Police Officers to be Quizzed into Death of Philmore Mills

Two police officers will be questioned under caution following evidence brought to light by a post-mortem report - nine months after the death of a man who was restrained by police in hospital. Philmore Mills, a father-of-four, from Langley, died after being handcuffed by police following an incident at Wexham Park Hospital, Slough, in December. He had been admitted into intensive care with pneumonia six days earlier. The IPCC received a preliminary post-mortem report on January 4. It said there was no pathological evidence of forceful restraint used on Mr Mills. However, the IPCC said the report had a proviso that the pathologist had not seen witness' statements at that time and was unclear on what happened during the incident. The appalled Mills family called for their own independent post-mortem, which concluded bruising had been caused by forceful restraint. The final post-mortem report was submitted on September 14, prompting the IPCC to act. The findings have delayed the expected conclusion of the investigation. An IPCC spokeswoman said: "Following consideration of the post-mortem report, the IPCC has advised Mr Mills' family that we intend to interview two police officers under criminal caution in relation to Mr Mills' death. We anticipate the investigation report will be complete and with the IPCC commissioner for consideration by the end of November."

Rachel Gumbs, Mr Mills' eldest daughter, said: "Things are looking a lot better from our side now. Our argument is that we know there was negligence and now it's coming to light. It's just a matter of waiting for the IPCC's report now."The family believe a pre-inquest hearing could be held in January.

Government's Response to Their Consultation Punishment and Reform

Reforms will include: requiring courts to include a punitive element in every community sentence, unless there are exceptional circumstances; making use of new technology, subject to appropriate safeguards, to track offenders during their sentence to protect the public and help prevent criminals committing further offences;working with the courts, judiciary and probation trusts to explore improvements in operational procedures for dealing with breaches of community orders, so that offenders are aware of the consequences of breach and face swift sanctions if they do so;expanding courts' powers to defer sentencing so that restorative justice can take place pre-sentence between victims and offenders. This will form part of the Government's wider strategy to develop a coherent vision of how restorative justice should apply across all stages of the justice process: including how we build local capacity within available funding, and how we ensure a consistently high quality of delivery through accreditation and training standards;making clear that courts can take into account criminals' assets as well as their income when setting financial penalties;giving the courts access to benefits and tax information from Department of Work and Pensions and Her Majesty's Revenue and Customs when setting and enforcing financial penalties; andremoving the current £5,000 limit on compensation orders in the magistrates' courts.

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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Savile affair: Questions over Historic Abuse, Charities and Profiteering 'Experts'

By Raymond Peytors - theopinionsite.org October 15, 2012

[Claimed is not the same as proven, and allegations alone are not proof]

Is the prosecution of 'historic abuse' ever justified?: The current madness surrounding the late Jimmy Savile is likely to be very profitable indeed for some involved in the law, child protection and the press; alleged 'victims' may also benefit – though one should remember that it is yet to be proved that there are actually any in the first place. Despite the very real fact that Savile undoubtedly did raise millions for charity, TheOpinionSite.org believes that many greedy, opportunistic people and organisations will be rubbing their hands together with glee at the prospect of making considerable amounts of money from fees, donations, sales and compensation as they forget the proven good done by the man, preferring instead to focus on the bad things he might have done.

Nothing has been proved; rumour is the only evidence; yet – and this is so British – Jimmy Savile is being systematically erased from history (just as Gary Glitter was and Oscar Wilde before him) in a feeding frenzy of greed, revenge and venting of personal frustration and dissatisfaction.

Those who are dissatisfied with their lives, those with no money and those who see a chance to make some will all be queuing up to jump on what could be a very lucrative bandwagon. The self-styled "child protection expert" who started it all, Mark Williams-Thomas has already done very nicely out of it thank you very much through his television work and his liaison with the Daily Mirror. People forget that, like so many other 'experts' in child protection, he is merely an ex-policeman who claims to have some magical insight that nobody else could possibly have. His claim to be an 'expert', along with those of some others, may therefore not be as well founded as some would have us believe.

Esther Rantzen, herself a critic of the child protection paranoia that now stalks this country and which she helped to create, was desperately trying to defend herself in a recent interview for the BBC whilst equally desperately trying not to mention the fact that there are no 'victims' at present as nothing has yet been proved. She must have felt quite dizzy trying to look in so many directions at once like some out of control Janus figure.

The NSPCC treasurer is probably celebrating too, his organisation having been asked to carry out an investigation. Clearly, the NSPCC is now part of the Metropolitan Police Service; if it is not, it should not be involved in any investigation of any kind. The NSPCC should be helping children – not playing policemen.

. . . . and then of course, there are the newspapers.

TheOpinionSite.org was not remotely surprised when the Sun newspaper launched an appeal for Sir Jimmy Savile to be 'stripped of his knighthood' – before anything has been proved. Who would expect anything else given that several of the newspaper's former editors and senior reporters are facing prosecution for lying? The Sun – like its now (thankfully) dead sister, the News of the World – is of course a newspaper known for its honesty and integrity, particularly in regard to anything to do with sex offenders or child abuse. That at least is what the proprietor and staff would like you to believe; rather than the truth exposed in the Leveson Inquiry and police investigations

which showed the Sun and the News of the World to be nothing more than a greedy collection of liars, law-breakers and exploitative profiteers.

It is therefore both a tragedy and an indictment that so many people seem to believe the nonsense that so often spews forth from what is undoubtedly the king of the gutter press; the Mirror though is giving the Sun a run for its money as it seeks to sink as low as possible.

This latest affair over Savile is a gift on a silver platter for all the tabloids – including it would seem BBC News which seems to have become a tabloid in its own right recently.

As for the alleged victims – if it is eventually proved that there are any – one must sympathise but, at the same time point out that at least some of Savile's alleged victims will merely be individuals who are after a quick profit, 15 minutes of fame or simply want to offload their dissatisfaction with and responsibility for their own lives onto someone else.

