A Date for your Families/Freinds Diary - 11th National Miscarriage of Justice Day

Saturday 13 October 2012 10:00 am to 5:00pm

St George's Lecture Theatre, Mappin Street, Sheffield S1 4DT This year the Miscarriage of Justice Day public meeting and workshops will be held in the magnificent lecture theatre in the converted former church of St George. The venue has been generously provided by the University of Sheffield School of Law. The day's events are primarily designed for the benefit of the families and supporters of people believed to have been wrongly convicted of criminal offences. The day will also be an important one to anyone who is concerned about the large and growing problem of miscarriage of justice, and especially to students and journalists. Sheffield University School of Law has a strong student Innocence Project which is part of the Innocence Network UK, and which reviews cases of people who claim to have been wrongly convicted. We expect to attract a good audience and speakers of the highest standard, to make this one of the best miscarriage of justice days ever. Please put the date in your diary now – and watch the UAI website for further information. The meeting will be chaired by Bruce Kent

Report on an Announced Inspection of HMP Buckley Hall

Inspection 16–20 Aprl 2012 by HMCIP, report compiled June 2012, published 22/08/12

Inspectors were concerned to find that: - use of segregation was higher than expected and a significant number of prisoners sought protection in segregation prior to onward transfer, which required further attention; - drugs were a problem, with a high random testing rate, though the prison was beginning to tackle supply routes and programmes to address demand were well integrated and responsive; - most of the wings were grubby, toilet screening in shared cells was often poor and access to kit and clothing was problematic; and - greater leadership was needed in delivering commitments and plans across the diversity strands.

Venezuela Prison Riot Leaves 25 dead

A riot by armed inmates has left 25 people dead in one of Venezuela's notoriously overcrowded prisons, according to the government. Relatives wept outside the Yare I complex in the central coastal state of Miranda as sketchy details emerged of fighting among armed gangs in the prison over the weekend. The prisons minister Iris Varela told reporters that 25 people, including one visitor, died in the riot. "We will make them answer for this," she said, adding another 29 inmates and 14 visitors had been injured. Venezuela's 34 prisons are holding about 50,000 prisoners, three times their capacity, according to advocacy groups. Many of the prisoners are armed and hundreds are killed each year in riots and gang fights.

Hostages: Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, 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)
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MOJUK: Newsletter 'Inside Out' No 386 23/08/2012)

Justice For the Bradford Three

Mohammed Niaz Khan, Abid Ashiq Hussain and Sharaz Yaqub

It is not uncommon that when a serious crime cannot be solved and the real perpetrator of the crime cannot be found, the police, in desperation to avoid being labelled incompetent look for the scapegoats. In other words, they frame innocent people.

Like the Birmingham Six, Guildford Four, Cardiff Three and many others, I Mohammed Niaz Khan, and my two co-defendants Abid Ashiq Hussain and Sharaz Yaqub became victims of a grave Miscarriage of Justice in a similar manner five years ago. We were framed for the murder of a known drug dealer in Bradford. Shazad Hussain who was gunned down in September 2004.

When nearly two years of investigation could not lead to the apprehension of the real killer, police finally decided to frame us and close the file. Since there was no tangible evidence against us-neither forensic nor eyewitnesses- police found a few misguided souls who either held a grudge against us or who were going to benefit from our incarceration. These individuals told stories of our imaginary confessions.

One of them was an individual called Mazhar Iqbal. He was caught with 20 kilos of Class A drugs. Mr Iqbal was therefore in serious trouble as he was looking at a lengthy term of imprisonment, between 15 to 20 years. His ignoble manner of getting out of trouble was to fabricate a mendacious tale of our apparent confessions in relation to the murder of Mr Hussain. He was assisted in this task by his brother Mr Adnan Ahmed as expected. As a result, Mr Iqbal was rewarded handsomely and was given a paltry prison sentence of only five years.

Guilty conscience soon forced the two brothers to retract their mendacious statements. Besides, the aim to avoid a lengthy prison sentence for possession of 20 kilos of Class A drugs had been achieved.

Naturally, police must have felt tricked and betrayed so they resorted to usual bully-boy tactics and attempted to force the two brothers into a U-turn about their retractions. Whilst Mr Iqbal showed the resolve to withstand pressure from police, Mr Ahmed capitulated and claimed that my solicitor had told him what to say. This was yet another lie told, probably, under pressure from the police.

The police were quick to charge my solicitor with Perverting the Course of Justice. The obvious aims were to disrupt our defence preparations, to bring pressure on us and more importantly, to undermine our position during the trial, which they successfully did.

The jury at the solicitor's retrial dismissed Mr Ahmed's lies and cleared the solicitor of any wrongdoing. If the solicitor's retrial had been held before our trial and if our jury was aware of its outcome, not only would Mr Ahmed's evidence in our trial have been discredited but other fictitious confession tales could have also been seriously undermined too. Unfortunately, by the time Mr Ahmed's evidence was discredited the damage to us had already been done. We had already been wrongly convicted of Mr Hussain's murder and our appeal had also already been dismissed.

The other malevolent soul who also surfaced with similarly another mendacious story of confession was Mr Basharat Wali. Initially, his girlfriend, Ms Samantha Harpin, was also part of the conspiracy against us but she later dissociated herself from it. Most probably, her

conscience caused this change of heart. With regards to Mr Wali, given that I did not know him nor had I ever met him, I can only suspect that he was manipulated either by the police or by some other malevolent people holding grudges against us.

The role of detectives in framing us was known to us from the beginning but we hardly expected anyone to come forward and admit the obvious. So we were understandably surprised when DC Bashir approached an independent solicitor and made a statement that he had fabricated evidence in our case. He made the most shocking revelation that it was his superiors who had pressured him into misconduct.

Instead of investigating the unnamed superiors, police arrested *Mr Bashir. He was charged and was supposed to stand trial, however the charges were dropped against him as it was not in the 'public interest' to prosecute. In other words, Mr Bashir was silenced because his evidence could have been damaging to the superiors and the police force in general. Besides, the truth might have severely undermined the safety of our wrongful convictions.

