up there for two reasons. First, you have persuaded a domestic court that the case raises some difficult point of European law, and therefore the domestic court refers the case to Luxembourg to answer that point of law, under article 267 TFEU. Again, take my Latvian article 6(1) challenge as an example. Luxembourg helped the Latvians with the law (a bit), but left it to the Latvian courts then to find the facts and apply that law. So not all plain sailing, given that it takes 18 months or so to get there, and sometimes in really difficult cases you might have to go there twice if the CJEU comes up with a particularly opaque set of answers first time round.

Secondly, you can start proceedings directly in Luxembourg, but only (putting it simply) when you want directly to challenge some European law or measure, saying that it is unlawful by reference to another bit of EU law (which might include a bit of human rights principles) – here one has to reach for article 263 TFEU. In such a case, where you are challenging a bit of Euro-law or Euro-decision, and want to have it set aside or annulled, you have no choice.

Domestic courts don't have the power to do this, so you have to go to Luxembourg. For examples of these proceedings and the very restrictive rules as to standing which apply to them, see my posts here (a challenge to an EU trade law about seal fur) and here (about the EU Commission's decisions about enforcement of pesticides and air quality rules).

But, where you have the choice, why would you want to persuade the CJEU to answer your Euro-human rights issue? The main reason is that some arguments simply go down better with the "civil" lawyers who make up most of the judges on the court – "civil" as opposed to the common law (or judge-made) tradition in which the UK (and only the UK in the EU) operates.

Our domestic judges have become far more accustomed to dealing with some of the broad principles of EU law (such as proportionality or judicial effectiveness), but even so a supranational court may be more receptive to arguments which, say, threaten some sacred cow of common law rule-making which looks a bit odd from a continental perspective. So that's sorted then, into its nice little boxes. But just you wait until the EU signs up formally to the ECHR (as it has to under article 6 of the Lisbon treaty), such that you can take the EU (and the CJEU?) to the Strasbourg court – how will that be organised? Answer is, we don't know the details.

New HD CCTV Puts Human Rights At Risk

CCTV systems capable of identifying and tracking a person's face from half a mile away are turning Britain into a Big Brother society, the UK's first surveillance commissioner has warned. New high-definition cameras are being rolled out across UK cities without public consultation into the intrusion they pose, Andrew Rennison told The Independent. The increasing sophistication of surveillance technology is becoming so serious that Britain may be in breach of its own human rights laws, he said. There are already thought to be around 1.85 million CCTV cameras in the UK.

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.

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MOJUK: Newsletter 'Inside Out' No 392 04/10/2012)

Timi Spahiu Case: 'How Can a Man that did Nothing be Serving 33 Years?'

Kosovan man's lawyers hoping to appeal joint enterprise murder conviction over parking metre robbery row Duncan Campbell, guardian.co.uk, Monday 24 September 2012

Around midnight on the morning of 14 October 2006, shots were fired in an Albanian/Kosovan club in Park Royal, north-west London. One man, Prel Marku, died from a fatal injury to his brain and two others were wounded. The shooting was the result of a feud between two gangs over who had the right to rob the parking metres of the West End. The man who fired the fatal shots was Herland Bilali, who worked as a disco doorman, had a reputation for violence and was part of one of the gangs. He is now serving life for murder. Accompanying him into the club was a young man, Timi Spahiu, who is also serving a life sentence. He claims that he had no idea what Bilali had in mind and that he himself never fired a shot. His supporters claim he is a victim of the controversial joint enterprise laws and his will be one of the cases highlighted by a protest in Bradford later this month to draw attention to what campaigners say are serious miscarriages of justice. Under the "joint enterprise" doctrine a person may be convicted of a murder or manslaughter even if they did not fire the fatal shot or strike the fatal blow but were part of a group, one of whose members carried out the killing.

At the centre of the shooting was a turf war between rival Albanian and Kosovan gangs over the theft of cash from parking meters in central London, mainly in the borough of Westminster, which claimed to have lost £1,243,000 in one year alone as a result of the thefts. Bilali had already been involved in a confrontation over the dispute. Spahiu, who is 38 and was born in Kosovo, is married with two children but separated from his wife. He came to the UK in 1998 and was given permission to stay as someone claiming asylum. He knew Bilali but says that he had thought that the visit to the club was to be an attempt to sort out the dispute peacefully with a discussion between the two rival groups. The club was for members of the Albanian/Kosovan community to meet, drink and play chess and cards and the two men were admitted after pressing the entrance door buzzer. According to witnesses, Bilali came in, shouted an obscenity in Albanian, pulled out a gun and started firing. Marku, the man shot dead, was an innocent bystander not involved in the parking meter dispute.

Spahiu said the first knowledge he had that Bilali had a gun was when they went into the club. "It was all over in a matter of seconds," he said later. "I turned and ran down the stairs I'd never seen anything like this before. I felt shocked, really bad." He said he asked Bilali why he had done it and Bilali said "They wanted to kill me, they had guns." Both men fled, Spahiu to Salford. After a month he was arrested and told police that they were "100% wrong" about his involvement.

He then remained silent, he said, on the advice of his lawyer. Bilali escaped to Denmark so Spahiu stood trial at Snaresbrook crown court without him. He was convicted and jailed for life with a recommendation that he serve a minimum of 33 years. Bilali was eventually tracked down, extradited, tried and convicted and is also serving a life sentence, with a minimum tariff of 34 years.

Deborah Madden, a friend of Spahiu, who has been campaigning on his behalf since his arrest believes that he is another victim of the joint enterprise law. "How can a man that did nothing - and all the witnesses say did nothing - now be serving 33 years?" she said.

Lawyers are now re-examining his case with a view to an appeal.