If this view sounds rather heartless, it probably is to those with a vested interest in maintaining the constant fear of child abuse in the minds of the public. Realistically though, what Savile did or did not do is irrelevant; he's dead.

Maybe, the police and other apparent 'experts' want to dig him up like Oliver Cromwell and put him on trial; maybe the NSPCC would like to sell tickets for the event (they could have a raffle of his personal effects as well) and no doubt Sky TV will bid for the rights to broadcast the proceedings.

Meanwhile, the world goes on turning; unemployment keeps rising, energy bills increase and more and more people have less and less money to spend. The things that really matter are relegated to page 37 while Savile hysteria fills the first seven.

Should 'Historic Abuse' be Investigated at all?

TheOpinionSite.org believes that it is wrong in principle to try and investigate so called 'historic' abuse cases. The reasons for this view are very straight forward: . . . . Most people cannot remember the details of what they were doing last month, let alone 30 years ago . . . . It is only the fact that no real evidence is required other than the word of an alleged 'victim' that allows these cases to go forward. (Corroboration of evidence is not required) . . . . Jurors are likely to return a guilty verdict to 'be on the safe side' and to avoid criticism . . . . The law has been changed so that such cases are almost impossible to defend

How can an individual juror be expected to take the decision to jail an elderly man, possibly for many years, on the basis of uncorroborated evidence, a person's memory of events that took place 35 years ago or the word of an individual who may be a real victim but could also be some opportunist hoping for a cash handout? The answer is: they cannot.

Most jurors in historic cases are afraid of being criticised if they return anything other than a guilty verdict or, as one leading barrister put it: "When it comes to any abuse case, historic or more recent, British juries would rather see a wholly innocent person locked up for years rather than allow any possibility of a guilty person going free.

In abuse cases, truth and evidence have very little to do with the eventual outcome, not least because successive governments have given the prosecution every advantage and have made it almost impossible to defend any case involving child abuse. This is made worse by the fact that most people believe that an accusation of abuse must always lead to a conviction."

According to CPS figures, more than 85% of child abuse cases put before a Crown Court result in a conviction; an unrealistically high percentage when compared with cases involving other crimes. However unjust this apparent prejudice may be, it's great for those in the system.

The police get an easy score and make themselves feel worthwhile, probation officers remain employed, the prisons do pretty well, the lawyers make a fortune and the alleged

Prison Statistics - Sods and Sodds

Average time served for persons convicted of murder since 2001 has increased by 23%. In 2001 someone convicted of murder would be released on average after serving 13 years in 2011 average time had increased to 16 years.

MOJUK are of the opinion that the increase directly correlates to the decrease in the number of Parole Board employees, in 2010 there were 92 full time staff, this dropped to 84 by September 2012 a decrease of 9%. Reports from prisoners confirm this, all prisoners who have reached the end of their tariff and are eligible for parole are experiencing long delays with appointments/progress with the Parole Board.

There has been a 7% drop since September 2010 in the number of full time employees in the Probation Service. There are bound to be further cuts as the Ministry of Justice are knocking 6 million of next years budget. Foreign nationals male/female are over represented in the prison population. At the 30 June 2012, there were 86,048 person behind bars. Of these 81,925 were males, 4,123 females, with in these figures were 10,861 foreign nationals 13.2% of the prison population.

As at 30 June 2012, there were 193 offenders aged over 60 in prison establishments in England and Wales serving indeterminate sentences for public protection.

Prisoners Post-traumatic Stress Disorder: Improving Access to Psychological Therapies (IAPT) services, are increasingly able to treat post traumatic stress disorder. IAPT services are increasingly available in prisons and it is intended that they will be available in all prisons by March 2015.

National policy on full searching prisoners under restraint is contained within Prison Service Order (PSO) 1600, Use of Force. It is lawful for all prisoners, including women, to be forcibly full searched and for their clothing to be cut off them as part of the search. However, this should only be done when it is absolutely necessary, where there is no alternative and with the authority of the duty governor or supervising officer in charge. Since the HMIP inspection, HMP and YOI New Hall has reinforced the specific techniques on how and when to remove clothes from prisoners without the need to cut them off in ongoing control and restraint training and also via a notice to staff which clarifies the process.

Criminal Records Retention and Disclosure Framework

An individual who is convicted of a recordable offence will have a "nominal record" of that conviction placed on the Police National Computer. Nominal records will also be created for individuals who are cautioned, reprimanded, warned or arrested for such offences. An individual's nominal record is retained until his 100th birthday and can be disclosed as part of a criminal records check.

Police National Database is used to record details of "soft" police intelligence, details of criminal investigations that did not lead to a conviction. This intelligence will generally be retained six years, longer if it relates to allegations of a serious offence or if the individual concerned is considered to pose an ongoing risk. When a person applies for a so-called "excepted position", then he may be required to provide details of his criminal record by way of a standard or enhanced criminal records check from the Criminal Records Bureau. Excepted positions cover (for example) work with children or vulnerable adults or roles in certain licensed occupations or positions of trust (e.g. police officers, solicitors).

There has been some debate over two particular issues relating to criminal records checks: the disclosure of non-conviction information and the disclosure of old and minor convictions. The Government has recently legislated (via the Protection of Freedoms Act 2012) to introduce a number of new safeguards relating to the disclosure of non-conviction information, such as a new independent disputes process. It is also considering a new filtering mechanism to restrict the disclosure of old and minor convictions, although it has not yet committed to introducing any such mechanism.

8-Years Imprisonment for Possession of Paracetamol! ***Crime & Justice***

This is the first time anyone has been convicted of handling substances which are not illegal to handle. Anthony Woodford (23), and David Lewinson (44), both stood trial after Lewinson was found in possession of 150kgs of paracetamol and caffeine at Dover Docks on 21 April last year. It was believed the drugs would be used as a cutting agent for heroin. Officers from the Kent and Essex Serious Crime Directorate launched an investigation which identified Woodford as the organiser of the trip. On Monday, 17 September 2012, a jury found the men guilty of assisting the supply of class A drugs. Though the drugs found are not illegal it is believed that they would go on to be used as blend for heroin, this making their street value in the region of over £5-million.

