Inquest Into The Death Of Melanie Beswick at HMP Send

Opened Wednesday 31 October 2012 Before HM Coroner for Surrey Richard Travers.

Melanie Beswick was 34 years old when she died on 21 August 2010. She was found hanging from a ligature made from shoelaces attached to the window of her cell in HMP Send. In March 2009 Melanie was given a nine month prison sentence for fraud. This was her first offence. Melanie had a long history of depression and self harm, and self harmed on several occasions during her first period of imprisonment. Confiscation proceedings were brought and following her release Melanie was ordered to repay the money she took within 6 months or serve a further 12 month prison sentence in default. Short of selling the family home and making her husband and two young children homeless Melanie could not repay the money in time and was sent back to prison by the court.

She self-harmed on several occasions during her imprisonment and was subject to an ACCT (Assessment, Care in Custody, and Teamwork – the system used for prisoners who are at risk of self harm) on three occasions. She had also reported bullying on several occasions, and expressed fear that she would not be able to repay the money and so face further imprisonment. On the day of her death, she had been found unresponsive in her cell and, despite no obviously signs of physical ill health, was taken to hospital, where she became agitated and tried to harm herself several times. The doctor eventually discharged her but instructed that she was at high risk of self harm and needed constant observation and mental health input.

Despite this, on Melanie's return from hospital that afternoon the duty governor decided that she did not need an ACCT or monitoring. Apparently unknown to him another officer had already begun the process but she was only placed on hourly observations. At about 7.45pm Melanie asked to speak to a Listener (prisoners trained by the Samaritans to support other prisoners in distress) but was told to wait because the room used by the Listener was in use. At 8.35pm, she was found hanging in her cell and despite attempts to resuscitate her was pronounced dead at 10.02pm at hospital. Her family hopes the inquest will address the following issues:

What HMP Send should have known about Melanie's medical history

- The ACCT process - The medical care Melanie received in HMP Send and her undiagnosed underlying mental health condition - How the prison dealt with Melanie's allegations of bullying - Information Melanie was given about her sentence - The care she received at hospital on the morning of the day of her death - Information breakdown between the hospital and the prison - The decision of the Deputy Governor not to instigate ACCT monitoring - The Listener scheme - The provision of first aid by prison staff

Melanie's husband, two young daughters, mother and step-father are represented by INQUEST Lawyers Group members Jo Eggleton of Deighton Pierce Glynn and Jesse Nicholls of Tooks Chambers, London.

Hostages: John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Peter Hakala, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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

MOJUK: Newsletter 'Inside Out' No 396 01/11/2012)

Justice for John Keelan

In March 2008 I was sentenced to nine years imprisonment for attacking and robbing Lee-Anna Devlin aged 66 a retired solicitor and resident of Glasgow.

At the time of the incident June 2005 Ms. Devlin told the police, that she had been punched, hooded and tied-up by three intruders who then ransacked her home.

I was not one of the three intruders but the only person who has stood trial and been sentenced!

I have been fighting to clear my name for over five years now at present I am without legal representation and have been for two and a half years this is due to the nature of one of the grounds of my appeal, defective representation, and in particular the QC who is at the centre of it, he held a prominent position in the Faculty of Advocates.

Not only was what my defence team did a criminal act it was a deliberate and conscious effort to flaunt the rules of court. They conspired with each other to defeat the ends of justice then attempted to persuade me to pervert the course of justice and commit perjury, an questions that must be answered are how many times in the past have they done this, how many others have been wrongfully convicted either by not doing as they asked or by doing as they asked, the other side being how many have been wrongfully acquitted.

It seems no one is willing to answer these questions, aside from my appeal, I have raised complaints concerning the conduct and actions of my defence team with the Faculty of Advocates, the Law Society, the Scottish Legal Complaints Commission, the Police, the Glasgow Procurator Fiscal, the Crown Office, the Lord Advocate, the Justice Secretary for Scotland and my MP and MEP, none of whom have done anything about it. After numerous letters to each some replied others did not, those that did promised an investigation that was some months ago, at present I await the outcome.