Kujtim Spahiu, A5626AL, HMP Whitemoor, Longhill Road, March, PE15 0PR

Black and Asian Officers More Likely To Face Police Inquiries

Misconduct proceedings launched against five times more ethnic minority recruits. Black and ethnic minority police officers are up to five times more likely to be the subject of corruption or internal misconduct investigations compared to their white colleagues. A study commissioned by Greater Manchester Police (GMP), which examined three of Britain's biggest police forces, revealed that complaints by black and Asian officers that they are routinely subject to racially discriminatory inquiries by their employers were well-founded. The National Black Police Association called for urgent intervention by ministers to address the problem, which it said was hampering efforts to increase ethnic minority recruitment and blocking the advance of non-white officers into senior ranks. Its president, Charles Crichlow, said: "The findings of this report vindicate concerns raised over many years regarding officers from different backgrounds being treated differently and unfairly. *Indpendent, Tuesday 25/09/12*

Inquest into Death of Jacob Michael in Police Custody in Runcorn

The inquest into the death of Jacob Michael began on Monday 1 October at the Daresbury Park Hotel in Warrington. Jacob Michael died on 22 August 2011 aged 25 following arrest and restraint by police. He had called the police himself in an agitated state after telling his family he had been threatened. The police arrived at the house and forced their way into his bedroom, spraying incapacitant spray at him, whereupon Mr Michael ran out of the house and down the street. The police pursued him, striking him with batons and restraining him before putting him in the back of a police van to take him into custody at Runcorn police station. He was then left face down on the floor of a police cell for several minutes with police officers standing on his legs, where he died.

On the first day of the inquest, the jury were shown disturbing CCTV film of Jacob Michael being pursued by police officers wielding batons in the street outside his home, being transported in the police van, arriving at the custody suite and then being held face down on the cell floor where he died. More than 60 witnesses are listed to give evidence including Jacob's mother, civilian eye witnesses and police officers. The inquest is scheduled to last for four weeks. Jacob Michael's family hope the inquest will answer serious questions concerning the officers' actions when they entered his bedroom, the use of force by police in the street, the restraint itself, the failure to treat him as a medical emergency rather than take him to the police station, his treatment in the police station, and the overall attitude of police to a young man who was clearly confused, frightened and unwell.

Jacob's mother said: "My son called the police for help and they sprayed him with pepper spray and arrested him. Two hours later there was a knock on my door by the police to say that he had passed away. He was a fit twenty-five year old man. I want to know why. I just can't understand it."

Deborah Coles, INQUEST co-director said: "Yet again, we begin an inquest into a death following restraint in police custody of a young black man. This is a particularly disturbing and distressing death, made all the more so by the existence of CCTV footage for much of his last minutes alive. Serious questions must be asked about how a young man in distress came to be hit with batons, restrained, and disregarded while he lay dying on a police cell floor. It is vital both for Jacob Michael's family and the public that this is a far reaching and thorough inquest into his death."

Kate Maynard, solicitor instructed by the family, said: "The family and the local community need to know how and why Jacob died in police hands. The family feels that the IPCC had not adequately investigated Jacob's death and they now look to the inquest proceedings to get the answers they need".

Family is represented by INQUEST Lawyers Group members Adam Sandell of Matrix Chambers, instructed by Kate Maynard of Hickman & Rose Solicitors.

Human Rights Courts: a Beginner's Guide *David Hart, Guardian Legal Network*

Well, the easy one is domestic courts. They decide whether a public authority has acted or omitted to act unlawfully under the Human Rights Act (HRA).

If the act is a decision about housing or immigration status or prisoners' rights, the courts can quash it, and so tell the decision-maker either to decide it again or if there is only one lawful answer, tell the decision-maker what decision to take. If it was a past course of conduct (unlawful detention, intrusion into privacy, unacceptable pollution), they may award damages for human rights breaches.

If the domestic law is itself unlawful, and cannot be interpreted HR-compliantly, the domestic courts can make a declaration of incompatibility under s.4 of HRA – it does the claimant no good in respect of his claim, though it throws a huge gauntlet down to parliament to do something about the non-compliant law. And in the criminal courts, the obvious sanction is to dismiss the prosecution for some abuse of process involving the defendant's human rights.

But, hang on, why don't we take our human rights case first time out to the European court of human rights (ECtHR) in Strasbourg, particularly as we have been told that we don't have to pay anything to the other side if we lose (not something which usually happens in the domestic courts)? This is where we hit a problem – you can only go to Strasbourg when you have exhausted all domestic remedies "according to the generally recognised rules of international law and within a period of six months from the date on which the final decision was taken" – article 35 of the European Convention on Human Rights (ECHR). So, not so easy then. Say you have a case which is very difficult to win under UK law, but your chances are better in Strasbourg. A good example would be where you have a supreme court precedent against you, but a recent Strasbourg case with you – e.g. Keyu, decided last week, on which a post will shortly follow. This means you have to try out your human rights arguments before a judge, fail, and then try and fail before the court of appeal (and supreme court, if you are allowed to get that far).

The idea of "exhaustion" of domestic remedies is twofold, first that you give the member state the opportunity of preventing or putting right the violations alleged against it, and second, you don't clog up the Strasbourg courts with unnecessary cases which could be dealt with in, say, your local county court. Not something that the judges there would like at all.

Reasonably straightforward so far? = But now there is another European court, and one which the tabloids (and the odd broadsheet) endlessly muddle up with the Strasbourg court. Its full name is the court of justice of the European Union (CJEU), and it sits in Luxembourg. As the name on the tin suggests, it determines issues of European Union law. It has two bits, the full court and the general court, the latter a less than helpful re-brand of its previous role as the court of first instance. EU law contains human rights law, because human rights principles are part of EU law and have (belt and braces) also now been copied into the EU Charter.

But remember EU law is not just about mergers and milk quotas and faceless corporations. Most of our environmental law is European in origin. Free movement of EU citizens lies behind great swathes of immigration law. Public health, consumer protection, freedom of information, VAT, employment, discrimination, you name it, and if you scratch hard enough, you will find that much of it bears the brand of Brussels (where the laws are made) or Luxembourg (where the cases are decided). So in any such case, you may find a Euro-point – for example, my recent post about wanting to rely on an English default judgment in Latvia – using an EU regulation about recognition of those judgments. And once you have a Euro-point, you may have an article 6 ECHR fair trial point, etc etc.