Detective Sergeant Mat Scott of the Kent and Essex Serious Crime Directorate explained the importance of this trial: 'We believe this to be the first time in the UK that the prosecution were able to prove, beyond doubt, that the huge quantity of paracetamol and caffeine were intended to be used to cut with heroin. This has been a successful test case and therefore has set a precedent for this type of offence. On 20 April 2011, a white Volkswagen Caddy van travelled outward at Dover Eastern Docks to Dunkirk on the Norfolk line. The van, driven by Lewison, then returned to the UK on 21 April. Lewison was stopped by officers from the UKBA. A quantity of ground powder was discovered and later tests confirmed it to be 150kgs of the cutting agent. Following an extensive investigation by officers from the Kent and Essex Serious Crime Directorate Woodford was arrested. Both men were charged in February this year for an offence under the Serious Crime Act 2007.

Christopher Halliwell, won't Face Trial for Murder of Rebecca Godden ***Crime & Justice***

As the police investigating the murder, ignored legislated guidelines. The Independent Police Complaints Commission is to independently investigate breaches of the Police and Criminal Evidence Act 1984 in the investigation into the deaths of Rebecca Godden and Sian O'Callaghan.IPCC Commissioner Naseem Malik said: "Now that the criminal process has concluded the IPCC can start its investigation into the police investigation into the tragic deaths of these two young women. We were unable to start work before criminal proceedings concluded on the advice of the Crown Prosecution service. "I have no doubt that there will be considerable interest in the circumstances that led to the IPCC investigations but I would urge patience while we find out what happened. The IPCC has already concluded an independent investigation into five complaints against Wiltshire Police relating to the actions of the police during the investigation. Three of these complaints were upheld and the force has agreed our recommendation to offer the complainant an apology. The force has also confirmed to the IPCC that it has accepted our recommendation that it reviews its family liaison policy." The IPCC will also separately investigate allegations that Detective Superintendent Steve Fulcher from Wiltshire Police spoke about the case to some media outlets on separate occasions contrary to force instruction.

Convicted Drug Dealer Given Extended Prison Sentence ***Crime & Justice***

Nicholas Aristotelous was sentenced to 42 months in prison after he failed to fulfil a confiscation order against him. In November 2011 a confiscation order was granted under the Proceeds of Crime Act declaring his total criminal benefit was £2.5million and ordering him to repay £300,000. Aristotelous was jailed in December 2010 for 7 years for his part in a conspiracy to import illegal body-building drugs from China and the Far East. Detective Sergeant Craig Jennings said, the money has still not been repaid and we will continue to re-visit this confiscation order until he repays it in full.

'victim' ends up with some money in their pocket; money which, in our opinion, they should not be paid directly in any case.

If the money went directly to a therapist or psychologist and nowhere near the alleged victim's bank account, it may be justified. But then again, were that the case, for most people there would be little point in bringing an historic case in the first place and there would be very few of them.

Meanwhile, in this latest bout of hysteria we have the BBC, the NHS, the police and numerous other organisations in the compensation firing line…and there will be more as people spot new varieties of cash cow. Some individuals – abused or not – stand to make quite a lot of money; money which you and I will ultimately end up paying through our taxes, licence fees and medical charges.

Once again, TheOpinionSite.org must point out that nothing has yet been proved. There is so far no real evidence and the rumoured incidents allegedly took place so long ago that any evidence that may eventually surface will mostly be unreliable; few people can honestly remember that far back with any accuracy.

When the hysteria over Savile finally calms down – if it is allowed to – and when the campaigners and profiteering 'experts' have learnt that the louder they shout, the less credibility they actually have, there is a chance that some brave person of influence will call for the whole matter of historic abuse cases to be reviewed.

There is little point in taking someone in their 60s or 70s, locking them in jail for years and paying significant amounts of compensation – all at public expense – if the only benefit is to make money for the tabloids, protection charities and so called 'experts' whilst simultaneously attempting to satisfy the prurient lust of a mainly poorly educated public.

The real problem is that MPs and others that do have the power to change things have, in the view of TheOpinionSite.org, worked their way so far up the anal cavity of the child protection industry that no number of flashlights or emergency exit signs will ever help them to escape.

Britain has throughout its history always had a problem with anything to do with sex, be that sex legitimate or otherwise. In truth, it may be that it is already too late to change things and that thanks to the over-indulgence of crusading fanatics shown by successive governments, this country will now be destined to drown in its own vomit of hypocrisy, lies and weakness as society slowly but inexorably tears itself apart.

Comment from Charles Hanson

Whilst I have sympathy in the world with those who are alleged victims, I have to ask the question, where were the parents and why did the alleged victims go back time and time again to Saville as portrayed in televised interview, some even claiming that the abuse occurred not once but several times. Hello? Now we have a flurry of victims not only of Saville but other TV and radio DJs. Claimed is not the same as proven, and allegations alone are not proof. Why wait until the guy is dead? The Catholic church soon found that they do not have to wait until a priest is dead for allegations to bebe made and it cost them millions from the LIVING some who were jailed.

Police use Taser on Blind Man After Stick Mistaken for Sword BBC News, 7/10/12

A police force apologised after an officer used a Taser on a blind man whose white stick was mistaken for a sword. Colin Farmer, 61, was stunned by police following reports of a man walking through Chorley with a samurai sword. Mr Farmer was taken to hospital for treatment and later discharged. "It felt like I was grabbing an electricity pylon," he said. Mr Farmer, who has suffered two strokes, said he thought he was being attacked by thugs. Lancashire Police, said the force had "deep regrets" and had "clearly put this man through a traumatic experience".