In June 2005 I was present at, but not a willing participant, in a housebreaking.

It was 8.30pm on a warm Saturday evening I was with two brothers and we were trying to score drugs. The dealer we went to was not in his flat he was at a party held by one of his neighbours in the their back garden. All three of us went round the lane at the back of the houses and one ofthe brothers went to the party to speak to the dealer; when he came back he told us that the dealer had nothing left and was not going back to the flat to get more. I had a bike with me and on hearing this the other brother jumped on it, he cycled round to the street and counted the houses and then did the same on the way back; the houses were one attached block the length of the street and a large number of windows at the back were open. When he got back he pointed to a window and said that is the dealers flat, he had as good as said he still had gear in the flat when he said he is not going back to get more.

The two brothers then decided to break in, I wanted nothing to do with it and said so; I tried to convince them not to do it as it was a dealer's house and we did not know who he was connected too, but they were having none of it. They started to get aggressive towards me and the more I said to leave it out the more aggressive they got, this turned to threats. At the time I felt that if I walked away they would turn on me so I let them believe that I was up for it but once they were in the flat I was off.

The window was ten feet or more from the ground so one brother had to give the other a boost, once he was in the other took a run and jumped up and grabbed his brothers lowered arm. They then indicated that I do the same I told them that I could not do it, I probably really couldn't do it as I have severe burn scarring across my shoulders and down the back of both arms and due to the tension of the scars I have difficulty in lifting both arms over my head simultaneously.

A cord that was used to tie the curtains back was lowered to me and one of them told me to grab it and they would pull me up. I grabbed the bottom of the cord and instantly let go again, realising that this had went too far I ran to my bike, just as I was getting on the bike I heard them both behind me and one of them said run someone is in the flat. When we got back to the street, one of them said it was the wrong flat, the brother who took my bike counted the flats wrong and they had broken into a neighbours; he went onto say that they had heard a door opening and then voices or the TV so they jumped out. Minutes later we parted company; I went home where I remained till the next day.

In May 2007 I was detained by the police for questioning in relation to a housebreaking that happened in 2005, but during questioning this turned from a normal housebreaking to a tie-up. I was told that my DNA had been recovered from several items at the crime scene and asked to explain how it got there. Having never been involved in a tie-up I could not explain it other than secondary transfer or someone was setting me up.

I am no stranger to crime, I have a record dating back to the early eighties, in 2004 I was released from a seven year sentence after serving two thirds so at the time of the offence that I was been questioned about I had been out on license for just over a year. Since my release I had kept out of trouble, the nearest thing to a housebreaking that I had any knowledge of was the carry on at the dealers flat, but that was a normal housebreaking not a tie-up, so as far as I was concerned it could not be that. On the strength of my DNA being at the crime scene I was charged with the offence. Off tape I was told that the complainer was a solicitor.

Next day at court I was refused bail not on the standard conditions such as previous convictions, seriousness ofthe crime or that I was out on license at the time, they objected to bail by telling the court the complainer was a solicitor. After I had been on remand for some time my solicitor got some information from the crown, this included a statement from the complainer saying that the crime had happened about 11.15pm and that there were two people involved and they spoke with Irish accents.

As for my DNA being found on several items the crown informed my solicitor that it was only one item, a length of cord. On hearing this I explained to my solicitor about the incident at the dealers flat, which also happened mid-2005, so to eliminate it, he checked a street map and it turned out both were on the same street.