So how do you get on the plane to the Luxembourg court without finding that your journey is wasted? This is where it becomes a bit more difficult. Broadly, cases with private party claimants end

such as accommodation and money worries, was also good. Visit arrangements were satisfactory. Offender management and public protection arrangements were also generally satisfactory.

However, despite these positive elements, resettlement support was not managed strategically and did not ensure that the support and interventions that the men received were matched to their needs and risks. There was no whole prison approach to resettlement, so good specialist resettlement and offender management work was not sufficiently supported by day to day interactions between prisoners and staff in the prison.

Staff-prisoner relationships reflected this concern. They were generally respectful but officers were too passive. Most prisoners said there was someone they could talk to if they had a problem but there was too little proactive engagement. The external environment was very good and most accommodation was reasonable, but some new arrivals had to spend a short time in dormitories. Health care was generally good and an excellent new palliative care suite had recently been developed - unfortunately, at the time of the inspection the funds were not available to staff it. Some time before the suite had been developed, health care and residential staff had worked effectively together to provide dignified care for a terminally ill prisoner as his life ended. The palliative care suite met a clear need and should be sustained as an important regional prison resource.

Support for the 29% of prisoners over the age of 50 was generally good. A day care centre known, because of its appearance, as 'The Lobster Pot', provided activities for older prisoners, reduced isolation and encouraged healthy living. However, in other respects, work on equality and diversity issues was less good. In some areas the perceptions of black and minority ethnic prisoners were significantly worse than those of the population as a whole. The prison's own monitoring data revealed some unequal outcomes that were a real cause for concern, but little had been done to address them. The investigation of diversity incidents was poor. There was no monitoring of other diversity strands. The prison needed to take immediate steps to improve the leadership and external quality assurance of its work on equality and diversity issues.

Leyhill provided a safe, decent environment in which to prepare the men it held for release back into the community and carefully managed the risks involved in doing so. However, in a generally positive picture there was scope to improve its approach in some important areas - and weaknesses in diversity work were a serious shortcoming that needed to be quickly addressed.

Rape Accused Was Victim Of Forensics Error *Paul Peachey, Indpendent, 02/1012*

An innocent man spent five months on remand, wrongly accused of rape because of a blunder at Britain's largest private forensic science testing centre, an official report revealed yesterday. Despite warnings of DNA contamination at the laboratory less than two week earlier, Adam Scott was arrested and held in custody – even though he had been hundreds of miles from the scene of the crime. His case prompted calls for an inquiry into the effectiveness of the privatised DNA-testing regime since the Government closed its loss-making Forensic Science Service this year.

Mr Scott's DNA, retrieved from a "spitting incident" in Exeter, was mixed up during analysis of genetic material taken from a rape victim in Manchester. According to a report by the forensic science regulator, Andrew Rennison, Mr Scott was an "innocent victim of avoidable contamination" and "human error" by a technician at LGC Forensics. A plastic tray containing a sample of Mr Scott's DNA, which had been taken for an unrelated matter, should have been disposed of but was re-used in the analysis of a swab taken from the rape victim. Mr Scott spent five months on remand over the Manchester rape, even though mobile phone records suggested he was 280 miles away in Devon shortly after the attack.

Cardiff Three: the Long Wait for Justice

The case of the Cardiff Three was a gross miscarriage of justice which, 24 years on, remains unresolved. Can a report into the failed prosecution of eight police officers shed new light? Duncan Campbell, The Guardian, Monday 17/09/12

It is nearly 25 years since the mutilated body of Lynette White was found in her flat in James Street, in the Butetown district of Cardiff. Her murder led to one of the greatest judicial scandals of the last half century and the largest ever trial of British police officers, yet the story has still to reach a just and final conclusion.

This month, the first of a series of official reports into the case is due to be published, and there is a new book by freelance journalist Satish Sekar, who has done more than anyone to bring to light the nature of a miscarriage of justice that ranks alongside those of the Birmingham Six, the Guildford Four and the Bridgewater Three.

It was on Valentine's Day in 1988 that White, a 20-year-old sex worker, was found with her throat slit and more than 50 stab wounds. Initially, a search was launched for a dark-haired white man seen leaving the scene. Five young men, none of them white, were arrested and charged with her murder: Tony Paris, Yusef Abdullahi, Stephen Miller (White's boyfriend), and John and Ronnie Actie. In 1990, the first three were convicted and jailed for life and the Acties acquitted; thus the case is sometimes known as the Cardiff Three and sometimes the Cardiff Five. Part of the evidence against them came from two other sex workers, Leanne Vilday and Angela Psaila, and a neighbour of White's, Mark Grommek.

Two years later, following a major campaign, the three were cleared on appeal, although they still had to contend with murmurings that they might have been involved. Delivering the judgment in the court of appeal, Lord Chief Justice Taylor said of the interrogation of Miller that "short of physical violence, it is hard to conceive of a more hostile and intimidating approach by officers to a suspect". Michael Mansfield QC, who represented Miller, said that the recordings of the interrogation "left an indelible impression on my memory … I took the trouble to count the number of times Miller protested his innocence: over 300."

A painstaking and exemplary reinvestigation of the case was eventually undertaken in 1999 under Detective Superintendent Kevin O'Neill. Developments in DNA techniques led detectives to search for a suspect whom they were to nickname Cellophane Man, because a crucial DNA trace was found on a blood-stained piece of cellophane at the crime scene. This took them to a 37-year-old security guard called Jeffrey Gafoor, from Llanharan, near Bridgend, who had received only one conviction in the intervening years, for attacking a colleague with a brick.

Gafoor, once he realised he was a suspect, took an overdose of paracetamol but the police, who had him under surveillance, broke into his home and saved his life. In hospital, he told police: "I would rather not die. I would rather face the music but I was looking forward to death to find out if God exists or the devil." He claimed he had had an argument with White over the £30 she was charging him and a fight had developed. Faced with the overwhelming evidence against him, Gafoor pleaded guilty at Cardiff crown court in 2003 and was jailed for life, albeit, as Sekar points out, with a shorter tariff than the one originally set for the three innocent men.

