company's filming in the prison had not met a "pressing social need".

Historic Win Under Article 8 ECHR in Extradition Appeal Doughty Street Chambers, 20/06/12

The Supreme Court has given judgment in extradition appeals concerning the rights of children when their parents face extradition. One of these appeals, for Mrs F-K, a mother of five children, has been unanimously allowed by the Court. This is a historic win and is now one of the very few cases in which extradition has been halted on Article 8 grounds. These appeals together clarify how the courts are to approach Article 8 and UNCRC issues in the extradition context, and make clear that the courts approach to extradition cases should not be "radically different" to expulsion cases.

F-K v Polish Judicial Authority- F-K is represented by Edward Fitzgerald QC and Ben Cooper. F-K and her husband are Polish and have lived in the UK since 2002. They have five children, and the two youngest (aged 3 and 8) were born here. F-K is charged with offences of dishonesty with a total value of under £6,000. She fled Poland in 2002 and has not been tried or convicted of the alleged offences yet.

The Court held that F-K's extradition would have a severe impact on her two youngest children. They would lose their primary carer and this could have a lasting impact on their development. Their father is unlikely to be able to fill that gap. The public interest in extraditing her does not justify the inevitable harm it would cause to the lives of her children. In examining the weight to be given to the public interest the Court noted that the alleged offences are not trivial but are "of no great gravity"; there is no prosecutorial discretion in Poland; and there has been considerable delay by the Polish authorities. As a result of today's decision, F-K will not be separated from her family.

HH & PH v Deputy Prosecutor of the Italian Republic, Genoa, the Official Solicitor intervening HH is represented by John Jones (led by Alun Jones QC), PH by Steven Powles (led by Matthew Ryder QC), and the three children X, Y, and Z, through the Official Solicitor their