I then made enquiries and found out that the brothers had went back to the dealers that night to score and being drug addicts not wanting to let an opportunity pass, they checked the flat they had broken into by mistake earlier and all was as they had left it so they broke back in. This time someone walked in on them and they tied them up, one of the items used was the cord that I had touched during the earlier break-in that had been dropped on the floor at the window. Tests were carried out by the defence on the cord regarding my DNA and the only place my DNA was found was on the bottom of the cord, the scientists agreed that the explanation I gave as to how it got there was the most likely. I was then asked by the solicitor to give a precognition (Scottish Law 'precognition' examination of witnesses and other parties before a trial) to an agent regarding my defence, this I did and what you have read con-

behaviour of some gangs. The removal of 'elders' [leaders] by the police was cited as integral to this development; preceding elders were described as having a 'code' in which certain acts – such as shooting a rival gang member when accompanied by his mother – were understood to be unacceptable and not committed. "There was a consensus that the current gangs neither have such a code nor cohesive leadership, which is resulting in increased chaos, violence and anarchy."

The Home Office, although presented with the main findings of the report, said it could not comment in detail on a study it had not seen in full. But a spokesman reiterated the series of announcements made by ministers last year. These included establishing an Ending Gang and Youth Violence Team and the allocation of £10m of Home Office funding for this year and next to support up to 30 local areas to help "identify, assess and work with the young people most at risk of serious violence".

The CSJ report recommends a number of approaches, including: "working with children and young people already involved in gangs, but also addressing the drivers of gang culture, not just the symptoms. The surest way of eliminating gangs is to try to ensure that children and young people never want or feel the need to join them. To do this we need to tackle deeper issues in our society and seek to nurture and support ever strong families and stronger communities." The CSJ's views are echoed by Junior Smart, an ex-offender and former London gang member, who is leading a major project in south London that works to wean young people off crime and violence. "People take sides. If one gang or another territorial street network knows that an elder has been taken out, then they suddenly think that gang is weak, 'We can take them'. And so we have inter-estate disputes going on."

A Home Office spokesman said: "There are no quick fixes, but we are seeing results. The Crime Survey for England and Wales shows that crime is down by 6%, and police figures show knife crime is down by 9%." The Metropolitan police said that since Trident Gang Crime Command was set up in February as a dedicated unit to tackle gang crime, the results had been impressive. By September overall serious youth violence was down by 34%, equating to 1,000 fewer victims.

Met Officer Jailed for Faking Rape Case Records

A former Metropolitan Police detective constable who specialised in rape cases has been sentenced to 16 months in prison for faking police records. Ryan Coleman-Farrow, 30, from East Sussex, admitted 13 counts of misconduct in a public office, at Southwark Crown Court in September. He failed to investigate rape and sexual assault cases and falsified entries on a police computer system. The convictions relate to 10 rape cases and three sex assault cases.

Unannounced short follow-up inspection of HMP Dorchester

Inspection 2/4 July 2012, report compiled Aug 2012, published Thurs 1st November 2012

Inspectors were concerned to find that: - there had been little progress on monitoring and analysing incidents of violence or self-harm so that they could be better prevented;

- the lack of a prison-wide commitment to safer custody, low levels of staff training and the absence of key staff suggested complacency around prisoner safety;
- the prison remained very overcrowded;
- prisoners continued to spend too much time locked up; and
- there was insufficient attention paid to the resettlement needs of young adults.
- cells were not adequately furnished, laundry facilities were poor
- 7% of prisoners were released without an address to go to

the country, as well as restrict the sale of alcohol in the early hours.

From 31 October local authorities will have the discretion to: Charge a levy for late night licences to contribute to the costs linked to late night drinking, such as extra policing and street cleaning. Introduce an Early Morning Restriction Order (EMRO) to restrict the sale of alcohol between midnight and 6:oo am

Minister for Crime Prevention Jeremy Browne said: 'These measures are not about stopping responsible drinking but designed to tackle the minority who cause alcohol-related crime and disorder in our local communities. It is reasonable to expect those profiting from the sale of alcohol to help pay the costs of policing, rather than expecting taxpayers to foot the entire bill.'