Prosecution witnesses Vilday, Psaila and Grommek were charged with perjury. During their trial in 2008, they claimed they had been harassed into lying by the police. The judge, Mr Justice Maddison, accepted that "you were seriously hounded, bullied, threatened, abused and manipulated by the police … as a result of which you felt compelled to agree to false accounts they suggested to you". He added that what they had been subjected to was

"unacceptable in a civilised society" but jailed them for 18 months.

Finally, in 2009, 13 former and serving South Wales police officers were charged in connection with the case. Eight of them, and two civilians, stood trial last year at Swansea crown court; a further trial of the others was due to follow this year. All pleaded not guilty. In December last year, the trial was dramatically halted by the judge, Mr Justice Sweeney. It was said that documents essential to the case, which should have been disclosed to the defence, had been destroyed. "When a trial has become irredeemably unfair," said the judge, "it must stop." The defendants, including those yet to stand trial, were formally declared not guilty.

Amazingly, not long after the abandonment of the trial, it emerged that the documents had not been destroyed at all. Two inquiries have been launched. The first, being carried out by the Independent Police Complaints Commission into what happened to the documents, is due to report shortly. The IPCC commissioner, Sarah Green, described this as "a very tightly focused investigation that concentrates on events regarding the alleged destruction of IPCC documents … We are not investigating the reasons for the collapse of the trial, which is a matter for the director of public prosecutions (Keir Starmer)."

This parallel inquiry, being carried out under Michael Fuller, of the Crown Prosecution Service Inspectorate, has a remit to establish "whether the prosecution team (CPS and counsel) approached, prepared and managed disclosure in this case effectively, bearing in mind the history, size and complexity of the investigation and prosecution". Fuller, a former chief constable of Kent and the first black officer to reach that rank, said that "it is important that the public can have confidence in the way the CPS conducts its cases". The results of that inspection are not expected until later in the autumn.

Sekar, who is 48, a Thames polytechnic (now the university of Greenwich) sociology BA from Greenford in west London, became involved in the case from the start, when he was embarking on a career as a researcher and journalist. "I had read an article about it in the bulletin of the Institute of Race Relations and got in touch with them. They put me on to Malik Abdullahi, Yusef's brother, and I went down to Cardiff to meet him and others who knew the five. I found them very open and honest and I was soon convinced that the five were innocent. I had no idea that I would still be involved in the case 20 years later."

In 1991, as part of the Guardian's Justice on Trial series, which had just been launched, we wrote of the major discrepancies in the prosecution of the five. Sekar has doggedly followed the case since then, and his book, The Cardiff Five: Innocent Beyond Any Doubt, was launched in the House of Commons earlier this month. "This case simply refused to go away," he says of his commitment to covering it.

One very powerful section of the book is the evidence of Professor David Barclay, who was head of physical evidence at the National Crime and Operations Faculty at the time of the reinvestigation. He states: "it was inconceivable that multiple offenders were involved … not one of the six or seven people who must, on the police's version, have been milling about in the darkened flat, had trodden in her blood and left bloody footprints". He asks: "How could this very clear scientific picture have become so distorted that the prosecution was able to persuade a jury that the scientific findings supported an entirely mythical and scientifically ludicrous version of events?"

Sekar is now in favour of a complete national database that contains the DNA of every citizen: "I used to oppose such a database passionately, but the hunt for Cellophane Man helped to change my mind." Such a database would, he believes, have led swiftly to Gafoor.

Yusef Abdullahi died last year, aged 49, of a burst ulcer and Ronnie Actie died in 2007.

equate. - some prisoners feared a return to closed conditions might be imposed arbitrarily, which caused a lack of confidence in certain processes, such as complaints; - the prison was aware of the use of 'spice', a synthetic cannabinoid, and was addressing this; - despite some positive elements, resettlement support was not managed strategically and did not ensure that the interventions the men received were matched to their needs and risks; - staff-prisoner relationships were too passive, and there was too little positive engagement; - support for the 29% of prisoners over the age of 50 was generally good, but other equality and diversity work was less good - perceptions from black and minority ethnic prisoners were significantly worse than those of the population as a whole; - the prison's own diversity monitoring data revealed some unequal outcomes that were a real cause for concern, but little had been done to address them.

Introduction from the report: HMP Leyhill in Gloucestershire was the first modern, open prison when it opened in 1946. It now holds about 500 men, many of whom are serving long sentences for serious offences. Central to the prison's role is the need to prepare most of these men for release back into the community while managing the risks they pose. This is no easy task, as other comparable prisons, and Leyhill itself, have found.

Leyhill was a safe prison. In our survey prisoners told us that they felt safe, and this was borne out by low levels of self-harm and violence that were sustained by embedded procedures. We observed a generally calm atmosphere. The primary mechanism for managing poor behaviour was a return to closed conditions. This was a severe sanction and there were different processes for prisoners serving determinate and indeterminate sentences; governance of the former was inadequate. Prisoners feared a return to closed conditions might be imposed arbitrarily and this caused a lack of confidence in processes such as complaints. Attitude to risk was generally proportionate and the number of absconds had fallen sharply since our last inspection. Some petty rules remained however - for instance, prisoners had to wear shirts with collars for visits. The positive mandatory drug testing rates were low but the prison was aware of the use of 'spice', a synthetic cannabinoid, in the prison and was addressing this.

The effective management of risk enabled an impressively large number of prisoners to participate in the 'Through the gate' programme and undertake paid or community work outside the prison. For men who had served long sentences this was important preparation for their eventual release back into the community, and helped equip them with the skills they would need to get and hold down a job. Many of these opportunities were made possible by the valuable support of a wide range of community organisations. Some prisoners complained that the process of granting release on temporary licence took too long and was too restrictive. In our view the process was appropriate but Leyhill, and the prisons that sent men to it, needed to manage prisoners' expectations better.

Time out of cell was very good and there were sufficient activity places for all the men held. Workshops in the prison provided a good range of work and vocational training opportunities, but they would have been improved if the skills that the men gained were recognised in qualifications that were valued by employers. Prisoners could supplement work in or outside the college with 'day release' in good quality education. However, literacy and numeracy support was not sufficiently embedded in the workshops.