Despite being framed for a crime that we did not commit, we hold no grudges against anybody. We only seek justice, but this goal can only be achieved if those who lied against us now tell the truth.

Our sincere appeal for help to clear our names is not just aimed at Ms Samantha Harpin, Mr Basharat Wali, Mr Mazhar Iqbal, Mr Adnan Ahmed and DC Bashir but also to all those who we may not know but who may have information that could help prove our innocence. If you have any information, please contact:-

Bowden Jones Solicitors, Huw, 19 Newport Rd, Cardiff, CF24 OAA,

Tel: 029 2048 4550, Emergency Tel 07771568525, Email: Enquiries@bowdenjones.co.uk

All information will be treated with strict confidentiality. Thank you.

Yours Faithfully, Mohammed Niaz Khan, A9527AG, HMP Long Lartin, Evesham, WR11 8TZ

** Murder-probe detective charged over 'dishonesty'*

A detective, involved in a Bradford gangland murder investigation, has been accused of offences of dishonesty linked to the case. The 39-year-old detective constable and a second man, aged 36, have been charged with offences relating to the production of a false document. Police confirmed the arrests and charges were in connection with the Amberley Street shooting inquiry. The trial judge, Mrs Justice Rafferty, said Mohammed Niaz Khan, Abid Ashiq Hussain and Sharaz Yaqub, who were convicted of murder, thought they were above the law, and Mr Hussain had died in a cynical and carefully-planned operation.

Bradford Telegraph & Argust, 26th August 2009

Bradford detective remains suspended as misconduct charge considered

A Bradford detective cleared of conspiring to make a false declaration in a high-profile murder case, could still face misconduct proceedings by his force. Detective Constable Wasim Bashir, 39, had been due to stand trial at Sheffield Crown Court on Monday with another Bradford man, Mohammed Ahmed. But the case was dropped when the Crown Prosecution Service received new information from the police which led them to conclude it was no longer in the public interest to prosecute. The officer has been suspended for 20 months and remains so.

In a statement released yesterday, a West Yorkshire Police spokesman said: “We can confirm that the criminal case against DC Wasim Bashir and Mr Ahmed was withdrawn by the Crown Prosecution Service on the grounds of public interest following fresh information coming to light. “As there are still outstanding disciplinary matters to be considered against a serving officer it would be inappropriate to comment further.]

Bradford Telegraph and Argus, 7th July 2010

becomes apparent that such changes are necessary they should be expedited to ensure no further serious injuries or deaths take place in police custody.”

Yet two after Gary Reynolds death, Sharon McLaughlin, 32, died in another Sussex police station in March 2010. Police and private staff failed to properly care for her and no-one called a doctor despite clear signs that she was suffering from heroin withdrawals. The changes mean custody sergeants must now ensure anyone suspected of being under the influence of drink or drugs is checked every half hour which campaigners hope will help reduce the numbers of deaths and serious injuries in custody. There were 15 deaths in or following police custody during 2011/12. In 85 per cent of cases the individual was known to have taken or be in possession of drugs or alcohol at the time of arrest. Alcohol and drugs can often masquerade or mimic head injuries and serious health problems, and is the reason frequently given by police for failing to get medical care for a detainee. The PACE codes now stipulate that if custody officer duties are performed by other staff, then the outcomes must be reported as soon as possible to the responsible officer. The amended code also now includes more scope to report and record, thereby reducing the risk of some incidents not being logged. It follows new Association of Chief Police Officers (ACPO) national guidance on the safer detention and handling of detainees.

Helen Shaw, co-director of INQUEST, said the changes were long overdue. “Since the 1990s we have worked with too many families after deaths in custody where head injury or other serious illness has been dismissed as drunkenness alone and detainees have not been afforded appropriate medical care. It is particularly important that with the drive towards more privatisation of services within policing that custody officers are clearly responsible and accountable for the treatment and care of those in police

Shamed Police Officer Richard Munro Attacked in Prison

A former Fife police officer who was jailed for concealing key evidence in a murder trial has been subjected to a brutal attack behind bars. *By Peter Swindon, Courier online: 16/08/12*

It is understood that Richard Munro was set upon by a fellow inmate wielding a sock stuffed with pool balls. The shamed 53-year-old former policeman was rushed to hospital following the assault at Dumfries Prison on August 5. Munro was sentenced to five years on July 25 for withholding evidence from prosecutors while investigating the death of Andrew Forsyth. A source close to the jail said: "It happened almost as soon as he arrived. He got battered with pool balls in a sock."

A spokeswoman for NHS said: "We can confirm that a 53-year-old man was admitted to Dumfries and Galloway Royal Infirmary and treated on August 5. He was discharged the same day."

The alleged attack has prompted one of the men wrongly convicted of murder following Munro's bungled investigation to urge prisoners to "leave him alone to serve his sentence". Steven Johnston (48) spent 10 years behind bars after a jury found him guilty of killing Andrew Forsyth in Dunfermline 17 years ago. Mr Johnston said: "That's not what I wanted at all. The sentence was enough for him — and I don't mean the short time he got but I can't do anything about that. I can assure you, it's not doing me any favours. I'd rather people leave him alone to serve his sentence. He got five years and, if he goes through the system the right way, it'll be a few years. I know that after a few years you can get used to prison. If he gets used to prison he'll have bigger problems when he gets out."

Appeal court judges quashed the murder convictions against Steven Johnston and Billy Allison in 2006, concluding that there had been ''grave misconduct'' on the part of the police. Lord Justice Clerk Brian Gill delivering the opinion of the court said the ''police deliberately misled the Crown in a serious way''.

sledgehammer of authoritarian censorship.

Reoffending Rates: More to be Done, say MPs *BBC News, 18/08/12*

Prisoner behind bars, report calls for better integration of prison and probation services. The Ministry of Justice must do more to stop reoffending in England and Wales including giving probation more importance, MPs have said in a report. The Commons Justice Committee said the ministry, and specifically the National Offender Management Service, focused too much on jails to deliver justice. But it said the ministry had improved on previous "woeful" inefficiency. The government said it would publish its response to a consultation on the probation service later this year.