The new measures form part of the Government's alcohol strategy which aims to turn the tide against irresponsible drinking. Both powers have been introduced as part of the Police Reform and Social Responsibility Act 2011 and estimates suggest that these measures could generate approximately £17m per year in England in Wales, with at least 70 per cent of that figure going to police and the remainder to local authorities. *Ministry of Justice Pronouncement*

David Cameron's War On Gang Culture Backfired *Toby Helm, The Observer, 27/10/12*

David Cameron's declaration of war on "gang culture" after the 2011 riots is branded a failure in a report that says the police's focus on arresting gang leaders while failing to act against other members has backfired. The study also accuses ministers of "losing commitment" to the fight, allowing more and more primary schoolchildren to be drawn into gangs, with some now wearing gang "colours" to lessons. The report by the Centre for Social Justice, an independent thinktank established by the work and pensions secretary, Iain Duncan Smith, and obtained by the Observer in advance of publication on Monday, cites professionals as saying the arrests by police of about 200 gang leaders since the riots have led to more violence rather than less.

The CSJ says this is because the arrests have caused vacuums, in which more volatile gang members compete for power – and that arresting leaders has not been followed by action against the junior gang members who remain. It also cites frontline organisations and charities as reporting an increase in the number of girls being recruited into gangs and an increase in intra-gang sexual violence, as organisers seek to spread their influence. Entitled Time to Wake Up: Tackling Gangs One Year After the Riots, the report is particularly explosive because Duncan Smith is one of the cabinet ministers charged with spearheading government responses to the riots.

After the riots, Cameron said there would be an "all-out war on gangs and gang culture", led by the home secretary, Theresa May, and Duncan Smith. "It is a major criminal disease that has infected streets and estates across our country," he said. Policy initiatives on prevention, punishment and support were announced.

May said in November 2011 that "gang and youth violence is not a problem that can be solved by enforcement alone. We need to change the life stories of young people currently ending up dead or wounded on our streets or locked in a cycle of reoffending."

However, the CSJ says: "Many in Whitehall regard the riots as a random one-off, and mistake the quashing of the disorder as control of the streets. They could not be more wrong. The alarming fact is that many streets across the country are besieged by anarchy and violence. There is no control in such neighbourhoods." Christian Guy, managing director of the CSJ, says: "Gangs played a significant role in the riots and it is dangerous to pretend otherwise. In London at least one in five of those convicted was part of a gang."

The report says people it spoke to on the frontline reported a "marked increase in the violent

cerning the first break in at the "dealers" is a very brief summary of that.

My defence was one of alibi and incrimination; there were five samples of unaccountable DNA found at the crime scene on the items used in the tying-up as well as fingerprints. The intruders were not wearing gloves when they entered the flat as they asked the complainer where they could find some. If I had, as the crown claimed, entered the flat I would have left fingerprints at the point of entry.

Fingerprints were found, however, while investigating my case the Scottish Criminal Cases Review Commission (SCCRC) were told there are outstanding fingerprints and they are probably mine. At first it was thought by the SCCRC that the prints found at the scene were no good for comparison but after further checks they were told they are good for comparison and it was my prints that were not. The crown claim my prints were not taken correctly, that is ridiculous as fingerprints are taken by computer now and if not done right the computer tells the operator and they do them again till they get it right.

Even it is true and my prints were taken wrong, why not take them again correctly for comparison as the only evidence they had was my DNA on a movable object? As well as the other DNA, this is outstanding evidence of the third man the crown claimed I was.

In support of my alibi were my partner, my son, and my son's uncle. Being out on license I was living in temporary accommodation, my partner was in a female homeless unit and due to our housing predicament our son lived with his uncle during the week but at the week-end he lived with me. Also in support of my defence was the register at this homeless unit showing my partner stayed there that night, so both my partner and sons uncle could testify that I had care of my young son that night, this was also supported by social work records.