Police's use of Prison Cells to Hold the Vulnerable Unacceptable

Lord Victor Adebowale has been asked to investigate how Britain's largest police force deals with mental health cases following a spate of deaths in custody. Campaigners have long expressed concerns that people suffering mental breakdowns are acutely vulnerable if they are placed in police custody and that a disproportionate number who have died in such circumstances have been young black men. *Jerome Taylor, Indpendent, 15/1012*

Dean Williams to Court of Appeal

CCRC has referred the case of Dean Williams to the Court of Appeal. Mr Williams was convicted in October 2005 at Maidstone Crown Court for the murder of Mary Malkin and sentenced to life imprisonment. He appealed against his conviction, but his appeal was dismissed at the Court of Appeal in June 2006. He applied to the Commission for a review of his case in October 2011.

The Commission has decided to refer the case to the Court of Appeal in light of new medical evidence suggesting that, at the time of the offence, Mr Williams was suffering from alcohol dependency syndrome and associated brain damage. The Commission considers that this new evidence raises the real possibility that the Court will substitute Mr Williams' murder conviction with a conviction for manslaughter on grounds of diminished responsibility. Mr Williams is represented by Scott-Moncrieff Harbour & Sinclair, Office 7, 19 Greenwood Place, London. NW5 1LB.

Conviction For Murder Quashed And Substituted With Verdict Of Manslaughter

R v Petrolini - Crimeline, 17/10/12: The appellant was convicted of murder. The argument at trial had been that the appellant was suffering from the early stages of schizophrenia, and that that was the explanation for the murder. During the course of the trial, Dr Eastman said that only time would demonstrate whether the applicant was in the process of developing schizophrenia. Time did indeed demonstrate that not only was the appellant suffering from schizophrenia, but was suffering from that at the time of the killing in issue.

The application seeking an extension of time of 16 years and 16 months and leave to appeal against conviction was granted, and the appeal was not opposed.

The appellant was only 19 when he had the misfortune to meet a man called Elsey and, as a result of his early stages (known as prodromal stages) of schizophrenia, came under the influence of Elsey, while he was a student seeking to improve his A Level standards at a cramming college at Oxford.

He was in reality seeking to find an identity, and the tragedy is the identity he found was one fixed under the influence of the man Elsey, who was also convicted of murder. The appellant believed that Elsey was a paratrooper, and he wanted to become a paratrooper himself, undergoing, as he believed, initiative tests that led disastrously to an initiation ceremony, when they found by sad and tragic mischance a wholly extraneous and unforeseen victim, a Mr Mohammed el-Sayed.

He was driving his motor vehicle alone, and this appellant and the man Elsey got into the back of the car. He was threatened with a knife and the appellant then stabbed Mr el-Sayed to the throat and chest. They then got out, leaving the victim dead in his motor vehicle, and this appellant and the co-accused returned to Oxford.

At trial, the appellant called Dr Eastman and another doctor to seek to prove, on the balance of probabilities, that he was suffering from the early stages of schizophrenia. This was opposed by the Crown and by doctors called on behalf of the Crown and the defence was rejected. The symp-

of movement restrictions. In the case of children, this lack of adequate family contact also violates their rights under article 37 of the Convention on the Rights of the Child.

According to Israeli Prison Service figures released in June of this year, 85 per cent of Palestinian prisoners, including children, were detained inside Israel. Of 4,706 prisoners, 285 were held in administrative detention, without charge or trial.

The UK government has confirmed that Israel's policy of detaining Palestinians is contrary to Article 76 of the Fourth Geneva Convention, that they have raised this with the Israeli government and will continue to do so. In a recent letter to me, Foreign Office Minister Alistair Burt MP stated that the FCO is lobbying Israeli authorities for a number of improvements, including a reduction in the number of arrests that occur at night, an end to shackling and the introduction of audio-visual recording of interrogations.

Such diplomatic pressure is important - but what of the British companies that keep Israel's prisons running? According to corporate accountability campaigners, the security giant G4S, which is listed on the London Stock Exchange, signed a contract with the Israeli Prison Authority in 2007 to provide services to a number of prisons and detention facilities. Some of these are known to house prisoners transferred from the West Bank.What's more, the company has installed a central command room in Ofer Prison in the occupied West Bank, which houses a centre where prisoners are tried under military law. Ofer Prison is located in what the Israeli military refers to as the "Seam Zone", which means access for visiting families is highly restricted.

G4S have said that it will exit from all the contracts it holds in the West Bank at the earliest opportunity the contract terms allow. They also say that they have not violated any international laws, which on this specific issue may be correct, given that the Geneva Conventions apply only to Governments that have ratified their terms. Despite these limitations, the UK government can still act - yet it refuses to.

Alastair Burt told me that, despite being aware of G4S's involvement in Israeli prisons, the Foreign Office has not discussed the issue with the company and believes that the "provision of services in Israel and the Occupied Palestinian Territories is a matter for G4S."

Last June the UK Government co-sponsored a UN resolution that places duties on states to protect against corporate abuse of human rights. The commitment is meaningless if the government refuses to take action in a clear-cut case such as this. Companies that have been involved in grievous human rights abuse continue to be listed on the London Stock Exchange, seriously damaging the reputation of British business abroad and making it more difficult to compete for those businesses which are trying to uphold high ethical business and trade standards. Such abuse by any corporation is not merely a matter for the company, but for everyone who supports and believes in the basic concept of human rights. Lisa Nandy is Labour MP for Wigan and Chair of the All Party Parliamentary Group on International Corporate Responsibility

Jeremy Bamber's Looses bid to Reverse CCRC Knock Back

He had sought to challenge the Criminal Cases Review Commission's (CCRC) decision not to send his case to the Court of Appeal. But that bid has been turned down by a High Court judge. His lawyers said a further hearing in court might be made. The decision not to refer his case was made earlier this year by the CCRC, an independent body which investigates possible miscarriages of justice. A spokeswoman for the Judicial Office confirmed a single judge, considering the case on the papers, had turned down Bamber's judicial review application. It is still open to Bamber to seek to renew his application before the full court.

nying two removals from immigration removal centres to disembarkation in Jamaica and Nigeria; - revising police custody and adult prison inspection criteria ('Expectations') to make the reports clearer; - continuing to coordinate the work of the National Preventative Mechanism, a group of organisations which independently monitor all places of detention in accordance with the UK's obligation under the UN Optional Protocol to the Convention Against Torture (OPCAT); and - working with Ofsted to develop a joint inspection regime for Secure Training Centres.