The Ministry of Justice was created five years ago when the Home Office was in crisis and took on some of its functions as well as those of the old Department of Constitutional Affairs. The report said that, despite teething troubles, there had been improvements under the new set-up. But it said the department was too "in thrall" to prisons and called for probation to be given the same status by the National Offender Management Service.

Proportion of all offenders with 15 or more convictions: 2001: 29% of offenders / 2006: 38% of offenders / 2009: 40% of offenders / 2011: 44% of offenders: Source: Ministry of Justice

If the two were better integrated, costs and reoffending would be cut, the committee added. And it said other departments should focus policies on stopping offenders returning to prison.

In 2011, a record number of offenders sentenced for serious crimes had committed previous offences. Some 90% of those sentenced in England and Wales had offended before - and almost a third had committed or were linked to 15 or more crimes. Reoffending rates were highest among serious offenders who had been jailed.

Last month, a report by prisons and probation inspectors for England and Wales found that serious criminals were leaving prison without having been on programmes designed to stop reoffending. It found no plans to deliver treatment programmes to a third of sex offenders needing them with most of the 11 prisons examined lacking capacity to meet demand for courses.

Police Made Accountable for the Care of Prisoners *Nina Lakhani, Indpendent, 17/0812*

Police officers delegating duties to privately contracted staff in custody suites will be held ultimately responsible for the standard of care and treatment given to detainees, according to new government rules. Custody sergeants must also be satisfied that those carrying out police tasks, such as monitoring someone's well-being, are suitable, trained and competent to do so.

The major changes to the Police and Evidence (PACE) codes come four years after the case of Gary Reynolds, who fell into a coma while in the custody of Sussex Police. Mr Reynolds suffered a serious head injury during the arrest but had been identified as drunk, and therefore not checked regularly or roused. He was found unconscious in his cell hours after the arrest – in a custody suite run by the private company Reliance Security – and left severely paralysed. The Reynolds family has campaigned long and hard for changes to address failings identified by the Independent Police Complaints Commission in 2009.

Graeme Reynolds said the changes come four and half years too late for his brother. "There has been no justice whatsoever for what Gary, he's been given a life sentence, paralysed for rest of his life, and it drives him insane that no-one has been brought to justice. "But Gary will be pleased at this. We don't think private companies should be running custody suites at all, but we hope that if custody officers are to carry the can, then no-one else will have to go through the same." Daniel Machover, Mr Reynold's solicitor from Hickman and Rose, said the delay in the changes had been both "frustrating and concerning". "In the future, when it

So, are Drug Users Sick or Simply Criminals?

The question prompted a furious row between Russell Brand and Peter Hitchens. But who's right? Paul Peachey was granted rare access to a prison rehab scheme to find out the truth Paul Peachey, Indpendent, Thursday 16 August 2012

When Simon Pearce was jailed for the 13th time, he finally recognised that the game was up. Heroin and cocaine had cost him his liberty, his family and almost his life. "I've done jail and I've swerved nuthouses by the skin of my teeth," he says. "The only thing that was left for me was death." He is currently serving six years for robbery. He kicked down someone's door, beat him up and robbed him. "I have done some despicable things," he says. "That's where addiction took me. I would sell my grandmother for a bit of gear." Mr Pearce says he is now a man transformed. He is thin and looks a lot older than his 33 years, but for the last 17 months has been clean and sober. "I really feel this prison sentence saved my life," he says.

He is with a group of recovering addicts at The Mount Prison in Hertfordshire, a category-C prison of nearly 800 inmates. The fact that he is off drugs is a success for abstinence-based recovery, a form of treatment championed by former drug addict and comedian Russell Brand in a BBC documentary to be shown tonight. At its heart is a 12-step programme of therapy, forcing the user to confront addiction, behaviour and the damage it causes. The course treats dependence class-A drugs as an illness, not as a crime. Such an approach has attracted the ire of right-wingers, like commentator Peter Hitchens, who in a bad-tempered Newsnight debate last week with Mr Brand, claimed that the government had given up on promoting stiff jail terms to deter drug-related crime.

On Dixon Wing, home to some 60 drug addicts who, like Mr Pearce, have willingly agreed to take part in an abstinence-based programme, the idea that longer sentences would deter is treated with scepticism. The programme, which lasts a minimum of five months, is coupled with a rigorous drug-testing regime. One breach of the rule may be enough to see an inmate kicked off the programme. Inmates can be given methadone – a heroin substitute – but only before they start the programme and the men are segregated from other wings to avoid temptations of drug taking. Nets strung across the gardens inside the prison walls are testament to the prison authorities' difficulties in preventing drugs from being tossed over the walls. Noticeboards near warders' rooms display photos demonstrating how contraband is smuggled into the prison in other ways: inside biscuit boxes, radios and furniture.

The inmates say it is the most difficult thing they have done. Of 100 who started the course last year, two-thirds completed it. "If it's only six weeks, they can keep the mask on, they can play the game," says Nick Messikh, the treatment manager at The Mount, himself a former inmate who recalls leaving Wandsworth Prison with nothing but a plastic bag and a drug habit. "When you get them for four or five months, the real people come to the fore. You get a lot of anger, a lot of remorse." Inmates reject the idea that it is an easy option. It opens with them drawing up a list of more than 100 ways in which drugs have damaged their lives. They have to read it in front of others in the group. "I've known big strong blokes who would be intimidating on the wing," says one inmate, serving time for arson. "They'd break down and find it hard to stop crying."

The programme, developed for alcoholics in the US and later modified by a Minnesota hospital, is spiritual in tone. Step five is: "We admitted to God, to ourselves and to another human being the exact nature or our wrongs. It's like putting up a mirror and seeing what I have done to myself. It's quite emotional," says Jamie Harris, 36, serving seven years for drug smuggling. "I wanted to blame everyone else. It was a big decision to make to go on this programme. It's been a life changer."