My defence team were also instructed to obtain the records for my mobile phone and to see if any CCTV images were still available for the route I had taken home that night at about 8:45 pm and for the block of flats were I lived. These would have shown my movements that night; that I did not leave the house again once I got home after the first break-in. They were also instructed to have me examined by a skin specialist to determine my ability to climb into the flat.

However at the time unbeknown to me my defence team were not acting upon my instructions, instead, I allege they had their own agenda. At the first meeting I had with the Queens Counsel who would defend me he told me that he had a reservation about my defence. He told me that in his experience when family or friends support an alibi juries tend to think "oh they would say that". He went on to say there was no proof that the flat had been broken into earlier that night so to avoid an unnecessary conflict he thought it best I did not give evidence about the first break-in, instead say in court all that I did and witnessed during the first break-in at 8.30pm really happened (during the second) at 11.15pm and to say I was there at that time.

In other words this QC asked me to perjure myself and forget about the first break-in and my defence and to say I was there at 11.15pm and instead of the brothers jumping back out (as they had done at 8.30pm) they remained in the flat and I ran away after they had entered it and lowered the cord down to me.

As well as asking me to commit perjury he was asking me to agree to being placed at the scene of the crime at the time of the crime when I have a supportable alibi. I told him that I was the proof of the first break-in and that the complainer may be able to support this as the brothers were spooked during the first one, maybe the complainer heard something and the brothers heard them going to investigate it when they heard the door open and the voices.

The party in the garden too supported the first break-in at 8.30pm, or at least me being

there at that time, a party with loud music in a garden would not be going on at 11:15pm. The back window too being open at 8:30pm, how would I have known it was open at that time if I had not been there, also the fact that the room the brothers climbed into during the first break-in was not being used at 8:30pm, how would I have known this if I had not been there. I refused to be part of what he had suggested and instructed him as to what my defence was and that was what had been laid down in my precognition. At every meeting we had he would always ask me to go along with the defence he suggested saying he knows what he is doing and it was for the best, each time I refused, he would then tell me it was only a suggestion and then would talk about the defence I had instructed him on.

My defence team always left me with the impression that my defence as instructed was being prepared and would be presented in court. The evidence against me was my DNA on a movable object, nothing else. The complainer could not say as a fact how many intruders there were, but they did say they heard two male voices and both had Irish accents, plus one of them said there were three of them and the other two's names were Stevie and Willie. The explanation as to how my DNA got on the cord was supported by science unlike the crowns, the explanation they gave was, I must have been the third man the complainer thought might be there. This according to the crown was supported by the two names given by the Irishman who spoke. However, the little evidence the crown had was bolstered by my defence team, on the day of my trial I thought all was in place regarding the defence I had instructed them on, but it was not. They had ignored my instructions and instead decided to lead the defence that they had made up.

At the start ofthe trial when the clerk read my defence and alibi to the jury it was the alibi that the QC had tried to persuade me to agree to, the one he made up that said I was present in the back garden as the two brothers entered the flat (the second time) at 11:15 pm.

Against my instructions they had lodged with the court an untrue defence and in doing so had placed me at the scene of the crime at the time of the crime, they had incriminated me further in a crime I did not commit.

I was then left with the choice do I stand up and protest and show out to the jury or wait and speak with them in the cells, I waited. When I confronted them all they would say is they know what they are doing and it is for the best, I then threatened to sack them but they managed to persuade me against this telling me as the trial has started the judge wont allow it to be put off for months for me to get new counsel.

At the time I foolishly thought that all would turn out fine, I could not be convicted of a crime I did not commit. During his cross-examination my QC cross- examined the crown witnesses in relation to the defence he was leading the one he made up, and when I was giving evidence him and I were in conflict, so the impression the jury must have got was I was now changing my evidence and defence from what they were told at the start it would be.