R v R - 18 Months Custody Reduced to 5 Months to Allow Immediate Release

A case that attracted wide press attention a couple of weeks ago when the court reduced a sentence of 18 months custody to one of 5 months to allow for immediate release, with the court suggesting that custody may not have been appropriate at all

Appellant pleaded guilty to 4 counts of child cruelty and sentenced to 18 months' imprisonment.

The complainants were the appellant's children. The four counts related to incidents over an eight year period; one of the offences resulted in bruising.

The children had made victim impact statements with the assistance of police and social services, showing they had been subjected to poor parenting and their mother's temper over the entire period, resulting in emotional trauma. Records showed that other offences had committed against the children, who had been removed from her care.

The aggravating features here were the complainants age and vulnerability, the abuse of trust, and a high degree of culpability. There was however much mitigation, she herself had suffered an unhappy childhood and an abusive relationship with her ex husband.

The court considered the sentence was excessive, having been based on the entire circumstances of the children's relationship with their mother, and the resulting trauma; had the judge focused on the acts contained in the indictment, the starting point would have been considerably less than three years. Accordingly the sentence of 18 months was replaced with one of 5 months.

'Use Of Intercept Evidence In Courts And Inquests'

MPs will debate a motion put down by Labour MP David Lammy and the Conservative MP David Davis about the use of intercept evidence in inquests. The parliamentary motion "notes with concern that the inquest into the death of Mark Duggan may never commence under the current arrangements for the use of intercept evidence in courts and inquests; and calls on the Government to review its approach to open justice, in particular the use of intercept evidence in courts and inquests". INQUEST welcomes this important opportunity to discuss the problem and solutions to the current legal impasse.

How G4S Helps Israel Break the Geneva Convention

In the UK G4S manage, Birmingham, Altcourse, Oakwood, Parc, Rye Hill, Wolds HMPs, Brook House and Tinsley House IRC

Lisa Nandy calls for the government to take action over G4S' participation in illegal imprisonment. Lisa Nandy, New Statesman, 30 September 2012

Since 1967, more than 730,000 Palestinian men, women and children are estimated to have been imprisoned by Israeli military courts. The majority of such prisoners are held in detention facilities inside Israel, in violation of the Fourth Geneva Convention, which prohibits the transfer of these prisoners into Israel. The practical consequence of this violation is that many prisoners, including children, receive either limited or no family visits, due to freedom

toms of schizophrenia were however shown from an early stage in prison. In 1997 a prison psychologist considered the appellant was suffering with early stages of schizophrenia, by 1998, a doctor at Broadmoor had concluded that that was indeed an accurate diagnosis.

There then ensued a very substantial period leading up to 2005 when there was a dispute about the extent to which he was suffering, between doctors at different hospitals, particularly whether his condition was such as required his detention and susceptibility to treatment at Broadmoor. The upshot is that he remained in prison until November 2005, when he was transferred to Broadmoor Hospital pursuant to sections 47 and 49 of the Mental Health Act. In 2006 he was transferred to the state hospital, Carstairs, where he has remained ever since.

The question for the doctors now, was whether the undoubted development of schizophrenia in prison and subsequently at Broadmoor indicated that he was indeed suffering from that condition at the time of the killing. There are, as is well-known, cases where those not suffering from diminished responsibility at the time of a crime develop symptoms which, if they had been present at the time of the crime, would have afforded a defence in the case of a killing. So the important question was whether the evidence was such as to indicate that he was suffering from that condition: in other words, the early stages of schizophrenia at the time of the killing such as to affect his responsibility for that killing. Both Dr Joseph for the Crown and Professor Eastman took the view that he was.

The evidence of development of the symptoms of schizophrenia after the killing casts light, as Professor Eastman foretold, on his condition at the time. There was in the court's view, ample evidence of the development of symptoms of the early stages of schizophrenia well before he went to the cramming college at Oxford. There were disturbing episodes, with hindsight, even whilst he was at private school, and from time to time when he returned home on holiday from Oxford. For example, his teachers at private school reported that he worked with an intensity and anxiety that a teacher remarked caused worry.

He looked from time to time bewildered and perplexed. His parents observed when he came home, not long before the killing at Christmas, that he showed sudden bursts of aggression, and burst on one occasion into a room and asked his parents if they had been talking about him.

It was in those circumstances, coupled with one other feature, that both doctors reached the conclusion that he was suffering from the early stages of schizophrenia at the time of the killing, and it was the unfortunate meeting with the co-accused that caused those symptoms to affect his behaviour so that it was the explanation for this terrible killing of a wholly innocent man. As the doctors said, in a combined statement of response to the issues, "it is much more likely that his prodromal illness made him highly vulnerable to the influence of his co-defendant who essentially directed the killing". He was, in short, not able because of his illness to take decisions for himself.

The court were therefore quite satisfied that this evidence, looked at as a whole, was not available at the trial. It was plainly capable of belief, and it plainly established that this appellant was not responsible for his actions at the time of the killing to the extent that he has established that his responsibility was diminished.

For those reasons the court allowed the appeal, quashed the conviction for murder and substituted for it a verdict of manslaughter by reason of diminished responsibility. A Hospital Order under section 37 of the 1983 Act was made, together with a Restriction Order for the purposes of section 41 of the Mental Health Act 1983 without limit of time.