There was evidence that opportunities to gain work experience while at the prison had a real impact on prisoners' ability to find employment after they were released. Despite the current economic climate, about a third of prisoners who had been discharged in the three months before the inspection had found permanent employment. Other practical help with resettlement needs,

It was accepted by the Crown Prosecution Service that the defendants' actions did not play a part in the death of Mr Oldham who would have suffered "rapid unconsciousness and death" according to a post-mortem examination. Kate Blackwell QC, prosecuting, said Shaun Percy also failed to perform similar checks on three other prisoners at risk of suicide on the evening of April 21 last year. It could not be treated as an isolated incident either because subsequent inquiries revealed similar neglect the evening before when he only performed three out of 14 recorded cell checks, she said.

Sentencing the couple from Walton-le-Dale, Lancashire, to a 12-month jail term suspended for two years, Judge Anthony Russell QC said: "I must make it clear were it to be the case had negligence led to the cause of death then very much graver charges would have been pursued. These are serious breaches of duty. There could be circumstances where a failure to comply with such procedures would have affected the health and well-being of a prisoner." He said he also took into account that the Percys had suffered punishment in other ways after losing their jobs, home, reputations and were both in poor health.

An internal inquiry was launched and five days later Shaun Percy was suspended when the prison governor noticed that CCTV footage did not match his officer's account. Miss Blackwell said: "When he was being suspended he told the prison governor: 'I have let you down. Why have I not checked? I have not done my job properly'." She said it was the Crown's case that Shaun Percy was "well aware of his duties" and had committed "a flagrant breach amounting to negligence". When interviewed, Shaun Percy accepted that he had been complacent but said he had made the checks by glancing at the CCTV monitor behind the desk in his office. This cannot be true because he would have seen Christopher Oldham hanging in his cell," said Miss Blackwell. He said he did not believe physical checks were essential despite his training." Lisa Percy told detectives she acted out of sympathy for her husband's position as he would have lost face with colleagues, the court heard. The couple, of Carrwood Way, were also ordered to each perform 200 hours of unpaid work and abide by a six-month curfew between the hours of 8:00pm and 7:00am.

Mark Leech, editor of Converse the national newspaper for prisoners in England and Wales said: "Shaun Percy was a lazy prison officer, paid to take care of vulnerable prisoners inside Preston Prison he could not be bothered to do the job. Percy walked within two feet of cells he was supposed to check but did not do so. Let's have it right, Percy claimed not only to have observed four prisoners safe and well in their cells when no such visits took place but, in the cas of Christopher Oldham, Percy alleged that he had viewed Oldham watching television in his cell three times after he was clearly dead – and on one occasion Percy alleged he had actually had a converstion with Chrisopher Oldham over three hours after it was accepted that Mr Oldham had already died. His wife, Lisa Percy, then covered up for her husband's failures, putting entries in the log and forging his signature to show he has been doing his job when she must have know it was a lie. They came within a hairs bredth of losing their liberty and their sentence should send a message loud and clear to other prison officers thinking of doing the same thing."

Report on an Announced Inspection of HMP Leyhill

Inspection 16–20 Apr 2012 by HMCIP, report compiled July 2012 , published 03/10/122012

Inspectors were concerned to find that: - the primary mechanism for managing poor behaviour was a return to closed conditions. This was a severe sanction and there were different processes for prisoners serving determinate and indeterminate sentences; governance of the former was inad-

There could well have been further tragedies: after the original trial, Lynette White's angry father, the late Terry White, confronted the acquitted John Actie with a gun and could well have killed an innocent man, as he had believed the false case against him. While the wrongly arrested have been paid compensation for their conviction, they were all anxious to see justice done at the abandoned trial. An estimated £30m to £40m has been spent on the original bungled investigation and the subsequent failed prosecution of the police.

Sekar is extremely sceptical about what will emerge from the reports, and whether the case of the Cardiff Five will ever be properly resolved. Although the stain of a shameful miscarriage of justice will remain with the South Wales police, so far, the only people to have been punished for what happened are two vulnerable sex workers and a neighbour of the dead woman bullied into giving false evidence.

R v Zotkevicius and others

Summary: Following their conviction, the applicants were sentenced as follows: Stucinskas and Kazaciunas for oral and vaginal rape, to concurrent terms of twelve years' imprisonment; Zotkevicius to ten-and-a-half years' imprisonment on those charges; and each received a concurrent sentence of five years' imprisonment on count 4 which charged false imprisonment.

The victim had been out for a meal with her uncle and his friend. They were invited to attend a party at the home of Kazaciunas where all three applicants were present. After a while the victim was ready to leave and called a taxi. She was prevented from leaving, and dragged back into the house. Once inside the house they locked the door, effectively holding her prisoner. She was asked whether she would have sex with them, when she refused she was threatened with violence. She was raped orally and vaginally by all three applicants in the bedroom and in the living room. At one point she was vaginally raped by one whilst being forced to give another oral sex and being forced to masturbate the third. These repeated rapes lasted for over three-quarters of an hour and possibly for as long as an hour. Her ordeal ended only when the police arrived, having been called by the uncle.

The applicants denied the offence. They pleaded not guilty and at the trial ran the 'distasteful and outrageous defence' that the victim was effectively a prostitute who had consented to have sexual intercourse with them and was to be paid for these indignities.

Pre-sentence reports prepared on each applicant made the same points: that these offences were fuelled by drink, and that none showed any remorse or awareness of the gravity of their offending.

The court agreed with the aggravating features as identified by the judge; These were repeated acts of vaginal and oral rape committed by three men acting together, each fuelled by drink as their victim was held prisoner in the house. At least one of them ejaculated. None of them wore a condom. Further humiliation and degradation was caused by showing the victim the pornographic film and by their demands that she should do the acts depicted. The offences were not voluntarily discontinued but were interrupted by the timely arrival of the police. The effect upon the victim has been profound. The judge said that Kazaciunas had taken her back into the house when she tried to leave and was fully involved in the offences that were committed against her whilst she was there. He had a bad record which, taken together with the sentencing guidelines, the judge took into account. He found no reason to draw a distinction between him and Stucinskas. But Zotkevicius did not leave the house in pursuit of the victim when she tried to leave and was not responsible for bringing her back. Furthermore, he had a less serious record of previous offending. Although deeply involved in this attack, these factors enabled the judge to make some distinction in the sentences

passed, which he did. Having considered that none of the applicants had done anything similar before, he concluded that they were not dangerous so as to justify or require a sentence of imprisonment for public protection.