RAPt, the Rehabilitation for Addicted Prisoners Trust which runs programmes in 26 jails, says that the schemes make economic sense. It costs about £2,000 for each prisoner. Keeping one inmate in jail for a year costs £41,000. Nearly half of all adults are reconvicted within a year of leaving prison, according to the Prison Reform Trust, rising to 67 per cent for those who have served more than 11 sentences. For those that have been on the RAPt programme, it falls to 38 per cent.

Such abstinence programmes remain a small part of overall prison drug treatments. For the last year however, the Ministry of Justice has begun piloting drug recovery wings at five jails across Britain. The programme at The Mount deals with the first five steps of the programme. The inmates are then returned to the community for secondary treatment and to try to resume their lives. Staying off drugs is the difficult part after moving from the supportive environment of the prisoners' group. Those that return generally have struggled with a return to normal life. "They normally say they've not been able to hold down a job, moved back to an old circle of friends and not been able to resist the pressure," says the prison's governor, Steve Bradford. "If we can give them somewhere to live and find paid employment we know that their chances greatly increase."

R v Chaytors [2012] EWCA Crim 1810

In this appeal the court made comments concerning what constitutes a plea of guilty at the first opportunity. Both appellants in this case had pleaded guilty to robbery at the plea and case management hearing. Pay received a discount of one third, because the judge said he had not only pleaded guilty at the first opportunity, but had also pleaded guilty at the police station. Chaytor received a discount of 25 per cent, resulting in a one year difference between their sentences. The court said: “In this case the judge raised with prosecuting counsel when the pleas were entered. Prosecuting counsel said in response that the pleas were entered at the first reasonable opportunity. It was open to the judge at that stage to raise the issue. He could, had he so wished, have indicated a view that in the appellant's case it was not at the first reasonable opportunity. In our experience is often the case that judges make it clear that there should be no assumption that a plea at the plea and case management hearing will attract a one-third discount and they apply within the guideline a lesser discount on the basis that the first reasonable opportunity was earlier. That is an entirely proper approach and it should encourage early indications of willingness to plead, with all the consequential savings of cost and time. However, in this case, as already indicated, the prosecution did not put the matter on that basis and the judge in sentencing expressly said in relation to this appellant that he had pleaded guilty at the first reasonable opportunity. He did not raise with counsel any issue about it. Defence counsel was faced with the prospect of going down to the cells afterwards and seeking to explain to this appellant why he had not been given the conventional one-third discount for a plea at the first reasonable opportunity.

We are driven to conclude that there should have been a full one-third reduction in the circumstances accorded to this appellant. Accordingly, we quash the sentence of nine years and substitute for it a sentence of eight years. The appeal is allowed to that extent. We add this. In an increasing number of court centres now there is an early guilty plea scheme where early guilty plea hearings take place. In those centres there are practice guidance notes making it clear that there is a presumption that only a 25 per cent discount will be given if a guilty plea is entered at the plea and case management hearing rather than earlier. The Maidstone Court involved in this case is not, as yet, one of those centres. However, as this scheme develops around the country it will be increasingly difficult to maintain that a plea at the plea and case management hearing is the first reasonable opportunity.”

nity that it discounted his interest in earning an income in the manner of his choosing:

The Committee considers that the State party has demonstrated, in the present case, that the ban on dwarf tossing as practised by the author did not constitute an abusive measure but was necessary in order to protect public order, which brings into play considerations of human dignity that are compatible with the objectives of the Covenant.see.

Rosen strongly disagrees with this view. Degrading the banned ritual may be, but it was voluntary humiliation and involved autonomy just as much as any other choice. Dignity has nothing to do with public order and everything to do maintaining the sanctity of the inner sphere.

As such, the right to dignity has played a foundational role in legal decision-making. In 1995 the Strasbourg Court heard a challenge to the legality of the criminalisation of marital rape. It declared that the abandonment of the unacceptable idea of a husband being immune against prosecution for rape of his wife was in conformity not only with a civilised concept of marriage but also, and above all, with the fundamental objectives of the Convention, the very essence of which is respect for human dignity and human freedom. (SW v United Kingdom)

The notion that a person’s “physical and psychological integrity” is part of the private life protected by Article 8 ECHR, coupled with the right to dignity under Article 1 of the Charter of Fundamental rights, won the day in A & Others, R(on the application of) v East Sussex County Council where disabled individuals in a care home asserted their right to be lifted in an appropriate manner. The cases on asylum seekers referred to above rely on the right to dignity as a way of channelling social and economic rights through the grid of the ECHR and dignity is of course an oft-cited interest in litigation involving discrimination against homosexuals (see Ghaidan v Godin-Mendoza).

Problems: Although these decisions are praiseworthy in themselves, the enforcement of an absolute, constitutionally protected right to dignity has created something of a legal quagmire, particularly in the German courts. Article 1 of the Grundgesetz led the Constitutional Court to order that the German military could not legally shoot down a passenger aircraft taken over by terrorists and headed towards creating terrible mayhem, on the grounds that doing so would be contrary to the dignity of the passengers (115 BVERFGE 118 (139)). The right to life of the people on the ground could not justify any infringement of human dignity of those in the targeted airplane, because this right’s guarantee neither allows nor admits to any justification based on other rights or values. Put differently, human dignity is always and unconditionally violated when infringed. Indeed the right to life of the potential victims played no part in the Court’s deliberations, being referred to only in terms of the right to state protection from being killed.