Barry George Launches Compensation Claim

The man wrongly convicted of killing BBC presenter Jill Dando has asked the High Court to overturn a ruling which denied him compensation. Barry George, 52, spent eight years in prison for the 1999 murder, but was cleared at a retrial in 2008. His case is one of five test cases for miscarriage of justice compensation claims. It comes after the Supreme Court redefined the term "a miscarriage of justice". Ian Glen QC, appearing for Mr George, has asked Mr Justice Beatson and Mr Justice Irwin to rule that the decision to deny compensation was "defective and contrary to natural justice" and a breach of the right to a fair trial under Article 6 of the European Convention on Human Rights. Mr Glen says there was no material to suggest that an "open-minded reconsideration" of Mr George's case has taken place at ministerial level following an original decision that was "flawed by illegality". BBC News 17/10/12

Jury Fails to Agree Verdict on man Charged With Supplying a Gun to Mark Duggan

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

Following the end of the criminal trial of Kevin Hutchinson-Foster, the family of Mark Duggan are very concerned about the way in which the trial has been conducted, including the unjustified and untested claim by the prosecution that Mark was holding a gun when he was shot. This was the first time that Mark's family had heard much detail of what allegedly happened to him that day.

The Duggan family was not represented in Mr Hutchinson-Foster's trial. This means that the evidence at the trial given by the police officers has not been challenged or tested by the family's lawyers. Further matters that the family would want investigated and questions that they would want answers to have not been addressed. At times during this hearing it has appeared that it has been Mark Duggan who has been on trial. This is undoubtedly unfair since the family have not had any platform to defend him or his memory. The family is also very concerned that there may need to be a further hearing which could lead to further delays to the inquest into Mark Duggan's death.

The lessons from Hillsborough show us more than ever how important a full and thorough investigatory process and inquest is. It is now imperative that the inquest takes place as soon as possible.

It is the family's position that the inquest should consider two main questions:

(1) Whether Mark Duggan was armed at the point at which he was shot.

(2) Whether it was absolutely necessary for the police to use lethal force.

Neither of these two issues have been decided by this trial.

Shaun Hall, Mark Duggan's brother said: "It feels like this has been the Mark Duggan trial except his family has had no representation and without being able to defend himself. People have been allowed to say things in court about Mark and what happened that day without being challenged. We heard things that we had never heard before. As a family we still are no closer to finding out the truth about why Mark was killed."

Marcia Willis Stewart, solicitor for Mark Duggan's family said: "The evidence and conclusions of this trial should not prejudice and pre-empt the inquest itself."

Deborah Coles, co-director of INQUEST said: "Nothing can satisfy family, community and public confidence other than a prompt, open and transparent jury inquest with the full involvement of Mark Duggan's family. Open justice is of fundamental importance in the case of a man shot dead by police officers." Mark Duggan's family is represented by INQUEST Lawyers Group members Marcia Willis Stewart of Birnberg Pierce, Mike Mansfield QC and Adam Straw of Tooks Court Chambers, and Leslie Thomas of Garden Court Chambers.

ing current of individual adverse incidents and concerns.

In March 2011, the prison population was 85,400. By March 2012 it had grown to 87,531. Progress on safety and on providing a decent environment appeared to have stalled. The National Offender Management Service (NOMS) published its own data on safety in prisons which were consistent with inspectors' concerns:

- the number of self-inflicted deaths in prison rose from 54 (0.64 per 1,000 prisoners) in 2010-11 to 66 (0.76 per 1,000 prisoners) in 2011-12;

- incidents of self-harm also rose in men's prisons from 14,768 in 2010-11 to 16,146 in 2011-12; and - the number of recorded assaults rose from 13,804 to 14,858.

The diversion of prescription drugs, previously noted in high security prisons, had now spread to mainstream populations and become a major concern, resulting in problems such as drug debts, bullying, unknown interactions with other prescribed drugs and the risk of overdose.

Nick Hardwick said: "The issue was not how many prisoners could be squeezed into the available cells. The issue was whether there were the resources to hold all detainees safely and securely and do anything useful with them when they were there. Resources are now stretched very thinly. There is a risk of undermining the progress made in recent years. If a rehabilitation revolution is to be delivered, there is a clear choice for politicians and policy makers - reduce prison populations or increase prison budgets."

From April 2011 to March 2012, the inspectorate published 100 individual inspection reports on prisons, police custody suites, immigration removal centres and other custodial establishments. Five thematic reports were published, either singly or jointly with other inspectorates. Almost two thirds (65%) of the recommendations we followed up in the course of this year's inspections had been achieved or partially achieved.

Inspections also found that: - women's prisons had improved, and were safer. The number of self-harm incidents had fallen and mental health services and drug treatment had improved; - the riots in August 2011 had more impact on young offender institutions than on adult prisons. Inspectors found that young people were moved from the south east to the north west to make room for new arrivals, which was disruptive; - after the riots, there was an increase in assaults and the use of restraint among young people; - there was welcome but uneven improvement in immigration removal centres; and - there had been investment in police custody facilities and effective partnership working within the custody environment, despite the pressures on budgets and significant policy change as preparations for Police and Crime Commissioners got under way.

The Chief Inspector said: "We saw improvements in treatment and conditions across the entire custody environment we inspect but threats to this progress were becoming more apparent. There was no excuse for some of the inconsistency and poor practice we found. However, as resources were stretched thinly and commissioning arrangements became more complex, the level of risk increased. Detainees whose needs differ from the population as a whole - such as women prisoners or children in any form of custody - are likely to have less positive outcomes than the majority population and are likely to be the most adversely affected by any overall decline in standards."

In 2012-13 the inspectorate concluded a consultation on moving to an entirely unannounced inspection programme. The response was overwhelmingly positive so the Chief Inspector has announced that from April 2013, other than in exceptional circumstances, all inspections will be unannounced.

Other developments included: - carrying out its first overseas escort inspections, accompa-

that the appellant had shown remorse and that he had been a vulnerable person. He had clear psychiatric issues in the form of depression and also had alcohol dependency syndrome. He pleaded guilty at the first available opportunity. Further, he had no relevant previous convictions and he had a determination to rehabilitate himself and to make himself suitable to function in society in a normal way.