In refusing the applications, the court did not agree that the sentences were manifestly excessive: "The facts of these offences do not fit neatly into the categories of offending described in the guidelines since there are three of the aggravating features identified in the middle bracket of the guidelines. If the judge sentenced above the guidelines, he was quite entitled so to do for the reasons which he identified. There are here so many aggravating factors, the judge was not only justified but required to pass a severe sentence to punish the applicants and to mark public condemnation at the commission of such terrible offences".

FR v Mungai (Refusal to Admit fresh Medical Evidence)

Summary: The applicant pleaded guilty to robbery and was sentenced to 14 months' detention in a young offender institution. The applicant and his companions attacked and robbed the complainant of a phone and a wallet and its contents in a planned attack. They demanded money or goods and punched the victim causing scratch marks, a cut and bruising.

A psychiatric report found that while there were considerable mental health problems, the applicant was not suffering from a mental illness at the time of the offending. However a subsequent report by a Dr Ndebele reached a different conclusion.

A question arose as to the admissibility the report, since it could have been obtained at the time. The basis for not obtaining it was that Dr Ndebele had a broken wrist. The court said that the substance of her view could have been obtained; it did not require her to draft a full report - had there been a basis at the time for considering that the original report was to be questioned, then that matter could have been investigated and an application for adjournment made.

The court said it is extremely rare that, where proper evidence has been presented in the course of a sentencing hearing, a further report from a similar expert, or an expert in a similar discipline, can properly be introduced as fresh evidence giving rise to an appeal; it cannot be that the criminal courts should be troubled by successive views from different experts, even if properly qualified, in the same case. There must be finality in criminal litigation as with other litigation.

In declining to grant leave the court said the judge was perfectly entitled to proceed on the evidence before him and it could not be right to grant leave to appeal in circumstances where all that essentially has happened is that a more favourable expert report has been found.

No More Deaths in Custody:

The United Families and Friends Campaign Annual Remembrance Procession is taking place on Saturday 27 October. Now in its 14th year, the event will take the form of a silent procession from Trafalgar Square down Whitehall followed by a noisy protest outside Downing Street. Participants are being asked to wear black and to bring a banner if they have one.

R v Pelletier (Court Order was not Drafted Properly)

See Para 7 for a (suggested) procedure to be adopted in future when a Sexual Offences Prevention O rder (SOPO) is made.

1. This appellant appeals against a conviction for breach of a Sexual Offences Prevention Order notwithstanding that he pleaded guilty at the time of his arraignment.

2. The history is this. On 11th February 2005 in the Crown Court, the defendant pleaded guilty

his poem 'Grieving', written during his continuing incarceration at Long Lartin prison. Talha also won the bronze award for his new poetry collection, which will be published soon and from which Grieving is taken. It is obvious that Talha's is a formidable poetic talent. During his six-year incarceration at HMP Long Lartin he has translated a tenth-century Arabic poem, Above the Dust, by Abu Firas Al-Hamdani, on his captivity in Byzantium.

Talha's brother Hamja has spent the years of Talha's incarceration campaigning non-stop in support of his brother – raising awareness of his case through meetings, radio interviews and the showing of the film Extradition, which is being screened all over the country. Extradition, directed by Turab Shah and produced by Arzu Merali of the Islamic Human Rights Commission, covers Talha's case and that of Babar Ahmad, in whose support Talha was campaigning at the time of his own arrest. A parliamentary early day motion now has the support of sixty-two MPs, and celebrities and luminaries including A.L. Kennedy, shadow justice secretary Sadiq Khan, Bruce Kent and Noam Chomsky have given their support (statements of support are on the Free Talha Ahsan campaign website).

Private prosecution needs support: The only thing that would prevent the men's extradition would be their prosecution in the UK, a course of action which, despite the men's British nationality and the fact that the allegations against them relate to sitting at their computers in the UK, the Crown Prosecution Service has consistently refused, saying that there is insufficient evidence to charge them. British businessman, Karl Watkins, has now taken out a private prosecution against them, a course of action which the Ahsan and Ahmad families both support – but to proceed, and to stop the extradition, the prosecution needs to be adopted by the Director of Public Prosecution (DPP). The Free Talha Ahsan and Free Babar Ahmad campaigns are urging supporters to write to the DPP to urge adoption of the private prosecution.

Lying Prison Officers Spared Jail by prisonsorguk

A prison officer who lied that he made "suicide watch" checks on an inmate who took his own life has been spared jail. Christopher Oldham, 36, was on remand at HMP Preston in Lancashire when he hanged himself just a few minutes after Shaun Percy visited his cell. His body lay undiscovered for over three hours though because Percy, 50, failed to carry out compulsory half-hour checks, Preston Crown Court was told. He also falsified records to say Mr Oldham, who was by then dead, was sat on his bed watching television and later told him he was feeling okay. His supervising officer, wife Lisa, 51, added further entries and forged Percy's signature to show he made checks up to the point when the death was revealed. Both pleaded guilty at an earlier hearing, before their scheduled trial, to an offence of misconduct in a public office.

Miss Blackwell said Mr Oldham was in custody in relation to an alleged offence of harassment and was assessed as being at risk of suicide on April 8. "These offences flow from his death and relate to the behaviour of the defendants that the Crown say was lacking in integrity and designed to cover up their own inadequacies," she said. She said Shaun Percy's office, which had CCTV monitors showing all the cells, was only two or three feet away from Mr Oldham's cell. He falsely claimed he had carried out checks at 9.45pm, 10.15pm and 10.45pm when Mr Oldham, from Blackpool, was hanging in his cell. The defendant only made his second check on Mr Oldham at 12.21am and then raised the alarm, said the prosecutor. His wife, the night orderly officer who was responsible for all staff on the shift, came on duty just after midnight. She falsified logs to show that her husband had also carried out checks at 11.15pm and 11.45pm, and that again Mr Oldham had been sitting on his bed watching television.

out to call a taxi. One of the girls with them had their bum pinched by somebody." She added: "They (doctors) worked on him for an hour last night. [He was] Tasered four times – you are not supposed to Taser anybody more than once. The kid's fighting for his life." The family member added: "They were celebrating their friends having a new baby and the next thing you know they were in hospital [with James] fighting for his life."