The problem with the idea of human dignity is that it necessarily leads to such an absolutist approach, allowing no balancing act to be carried out when it inevitably runs into conflict with other human rights. The problem is differently illustrated in a series of censorship cases, also based on Article 1 of the Basic Law. We all remember the controversy courted by the clothing company Benetton in its depiction of dying Aids patients in its large poster ads. In Germany one of these advertisements, displaying a pair of buttocks bearing the stamp “HIV positive” was banned by the authorities. It was only by dint of contortionist legal reasoning that the Constitutional Court persuaded itself to quash the ban (102 BVERFGE 347). Freedom of speech was a “concretisation” (Konkretisierung) of human dignity, and therefore could not be suppressed in its name. The logic of this reasoning is far from clear and “Konkretisierung” is not a term of art, even in German adjudication. Since the right to dignity allows of no incursions by other human rights in the German constitutional order this approach makes no logical sense, and illustrates how perilously close the concept of human dignity can come to the

interest which receives further explicit protection in Chapter IV ("Every worker has the right to working conditions which respect his or her health, safety and dignity" – Article 31). The European Convention on Human Rights contains no express reference to the right to dignity but "dignity" as we understand it in this context provides the philosophical underpinning for decisions on Article 2 (right to life), Article 3 (prohibition of inhuman and degrading treatment), and, in some cases, Article 8 (privacy and autonomy). Any argument about discrimination, reproductive rights, access to adequate medical care, social and welfare benefits for asylum seekers and the debate over assisted suicide has the right to dignity as its backdrop

Philosophical background: But it is difficult to find any hard-edged definition of this concept. Some would agree with Schopenhauer's "characteristically jaundiced view", with which Rosen commences his exploration of the subject: That expression, dignity of man, once uttered by Kant, afterward became the shibboleth of all the perplexed and empty-headed moralists who concealed behind that imposing expression their lack of any real basis in morals.

So is this a catch-all provision that says everything and means nothing, a mere hollow piety that has somehow come to play a central role in the discourse of human rights, or, as Rosen puts it, 'the closest that we have to an internationally accepted framework for the normative regulation of political life"? Rosen explores the early roots of the concept, from the works of Aristotle and Cicero to the modern notion of dignity which has inherited several distinct strands of meaning. So different in fact that contemporary users of the word often talk past one another: a prominent example is the Catholic church's reliance on dignity of human life in its resistance to women's reproductive rights. Iranian President Mahmoud Ahmadinejad describes his nuclear program as a "path to dignity" for the Iranian people. Like the terrorist/freedom fighter figure, dignity is Janus-faced.

Dignity began as a concept denoting high social status and the honours and respect due to rank. As Christianity spread it came to mean something quite different – an inner and private value enjoyed by all irrespective of societal status. The Enlightenment philosopher Emmanuel Kant sought to bridge the two ideas, using the term "dignity" to express something beyond the aesthetic notion of honour and hierarchy. He explains dignity as "the condition under which something can be an end in itself," the condition of being in possession of "the unique intrinsically and unconditionally valuable thing" that is morality:

Morality is the condition under which alone a rational being can be an end in itself. .??.??. Hence morality, and humanity insofar as it is capable of morality, is that which alone has dignity. The problem with this notion is that it is based on the idea that all humans are alike, children of God and equal in His eyes. Without this religious foundation the idea of special dignity rests on shaky ground. It means only that we have something that animals don't have. An "intrinsic" attribute or value from which animals are excluded may be metaphysically sound but doesn't stack up biologicially, as we discover more similarities, both in terms of genetic make up and intelligence, with the non-human animals from which we have evolved.

The enforcement of dignity: Rosen also questions the state's role in protecting our dignity. In his view it is not for the state to avail itself of the semantic slipperiness of the concept in order to intrude on people's private freedoms. He cites as an example the somewhat surreal case of Wackenheim v France (Communication No 854/1999 : France). M. Wackenheim suffered from human growth hormone deficiency. He participated as a voluntary projectile in his local community's annual dwarf-tossing competition, until the authorities banned the ritual. He took his case all the way to the UN Committee of human rights, complaining that he had been discriminated against. So determined was the Committee to uphold M. Wackenheim's dig-

IPCC commissions independent review of its investigation into death of Sean Rigg

In a highly unusual move, the Independent Police Complaints Commission announced today that it has commissioned an independent external review of its investigation into the death of Sean Rigg, at the same time as it publishes its report of that investigation.

The family and INQUEST welcome the decision to hold this review. The IPCC report reflects a deeply flawed investigation. The flimsy findings of the IPCC report are in stark contrast to the highly critical and far reaching findings of the inquest jury which delivered a damning narrative verdict on 1 August 2012. Central flaws in the IPCC investigation included the failure to secure comprehensive first accounts from any of the relevant officers for over six months, despite the IPCC being in attendance at Brixton police station just hours after Sean Rigg's death, and the failure to test officer accounts against photographic and CCTV evidence.

Sean Rigg's family said: "The family of Sean Rigg are delighted that after listening to and analysing the evidence at Sean's inquest, a jury of 11 ordinary people found his mental health care team, SLAM, and the officers' actions 'more than minimally contributed to his death'. The officers' actions in particular were severely criticised by the jury. There has never been any doubt in our minds that the IPCC's inadequate report of February 2010 reflected an extremely poor and ineffective investigation into Sean's death. For the IPCC to conclude in their findings that 'the officers adhered to policy and good practice by monitoring Mr Rigg in the back of the van' is absolutely absurd, flies in the face of the evidence and clearly contradicts the jury's narrative verdict. The family therefore welcome an external review of the IPCC's original investigation by someone that is truly independent. However, we absolutely insist that the review is a root and branch examination of the IPCC's investigation and that it is transparent, robust and effective, so that officers are made accountable for Sean's death."

Helen Shaw, co-director of INQUEST said: "The contrast between the highly critical inquest jury verdict and the two insubstantial findings of the IPCC report could not be clearer. It should not have taken an inquest to discover some basic facts, such as the restraint of Sean Rigg in the prone position lasting several minutes, rather than seconds according to officer accounts which were accepted by the IPCC. The disparity is a clear indication of the wider systemic problems with the poor quality of too many IPCC investigations into deaths in custody. It is vitally important that both the external review of this investigation and the long awaited review of their whole approach to such investigations marks a sea change. Families should not have to rely on their own efforts to make sure the full facts about such deaths are established and those responsible for deaths are held to account."

From: "Communications at INQUEST" <communications@inquest.org.uk>

Police Officers In Court as Man Brings Private Prosecution

By Martin Evans, Crime Correspondent, Telegraph, 15 Aug 2012

Two police officers have appeared in court accused of burglary, kidnap and false imprisonment after a judge granted the alleged victim the right to bring a rare private prosecution. Sergeant Gareth Blackburn, 38, and Detective Constable Stephen MacDonald, 42, were summonsed to appear before Westminster Magistrates Court to face a string of allegations related to an arrest they made on a man suspected of harassing a colleague in September 2008.