The court said that those were valid points of mitigation, but considered the judge had due regard to them, continuing: “This was indeed a very serious matter indeed. The appellant conducted himself as he did in a residential area. The effect on the community would have been significant on any view. Indeed, had matters turned out differently there might have been a risk that inadvertently innocent bystanders could have become involved or even inadvertently shot. The appellant was holding a real air pistol capable of causing injury, even if not lethal, and it looked like a real gun. That is what the police thought and were intended to think. Moreover, in planning that the police should shoot him dead, the consequences for the police would have been very serious.

However well trained police officers may be, if they find themselves in a position of having for their own safety or the safety of the public to shoot someone dead, that can have long term personal consequences for those involved. Yet further, there are cases where people are not slow to blame the police for conducting themselves as they do in very difficult situations. Not only would police officers be subjected to an inevitable inquest, but doubtless people might come forward to cast blame on them: indeed that is precisely what this appellant himself latterly has been saying. He is now seeking to blame the police for what they did and seeking to minimise his own conduct.

A particularly serious matter in offending of this kind is the fact that the appellant pointed this apparently real firearm at the police. This is a significant aggravating factor. In the case of Shepherd [2008] 1 Cr.App.R (S) 53, my Lord, Treacy J, in giving the judgment of the court in that case (and also we add that the facts of that case were significantly more extreme than the present case) made this particular point, reading from paragraph 14:

"We also have regard to the fact that although this was an imitation firearm, the police who approached very close to the appellant were convinced that it was in fact a real firearm and genuinely believed that their lives were in serious danger." That was precisely the position here. Indeed it was the case that the police were actually intended to think so far as the appellant was concerned”. In dismissing the appeal, the court commented further:

“Given all these very serious factors relevant to this offending, we think that the argument that this sentence imposed in the result was manifestly excessive cannot be sustained. Indeed, this sentence might have been somewhat higher: and doubtless it was pitched as it was just because the judge had had the fullest regard to the personal mitigation”.

Progress In Prisons, but Some Serious Concerns *HMCIP Annual Report 17/10/12*

There had been general improvements in prisons, immigration removal centres, police cells and other places of custody, but progress had been uneven, and was under threat, said Nick Hardwick, Chief Inspector of Prisons, publishing his annual report.

During 2011-12, prisons responded positively to the government's determination to introduce a 'rehabilitation revolution' and continued to improve, particularly in providing purposeful activity for prisoners and in helping them to resettle back into communities on release. However, overall progress was uneven and there was too much inconsistency between prisons that appeared to have similar budgets, functions and populations. There was a grow-

R v C Appeal Agianst Conviction Dismissed

The appellant was convicted of 18 counts of sexual crime against his step-daughter and sentenced to 18 years’ imprisonment.

The complainant was sexually abused by him for over a period of about twenty years, beginning when she was about 5 years old, and continuing until she was 25 years old. When the appellant was arrested he insisted that there had been no sexual activity of any kind between them before the complainant reached her sixteenth birthday, and that thereafter there was a sexual relationship between them in which all the sexual activity which took place was entirely consensual.

The issue in relation to counts 1-9, which covered the early years when the complainant was a child, was whether sexual abuse had happened at all, and, in relation to counts 10-18, whether the sexual activity was consensual or not. A substantial body of evidence was available which showed apparent consent to sexual activity by the complainant after she was 16 years old, and further evidence which appeared to suggest that from time to time she initiated and welcomed sexual activity.

The prosecution case was based on the proposition that, having been abused and sexually controlled as a child, that abuse, domination and control continued after her sixteenth birthday.

The issues argued on appeal were directed to the evidence available for consideration by the jury. This was not a case in which the Crown contended for a conviction on counts 10-18 on the basis that the complainant agreed to sexual activity because she had been groomed and corrupted by the appellant into what might be described as conditioned consent. Rather the evidence of prolonged grooming and potential corruption of the complainant when she was a child provided the context in which the evidence of her apparent consent after she had grown up should be examined and assessed. It was argued that properly analysed, the evidence of apparent consent did not undermine the credibility of the complainant that she never consented.

In dismissing the appeal against conviction, the court said that this approach was entirely appropriate; once the jury were satisfied that the sexual activity of the type alleged had occurred when the complainant was a child, and that it impacted on and reflected the appellant's dominance and control over the complainant, it was open to them to conclude that the evidence of apparent consent when the complainant was no longer a child was indeed apparent, not real, and that the appellant was well aware that in reality she was not consenting.

Azelle Rodney Inquiry Lawyers can see Surveillance Film Footage

Rosalind English, UK Human Rights Blog, October 16, 2012

R (on the application of the Metropolitan Police Service) v the Chairman of the Inquiry into the Death of Azelle Rodney and Interested Parties [2012] EWHA 2783 (Admin)

The public inquiry into the death of Azelle Rodney, which commenced in 2010, was still under way when it was interrupted by the present dispute. It concerned the issue whether police surveillance footage taken from the air, showing Azelle Rodney’s movements in the two hours before his death, should be disclosed to the legal team representing his mother at the Inquiry.

The Chairman of the Inquiry decided to permit disclosure and the Metropolitan Police Service (MPS) took these proceedings to challenge the decision.

The footage was shot during a 2005 drug heist operation involving Mr Rodney, 25, who was shot six times at point-blank range after a car chase. One of the issues of importance to the deceased’s mother (Ms Alexander, the First Interested Party) was whether there had been a better opportunity to stop the car and its occupants at any time before the hard-stop which resulted in Mr Rodney’s death. This issue involved consideration by the Inquiry of the

management of the surveillance/stop operation by senior officers. The officer in charge of the operation is due to give his evidence and to be questioned by Ms Alexander's counsel.