A spokesperson for Merseyside Police confirmed the force had made a referral to the IPCC following the incident. He said: "At 2.50am officers were called to reports of a disturbance outside the Premier Inn hotel involving a group of men. During the police response an officer discharged their Taser at a member of the group. That person – a 22-year-old man from the L12 area of Liverpool – then required medical treatment and was taken to hospital by ambulance. A preliminary police investigation is underway and, due to the circumstances, the Force has made a mandatory referral to the IPCC."

Four men were arrested on suspicion of affray following the incident. Three of the men, aged 32, 27 and 22 are from north Liverpool and one man, aged 23 is from Maryport in Cumbria. The 27-year-old was also arrested on suspicion of assault and possession of a controlled drug and the 22-year-old also on suspicion of possession of a controlled drug.

HMP Blundeston Staffing Problem Worries Monitoring Board

Cuts at Blundeston prison in Suffolk are adversely affecting rehabilitation provision, a report says. The Independent Monitoring Board (IMB) said the number of officers had dropped from 140 to 104 in the past two years. The IMB said that, while the jail was well-run, further cuts would mean less time for training the 524 inmates. The IMB said further spending cuts of 3% have been suggested for 2014-15, and these needed to be reviewed. Michael Cadman, chairman of the IMB, said: "If you're looking for something that's constructive for prisoners and is going to work you need to put funding into it and, if you're not doing that, then you're not doing what you promised to do. If there are any further cuts, then rehabilitation work is going to suffer and prisons become more about containment and staff have less time to interact positively with prisoners."

Dean Acaster, area representative for the Prison Officers Association (POA), said: "We're pleased the IMB have come out and said this and we share their concerns and fear that staff will not be able to provide services in terms of rehabilitation, security and decency. We're just being asked to do more for less and within a prison environment, that's just very difficult to maintain."Peter Aldous, Conservative MP for Waveney which includes Blundeston, said: "There is a concern that with the cuts, there is too thin a covering of uniformed staff which might mean if there was a major disturbance, then resources could be stretched."

A Prison Service spokesperson said: "The report by the IMB will be fully considered by ministers and we will respond in due course. "We are determined to reduce reoffending by rehabilitating offenders. The protection of the public and security at HMP Blundeston is an absolute priority and we are committed to ensuring staffing levels reflect this." The Ministry of Justice said it would respond to the board's report in due course, adding it was committed to prisoner rehabilitation.

Poetry Prize for Talha Ahsan

From a prison cell, Talha Ahsan, fighting extradition to the US, has produced award-winning poetry. Talha already known as a formidable poet as well as one of the men fighting unjust extradition to the US because of the location of a computer server. Recognition of his talent came this month from the Koestler Trust in the form of a Leopold de Rothschild Charitable Trust Platinum Award for

to a large number of offences of possessing indecent images of children. He was sentenced to 12 months' imprisonment with an extended licence period of three-and-a-half years. Additionally, the sentencing judge announced the making of a Sexual Offences Prevention Order. He did so in these terms:

"I am going to make a prevention order under the Sexual Offences Act, preventing you taking unaccompanied children - outside a member of your family, a relation - in the course of any work which you undertake."The reasoning of that appears to have been that the defendant had some either full or part-time occupation as a mini cab driver and the fear was expressed that the statutory prohibition on working with children, which would attach to him in any event, would not extend to practice as a mini cab driver. That was the reason why the judge made the order and it was quite clearly intended to be and was announced to be an order which was geared to the defendant's work.

3. On 17th August 2010, within the period of the Sexual Offences Prevention Order, the defendant was found in the company of a 14-year-old in the small hours of the morning having driven the boy away from the home of his mother. The alleged facts, which have never been investigated, were that he had over a period of several weeks showered the boy with gifts, ignored his mother's requests to leave him alone and picked him up when he climbed out of the window late at night. Those, as we say, are the alleged facts which have never been investigated.

4. When the car which he was driving with the boy in it chanced to pass a police car, the defendant made off. When eventually chased and seen he lied about the circumstances in which he was with the boy. He made it clear that he thought that he was in breach of the Sexual Offences Prevention Order, in carrying the boy. In those circumstances, when he appeared in court, charged with (1) abduction and (2) breach of the Sexual Offences Prevention Order, he tendered a plea of guilty, not at the first opportunity but eventually, to the second of those charges. The Crown accepted it and allowed the charge of abduction to lie on the file on the usual terms, that is to say not to be provided with without the leave either of this court or the Crown Court.

5. As it has now transpired, through the industry of those who now represent the defendant, the Sexual Offences Prevention Order from 2005 in the form issued by the office of the Crown Court does not conform to the order that the judge announced. What it says is, under the printed heading, "The defendant is prohibited from", is the following: "Working with children for a period of 10 years." And: "Must not take any unaccompanied children outside your family away."

The point to be observed is that the second of those prohibitions is not limited, as the judge's order was, to the taking of a child in the course of any work which the defendant might do. It seems very likely that the defendant had had sight of that order, although there is no direct proof of it, since he told the police on the occasion which we have just mentioned in August 2010 that he understood that he was in breach of the order. However, the simple fact is that the order to which this defendant was subject was not something constructed in the office of the Crown Court by a clerk who made a mistake. The order to which he was subject was the order which the judge had announced and he was not in breach of that. It may be that there would have been a perfectly good case for making a wider order at the time but that question simply never arose.

6. It follows that this is a case in which on the agreed facts the defendant, despite his plea of guilty, was not guilty of the offence which he admitted and for that short and simple reason his appeal against conviction must be allowed.