Former aircraft engineer Michael Doherty, 40, claimed the officers turned up at his house at 6.30am, smashed down his door with a battering ram in front of his terrified family, before handcuffing him and dragging him to the police station. Mr Doherty was granted permis-

sion to bring the case by a district judge who also ordered that both Metropolitan Police officers attend yesterday's preliminary hearing.

The origins of the case date back to 2008 when Mr Doherty made a serious allegation to the police in Hillingdon, West London. Frustrated at what he considered was a lack of progress in the investigation, Mr Doherty made a number of phone calls to his local police station. He was subsequently accused of harassing a civilian police worker at the station, and the two officers arrived at his home to investigate the complaint. When Mr Doherty refused to let the officers into his home, he alleges they broke down his door and forcibly took him into custody. Mr Doherty was later cleared of all charges but applied for permission to bring a private prosecution against the arresting officers.

The summons issued by District Judge Deborah Wright at Uxbridge Magistrates last month, stated that the two officers were accused of trespass and an attempt to inflict grievous bodily harm on the home owner. The summons aid: "You were on the property as a trespasser and you threatened to smash down a glass-panelled door which the homeowner was holding closed. You threatened and used a battering ram to support your threat of violence. The occupants were caused fear for their personal safety. You wilfully failed to perform your duty to such a degree that it amounted to an abuse of the public trust which had been placed in you."

The summons also stated that the officers were alleged to have carried Mr Doherty away without any lawful authority. "There was no consent from the victim and you used unlawful violence to carry out this kidnap," the document stated. It went on: "You were tasked to carry out enquiries into allegations of harassment, however when lawfully refused entry to the home of Mr Doherty you did without lawful authority force entry into their private home."

It is extremely rare for a summons to be issued against police officers as part of a private prosecution. Criminal cases are usually brought by the Crown Prosecution Service, but people can pursue their own actions under the Prosecution of Offences Act 1985.

Both police officers, who remain on full duties, are due to appear before Southwark Crown Court on October 19 for a Plea and Case Management Hearing.

Judges Express 'Great Concern' at Shorter Sentence for Paedophile

By Martin Beckford, Home Affairs Editor, Telegraph, 15 Aug 2012

Senior judges have expressed "great concern" at a law that has forced them to overturn a paedophile's indefinite jail sentence, allowing him to be released after just 18 months.

Simon Crisp had hundreds of child abuse images on his computer which he shared with other sex offenders, and twice tried to groom a teenage boy online. He was given an Indeterminate Sentence for Public Protection (IPP) at Preston Crown Court earlier this year, after police seized computer equipment from his Lancs home. The 36-year-old was told that a five-year sentence would have been appropriate for the offences he admitted, but that he was "dangerous" and so should only be released when the Parole Board thought he was safe to be released. However at London's Court of Appeal on Wednesday, his lawyers argued that this "notional" five-year jail term was too long. His appeal was allowed as the term was "excessive" and the open-ended sentence was quashed and replaced with a conventional jail term of three years. This means he will be automatically set free next year after serving half of the term.

Judges said they were anxious about the outcome but had "no alternative" because of the terms of Labour's law on IPPs, which can only be imposed when the offences would war-

offences and might lead to the conclusion that the failure to comply added to the risk that the particular subject of the order was likely to commit further offences. The court would also have to consider the harm caused by non-compliance for breach.

It is in that latter connection that the court will bear in mind that in relation to breaches of other preventative orders that the courts make, those breaches usually have an adverse impact on a particular member of the public or previous victim. Such protective orders are usually designed to protect members of the public who have either previously suffered at the hands of the subject of the order or in respect of whom it is feared they may suffer in the future".

The court found that the reality of the seriousness of these two offences was that the appellant failed to take the order and his obligations seriously, and that there was no evidence to suggest that the possession of the items was in relation to the commission of future offences.

Held: "The correct approach was to have regard to the reality and significance of the breaches in the particular circumstances of this case. We do not think that there is merit in the argument that having been recalled for breach of licence conditions identical to those imposed under the order no further punishment was warranted. The whole point was the necessity, as the original judge saw it, of not merely leaving it to those responsible for the sentence in the Ministry of Justice to decide whether the licence conditions should contain obligations of notification, but that more was required, namely the imposition of the order we have identified. In those circumstances should there, as there was in this case, be a failure to notify the consequences had to be twofold: not only recall, but also punishment.

In considering the appropriate punishment the court had to consider the factors which we have deployed in reaching our conclusion. There was no material to suggest that the breaches concealed some further criminal activity which the order was designed to prevent. Rather, in our judgment, the defendant fell to be punished for flouting those orders and for not taking them sufficiently seriously. In our view, to reflect that gravity, the correct sentence would have been one of 12 months' imprisonment". http://www.bailii.org/ew/cases/EWCA/Crim/2012/1869.html

Defining "dignity" - Nailing Jelly to the Wall? *Rosalind English, UK Human Rights Blog, 08/0812*

In his recent book Harvard philosopher Michael Rosen poses the question: what is dignity, exactly, and do we know it when we see it? We are all familiar with the mantra that all humans are endowed with equal dignity, but do we really understand what it means? Since it is a formulation that is increasingly advanced in justifying universal human rights, we should try to get to grips with it, rather than reversing into circularities such as defining it as an intrinsic quality from birth. What makes it intrinsic? And at what point is it acquired? And why do we owe the dead a duty of dignity when they have no rationality and make no choices, autonomous or otherwise?