The MPS wanted to prevent disclosure to the public of the nature of the aerial surveillance platform which enabled the two hour footage to be filmed since to do so would jeopardise the success of future operations, by making public that the platform is available to the police as one of the means at their disposal to detect and prevent crime. Section 19 Inquiries Act 2005 gives the chairman to the inquiry the power to restrict disclosure or publication of the evidence provided to the Inquiry. If the Chairman (as in this case) is persuaded of the relevance of the material, he has to decide whether there is a real risk of prejudice to an important public interest which may be caused by public disclosure. If there is such a risk, the Chairman will consider whether the party's interests can be protected by a form of disclosure which gives adequate protection to the public interest. Finally, the Chairman will consider the powers at his disposal to ensure that evidence which should not be in the public domain is not received in public session. In reaching his decision, the Chairman will have in mind the important principle that, so far as possible, those intimately concerned in an Article 2 inquiry must be afforded effective means of participation. By rule 12(4) IR 2006 the Chairman may only disclose potentially restricted evidence to a person not otherwise entitled to see it if he considers that it is necessary for the determination of the application; here, the Chairman decided to make such disclosure.

The nature of the public interest which the prosecution in a criminal case commonly seeks to assert when it is in possession of relevant material whose disclosure is resisted was described by Lord Bingham in R v H [2004] UKHL 3: . . . . public interest most regularly engaged is that in the effective investigation and prosecution of serious crime, which may involve resort to informers and under-cover agents, or the use of scientific or operational techniques (such as surveillance) which cannot be disclosed without exposing individuals to the risk of personal injury or jeopardising the success of future operations. In such circumstances some derogation from the golden rule of full disclosure may be justified but such derogation must always be the minimum derogation necessary to protect the public interest in question and must never imperil the overall fairness of the trial.

The MPS claimed that the Chairman had erred in law in deciding that the film should be shown to the legal teams in the argument over public interest immunity (PII), which the police were claiming for the footage. It was also submitted that the Chairman had given inadequate reasons for reaching his conclusion. The defendants and interested parties contended that the Chairman had to have regard to his obligations under section 17(3) Inquiries Act 2005 to make his procedural decisions with fairness and the Inquiry's obligations to make a full investigation under Article 2 of the Convention. They relied the observations of the Supreme Court in Al Rawi v Security Service [2012] 1 AC 531, in which their Lordships emphasised the principle of open justice and need to ensure that in the PII process there is no unfairness or inequality of arms. Taking this argument further, they contended that if the Chairman were to take account of material which is not in the public domain and may not be placed in the public domain a system of closed justice is created contrary to the public interest as identified by the Supreme Court in Al Rawi. Where State agents are implicated in a killing whose circumstances and possible motivation is best known to those agents, the widest possible light should be shed on events R (Amin) v Secretary of State for the Home Department [2004] 1 AC 653.

The Independent Police Complaints Commission supported the Chairman's decision to permit limited disclosure on the principal ground that it is the public interest that the suspicion of cover up by the police should be dispelled. The Court dismissed this application by the MPS.

The Court's reasoning: The Court acknowledged the interested parties' arguments that the

Chairman, when making his judgment, was bound to have in mind his obligation to ensure that the family was afforded an effective opportunity to participate in the proceedings. The Chairman would indeed have this obligation in mind, but . . . . we do not consider that the obligation extends to making even limited disclosure when that is unnecessary for the determination of a PII application. It is well recognised in the ECtHR that Art 2 does not necessarily require the disclosure of sensitive information to next of kin, and the requisite access to the investigation's procedures may take place by other means (Ramsahai and Others v Netherlands (Case 52391/99)[2008] 46 EHRR 43 at paragraphs 347 and 348).

Nevertheless the Court was satisfied that the Chairman had directed himself properly under the rules of the Inquiry in this dispute over disclosure. At no stage in his ruling did the Chairman suggest that he was applying other than the plain meaning of the words "necessary for the determination of the application". He had made his decision in favour of disclosure at the moment when only examination by Ms Alexander's counsel of the material could

result in the proper determination the MPS's application for a restriction order.

R v Kay - 30 Months Upheld in an Attempted "Suicide by Police" *CrimeLine*

The 58 year old appellant pleaded guilty to a count of possessing an imitation firearm with intent to cause fear of violence and was sentenced to 30 months' imprisonment.

The police received information, including information from the appellant's mother, that led them to believe that he was seeking to provoke an armed confrontation with the police in a scenario sometimes known as "suicide by police". A number of trained armed firearm officers kept observation on the appellant in his flat where he could be seen drinking what appeared to be vodka. He was using binoculars to watch the scene developing outside. He was holding a handgun, which he occasionally held to his head or under his chin. The appellant had been a member of a gun club and lawfully possessed a number of weapons in the form of air rifles or pistols in his collection.

The appellant was eventually persuaded to leave his flat, holding the handgun down by his side. The officers asked him to put the handgun down, but at one stage he was seen to raise it and point it in the general direction of the police. In the end two non-lethal baton rounds were fired at the appellant which proved sufficient to disable him. The handgun was a Smith and Wesson gas-powered air pistol which had all the appearance of a real firearm. It was in working order but the force of the discharged shot was such that it was not a lethal-barrelled weapon and could not be classified as a firearm. When interviewed the appellant said that he had been drinking and was feeling low in mood. He had wanted the police to shoot him because he did not have the "guts" to do it himself.

A psychiatric report gave a diagnosis of recurrent depressive disorder. There was a lifetime diagnosis of alcohol dependence syndrome, but the appellant was not suffering from a mental disorder of a nature or degree to come within the 1983 Mental Health Act.

When passing sentence, the judge noted that the appellant really had no alternative but to plead guilty, but also noted that he did plead guilty at the earliest possible stage. The judge noted the implications for the police in his conduct, which were very grave. Necessarily the judge considered imposing an indefinite sentence, although in the result he decided not to do that. It was a significant aggravating factor that the weapon had been pointed in the direction of the police at one stage and they were not to know it was not going to be discharged. Having regard then to the psychiatric and other evidence available, and noting the depression and alcohol dependency factors in his background, the judge proceeded to impose the sentence indicated.

It was submitted that the judge gave insufficient credit for the various matters of mitigation;