7. We offer these further observations. The first is that a disconnection between the order which the judge makes and the order as recorded in the Crown Court office is an occupational hazard but one which must be avoided. It is particularly a risk when, as these days is

common, judges have to contemplate a large number of ancillary orders after the principal business of sentencing has been accomplished. Much the best method of avoiding what happened in this case and has happened in others is for judges to insist that ancillary orders are put before them in draft in writing. They then should either make them in the form which is tendered in draft or, if appropriate, amend them. Whichever they do, the document bearing either their approving initial or the amended terms of the order plus such initial should then be placed with the papers by the court associate and that way the order will be translated in proper form in the office afterwards. It would also be quite sensible if, particularly with orders of this kind, that when they are provided to the defendant he was asked to sign for receipt. But that is not a formal requirement, it would simply be a very good idea if it happened.

8. The other thing which we make clear is that the Crown in the present case, given what has happened since, do not now on advice seek to ask this court to give leave to proceed on the outstanding charge of abduction. That is a matter for them and we understand the reasons for it. In particular the defendant has since been convicted of more offences of possessing indecent photographs and there is an extant and properly drafted Sexual Offences Prevention Order which was made on the later occasion.

But it is the case that he is currently subject, as a result of his convictions, both to the requirements of the notification rules and to a Sexual Offences Prevention Order. Both those need administering by his local police force. We make it clear that whilst nobody knows whether he was guilty of abduction or not because the issue has never been tried, the alleged facts ought to be known to the police who are administering his case. So they ought to know that he at least thought that he was deliberately in breach of the 2005 Sexual Offences Prevention Order on 17th August 2010 even though, as it has turned out, he was wrong and he was not.

9. With those additional observations this appeal must be allowed and the conviction quashed.

27th anniversary of Jeremy Bamber's Wrongful Incarceration

Saturday 29th September marked the 27th anniversary of Jeremy Bamber's arrest at Dover, he was taken into custody and charged with murder on fabricated evidence and has not been a free man since. Held on remand for over a year, he was convicted of murder by a 10 -2 majority on the 28th of October 1986.

During October Jeremy will be writing a number of short pieces for the campaign which reflect on the past 27 years. These will not only express his feelings on the case and his hopes for the future, but he will also address the impact that a wrongful conviction has had on his life from the perspective of a 51 year old inmate looking back over more than half of his life spent in prison.

Jeremy wants to thank all those who support him and has commented on the great amount of friends and professionals who have made so much possible and who continue to do so.

Jeremy has also been waiting since May for the High Court's decision on whether or not to Judicially Review the CCRC's judgement not to refer the case back to the appeal court.

On the 28th of November this year the ECHR Grand Chamber will review the case against his whole life tariff.

Jeremy and his lawyer have made further complaints to the IPCC regarding fabricated police logs. - Let's hope Jeremy doesn't have to face another year of injustice.

Jeremy Bamber: A5352AC, HMP Full Sutton, Stamford Bridge, YO41 1PS

50 Metropolitan Police Officers Suspended For Corruption Rebecca Cafe BBC News, 29/09/10

Nearly 50 Met officers have been suspended for corruption in three years, figures show. Of the 258 officers suspended for offences also including sexual assault, neglect and assault, 38% of cases were proven and 11% of officers were sacked. Officers were paid about £3.6m during their suspensions. Police officers and staff can only be suspended if they are likely to interfere with the course of an investigation or if it is the public interest. As such, most suspensions occur when an officer is subject to a serious criminal investigation or a serious internal misconduct investigation.

The figures, released under the Freedom of Information Act, show the number of officers suspended on full pay for three years between 2009-11. Nearly half of those suspended were special constables, who are unpaid. Although the specifics of each case has not been revealed, the Met said some instances of corruption included handling stolen goods and fraudulent overtime claims.

One of the most high profile cases is that of Ali Dizaei, a commander who was dismissed after he was jailed for misconduct in a public office and perverting the course of justice. Another is PC Simon Harwood who was recently sacked for gross misconduct after he was found guilty of breeching standards in connection with Ian Tomlinson's death at the G20 protests.

Others suspended include: Gareth Beard who was found guilty of fraud; Philip Juhasz who was sacked for racially abusing the manager of a snack kiosk at King's Cross railway station; Det Con Daren Pooley who was jailed for defrauding the force after he overcharged for rented apartments, and David Price who was found guilty of growing cannabis.

Shamik Dutta, a lawyer who handles complaints against police officers, said: "The figures are shocking. "In my experience when members of the public complain about police officers it is very rare for those officers to be suspended. However, if they are, investigations take far too long leading to victims of police misconduct suffering delayed justice. Fgures show that delays in investigations result in great cost to the taxpayer where officers are suspended on full pay." A report by the IPCC on corruption found the force received 1,487 complaints between 2008/2011. Of those, 345 were referred to the IPCC for investigation. The IPCC report concluded there had to be clearer information on what constitutes police corruption.

In a statement, the Met said: "Whilst we aim to investigate allegations of misconduct as quickly as possible, the length of an investigation is often determined by the complex nature of some allegations which can be beyond the control of the MPS, as we may need to allow the judicial system or IPCC to complete their proceedings before the force can conclude an investigation. While our aim is always to carry out this work in the quickest and most efficient way possible, we also have to ensure investigations are thorough and robust for the benefit of the complainant, the general public, the force as a whole and the officer under investigation."

Man Shot With Taser by Police in Liverpool 'Seriously Ill' *Liverpool Echo*

James McCarthy was left "fighting for his life" after a police officer discharged a Taser during an incident which led to four men being arrested. The family of James McCarthy claim he was enjoying a night out with friends when he was hit by a police officer's Taser "four times" in the early hours of Sunday morning.

Merseyside Police confirmed the matter had been referred to the Independent Police Complaints Commission (IPCC). Officers were called to reports of a disturbance between a group of males at the Premier Inn at the Albert Dock around 2.50am. Merseyside Police could not comment on the number of times the Taser was fired but confirmed it was fired by a uniformed officer.

A family member of Mr McCarthy, from West Derby, told the ECHO: "There were three couples that were all out, three females and three males. "They were in a bar and they walked