There is no shortage of material about its philosophical antecedents as well as the modern efflorescence of concept in human rights instruments. It is the foremost right in the German Basic Law ("die Würde des Menschen"). It is invoked in the Preamble to the Universal Declaration of Human Rights—"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world .??.??." The Constitution of South Africa lists "human dignity, the achievement of equality and the advancement of human rights and freedoms" as one of the founding values of the South African state, and the Bill of Rights is described as affirming the "democratic values of human dignity, equality and freedom". Article 1 of the Charter of Fundamental Rights of the European Union asserts the inviolability of human dignity, an

With the very American devices of elected Mayors and elected Police and Crime Commissioners, one has to ask how long it will be before we are asked to elect local Prosecutors, all of which will be anxious to show how 'tough' they are by locking up as many people as they can for as long as possible. We cannot now even rely on judges to be truly fair or objective. Sentencing 'guidelines', statutory sentences laid down by government, the eradication of judicial discretion pioneered by Tony Blair and continued by Cameron, all limit the fairness with which we are subject to the Law and additionally prevent judges from taking a stand against the unfair and unjust media driven policies of whichever government happens to be in power at the time.

Perhaps then, we should also elect our judges? After all, if you believe every British government for the last 30 years, that must be the right thing to do because they do that in the US as well.

In the view of TheOpinionSite.org, PCCs are a political gimmick. If the government is really serious about reforming the accountability of the police in Britain, four things can be done: 1) Reduce the number of police officers and make them do only what they are supposed to do – collect evidence and investigate crime. 2) Do what they do in Europe and have a judge overseeing every police investigation. 3)Get rid of all the corrupt police officers currently working in the force, prosecuting those who have broken the Law rather than allowing them to 'retire', take 'sick leave' or simply leave. 4)Make much less criminal 'Law' in the first place. There is far too much of it already. (For example, do we really need over 70 sexual offences when France has only 7 or more than 100 offences against the person when Germany has only 12?)

Once the government starts to do the above, we may be prepared to take the election of PCCs seriously. Until then however, such elections can be seen only as a waste of money, totally unnecessary and politically manipulative.

R v Koli [2012] EWCA Crim 1869

The appellant was convicted of two offences of failing to comply with a Serious Crime Prevention Order, in that he had in his possession items in breach of the Serious Crime Prevention Order without notifying the Serious Organised Crime Agency. He was sentenced to 24 months imprisonment. This was, the court said a 'groundbreaking' case since no prosecution for these breaches had come to their attention before and there were no precedents by which to set the appropriate sentence.

The order that was made lasted for five years and required notification of communication devices and notification relating to vehicles and conditions under which they were held. The 36 year old appellant was obliged to notify the Serious Organised Crime Agency should he have possession, use or control of any more than one mobile telephone handset with one SIM card and one number, one computer and one land line. He had committed breaches of his licence and was recalled at an earlier stage of his prison sentence.

The court said "There is broadly agreement as to the appropriate considerations which the court ought to take into account in considering the gravity of the breaches. It must be borne in mind that Parliament has set a maximum of five years' imprisonment in respect of a breach of the order, but the court will have to take into account the lapse of time between the imposition of the original order and the date of the breach. It must take into account any history of non-compliance and the issue as to whether non-compliance has been repeated and has come in the face of warnings and requests for information. It must take into account whether the non-compliance was inadvertent or deliberate. It is of course of particular importance that the court should consider whether the breach was related to the commission of further serious

rant a conventional sentence of at least four years.

Judge Anthony Morris, QC, said: "We consider that the judge's finding of dangerousness was fully justified on the evidence before him. But, by reason of this court's decision to reduce the notional determinate term, a sentence of imprisonment for public protection was not available. We have great concern as to the outcome. But, as Parliament has laid down that the notional term must be at least four years for an indeterminate sentence to be imposed, we have no alternative but to quash the IPP." The judge, sitting with Lord Justice Davis and Mr Justice Treacy, added that a sexual offences prevention order handed to Crisp should be "vigorously enforced" by probation offices to ensure he does not re-offend after his release. IPPs, brought in by David Blunkett in 2003, were abolished by the Coalition Government earlier this year.

Critics said the tough sentences have been used far more than was planned, boosting the prison population, but were not understood by victims or the public. It is claimed that only a tiny proportion of those given the sentences have been released so far, remaining in jail long after they would have done on normal sentences.

A Ministry of Justice spokesman said: "Sentencing and appeal decisions are purely a matter for the courts as only they have the full facts of a case before them. We are replacing the widely criticised and complex IPP scheme with a new regime of tough, determinate sentences. This will see more dangerous criminals given life sentences, and others spending long periods in prison and being supervised for lengthy periods after their release."

R v Sander [2012] EWCA Crim 1361

The applicant was convicted of one count of assisting another to retain the benefit of criminal conduct, contrary to section 93A(1)A of the Criminal Justice Act 1988 and three counts of converting or transferring the proceeds of criminal conduct, contrary to section 93C(2) of the Criminal Justice Act 1998. He was sentenced to a total of 7 years' imprisonment.

The thrust of the allegation was that the applicant opened an account in the name of a Mr Stocks and that through that account some £3 million was laundered, being money which was the proceeds of an MTIC or carousel fraud or frauds. Further, that with others he converted or transferred property which represented the proceeds of MTIC or carousel frauds.

In dismissing the application, the court said that MTIC frauds cannot succeed unless there are persons around who are able to launder the money; there are cases where the money launderer whilst not on a par with the fraudster or the architect of the fraud, is by reason of his closeness to the fraud not to be divorced entirely from the sort of sentence appropriate to the fraud itself whatever his profit may have been.

Judge Orders £1.3m 'Haulage Theft' Cash Seizure BBC News, 15/08/12

A judge has ordered the seizure of £1.3m found in a bedroom by police investigating the death of a driver whose lorry was robbed. Nine people were jailed in January for stealing televisions from the lorry found in West Bromwich in 2010.

West Midlands Police Economic Crime Unit said it applied for the cash to be seized after it was found in Shropshire at an address connected to the theft. On Tuesday, magistrates in Birmingham approved the seizure application. They agreed the money, found in suitcases in a bedroom in Highley, should be considered to be the proceeds of haulage theft. It is the biggest ever forfeiture achieved by the force, police said.

The occupant at the address, 56-year-old Phillip Hartill, was initially detained on sus-

picion of money laundering and handling stolen goods, but following police inquiries was later released and no criminal charges were brought against him. The economic crime unit made the application after no charges were brought.

The body of lorry driver Bogdan Bartczak was found in Vale Road, Dudley, on 1 November, 2010. Post-mortem tests failed to determine the cause of Mr Bartczak's death, but police said it was treated as a suspected heart attack. The 57-year-old's lorry, containing LG television sets, was found stripped of its contents on an industrial estate.

The eight men and one youth admitted charges including robbery and handling stolen goods and were convicted at Birmingham Crown Court in January: Anthony Kennedy, 30, from Tipton, was sentenced to eight years in prison for robbery and handling stolen goods. - Phillip Harthill, 32, from West Bromwich, was sentenced to eight years for robbery and burglary. - Daniel Knight, 29, from Tipton, was sentenced to seven years for robbery and and handling stolen goods. - Neino Scarrett, 24, from Dudley, was sentenced to seven years for robbery and handling stolen goods. - Glen Garner, 25, from West Bromwich was sentenced to six years and six months for robbery and burglary. - Martin Payne, 32, from Oldbury, West Midlands, was sentenced to 18 months for burglary, to run consecutively with another earlier burglary sentence, meaning a total of four years and three months in jail. - Robert Warren, 34, from Quinton, Birmingham, was sentenced to three years for attempted theft and assisting offenders. - Craig Street, 49, from Walsall, was sentenced to 16 months for handling stolen goods. - A 17-year-old youth from Dudley, who cannot be named for legal reasons, was given a two-year detention and training order for robbery and handling stolen goods.

New Police Commissioners Politically Driven and Open to Corruption

By Raymond Peytors - theopinionsite.org, August 14, 2012

TheOpinionSite.org believes that the election of political party candidates as new Police and Crime Commissioners (PCCs) will result in politically driven policies within police forces. Commissioners are likely to drive police policies along party lines with unpopular groups and individuals being targeted in order to gain political popularity and causing the Police Service to lose what little objectivity and credibility it has left.

Home Secretary Theresa May, policing minister Nick Herbert and Prime Minister David Cameron have made sure that any truly independent candidates, unless extremely wealthy, will not receive the same campaigning advantages as those put forward by political parties. Candidates are allowed to spend up to £228,000 in the final stages of a campaign but few independent candidates will have such resources available to them.

The Conservative party in particular is reported to have put significant effort into promoting their own candidates as part of the Tory bid to re-establish itself as the 'party of Law and Order', backing candidates supporting a right-wing view of how police forces should operate.

The whole process opens the door to the further corruption of Britain's already over-powerful police forces. However, even with all the political manipulation of what is supposed to be a democratic and fair process, even the government itself has expressed worry that elector turnout may be very, very low with perhaps less than 15% of voters taking an interest. When asked by TheOpinionSite.org, fewer than 10% of those questioned even knew that the post of PCC was being created and even less knew about the November elections. Only 3% said that they would vote. When asked on the BBC's Today Programme as to whether he would be satisfied with even a 15% turnout, the policing minister, Nick Herbert refused five times to answer the question, stating that

the elections would give 'ordinary' people "more say over how they are policed."

The election of PCCs is supposed to make the police more accountable to communities but in reality, they will instead become more accountable to political parties, none of which have the trust of the general public anyway. However, the government knows full well that it is hard to claim that the police will have democratic legitimacy with only 15% of people bothering to vote. So where did such a stupid idea come from in the first place? Unsurprisingly, the concept was imported from the United States, a country which successive British governments have mistakenly seen as being the model for Democracy in the Western world when in reality nothing could be further from the truth. Only the very wealthy are ever elected to the US Senate or Congress where corruption is in any case rife and, should an example of the honesty of American democracy really be necessary, readers may choose to remind themselves as to how George W Bush fiddled the votes in Florida in order to become president. Similarly, in the US only the very wealthy and politically supported ever become Mayors (who have authority over the police) or District Attorneys responsible for prosecutions.

As with their American counterparts, the UK's new PCCs will have political debts to pay once they are in power and will mould local police policies to fit their own political agenda. Chief Constables will have little choice but to comply with what their political masters want. Expect 'knee-jerk' reactions on a weekly basis. Every time a child goes missing or an old lady gets attacked by a burglar, expect those 'known' to the police to be targeted disproportionately. Whilst the real criminal escapes, those on the various 'registers' and databases now in existence will be the subject of unnecessary and wasteful police attention as the local PCC carries out the instructions of his political masters and financial backers. The police will be instructed to concentrate on issues - and people – that are likely to receive press and media attention. Meanwhile, less prominent but possibly equally important issues will be sidelined. The emphasis will always be on issues that are important and potentially damaging to political parties and which could become influential factors in general and local elections.

TheOpinionSite.org is of the view that the most ridiculous aspect of the PCC elections is that the public have shown no interest in them at all. In its attempt to further democratise communities, the government is making a fool of itself with most people showing little or no interest in the November elections. It is a fact that most British people have little interest in anything political – even though politics affects absolutely everything in their lives – and find elections boring and irrelevant, especially since all parties now promote pretty much the same policies and seem to be interested only in keeping the press and media at bay whilst at the same time guaranteeing their own continuing employment.

So far then, the only good thing to come from this exercise is that certain candidates have found themselves being forced to withdraw because they have a criminal record as a result of offences committed 40 or 50 years ago; TheOpinionSite.org welcomes these 'respectable' people to the real Britain where even the very slightest transgressions are never forgotten and where they are certainly never forgiven. It may be worth reminding the present government and politicians in general that Democracy is defined as "a form of government in which all eligible citizens have an equal say in the decisions that affect their lives", something that is impossible anyway in Britain where we are all 'subjects' of the Queen and where any Prime Minister can exercise the 'Royal Prerogative' and take us to war on behalf of America with not so much as even a debate in Parliament. If going to war is not subject to democracy, it is unlikely that anyone is likely to take the election of PCCs seriously. The local Police Commissioner is only likely to be noticed by the public when it is too late – another common British trait – and when the political bias is at its highest.