Not only did I have the crown and my defence team against me I also had a biased judge, I had gotten into an argument with staff in the cells and on the day I was to give evidence four or five of them dragged me round to the cell known as the tank and set about me, I was left battered and dazed and with a head injury ten minutes later I was called to court to give evidence. My QC asked for an adjournment stating I was obviously in no fit state to give evidence, but the judge refused claiming it would back up the courts calendar and the cost. Yet the day before this same judge postponed that days proceedings by several hours for the complainer and their family. The complainer being a solicitor phoned the court and said they were stuck in traffic and asked for that days proceedings not to start till they got there, the

licence. Any licence of release during the custodial period must be subject to a curfew condition. If a prisoner on home curfew can no longer be electronically monitored, the secretary of state can exercise the power of recall under the Criminal Justice Act without the intervention of the Parole Board. The issue in this case was whether the release on home detention curfew constituted a the restoration of liberty during the custodial part of the sentence so that Article 5(4) was engaged if the prisoner was recalled. If the Convention was so engaged, he would have had a right of review by the Parole Board, and without it his recall would be unlawful.

The claimant relied on R (application of Smith) v Parole Board [2005] UKHL 1, in which the House of Lords ruled that recall to prison depended on a fresh finding of fact to justify a new and independent deprivation of liberty. However that decision concerned recall during the non-custodial, second half of the sentence, during which a prisoner is entitled to consideration of release on licence.

The court rejected this appeal, holding that the renewed detention remained justified by the original sentence of imprisonment.

The Court's reasoning: The safeguards under Article 5(4) applied to cases where the link with the original sentence imposed by the judge was broken, for example the imprisonment of somebody on bail. Home curfew during a custodial sentence was a different matter: the purpose of granting such freedom to the prisoner was to help him integrate into society. It was properly to be seen as a modified way of performing the original sentence imposed by the judge; the recall simply restored the primary way in which it was assumed that the sentence would be served.

. . . . the highly restricted liberty inherent in the home detention curfew scheme was intimately connected with the original custodial sentence. [para 33]

There is no doubt that a decision not to release on licence, whether home curfew detention or otherwise, does not engage Article 5 (R (on the application of Black) v Secretary of State for Justice (2009) and Hussain v United Kingdom). Article 5(4) does not give a long term prisoner with a determinate sentence the right to take legal proceedings, at the half way stage of his sentence, to determine the lawfulness of his continuing detention. Nor does Article 5(4) apply to a refusal to release on home curfew detention: the period of detention is then still regulated by the decision of the court which imposed the original sentence. For the same reason, release on home detention curfew is much more closely integrated with the original sentence than is release as of right once the custodial period has been completed.

. . . . The curfew is a compulsory feature of the scheme and if it cannot be enforced, the licence must be withdrawn and the prisoner recalled, irrespective of the fact that the prisoner has honoured the conditions of his licence.

But it did not necessarily follow that whenever a prisoner is released on licence and later recalled before the custodial period has expired, the justification for his fresh detention will always be referable to the reasons justifying the original sentence. It may be that recall even during the custodial period could, in some circumstances, attract Article 5(4) safeguards. That issue did not need to be resolved in this appeal.

New Powers to Spread the Cost of Drink Fuelled Crime

Powers to help pay the nation's £11bn a year bill for alcohol-related crime and disorder come into effect next week. Figures reveal that almost half (44 per cent) of all violent crime is carried out by people under the influence of alcohol and 67 per cent of violent incidents occur in the evening The measures will give local authorities the opportunity to ensure those selling alcohol help pay towards the costs of cleaning up and policing the effects of excessive drinking in towns and cities across

The announcement follows a wide-ranging consultation earlier this year which looked at ways to strengthen community sentences.

The proposals build on the reforms already being taken forward in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which include extending the maximum length of a curfew from 12 hours a day to 16 hours a day, its maximum duration from six months to 12 months and introducing foreign travel bans. *MO Justice Pronouncement 23/10/12*

Greater Police Prosecution Powers to Cut Costs and Deliver Swifter Justice

In a move to cut inefficiency and save time and taxpayers' money, the police will be able to take a raft of new offences through the courts without consulting the Crown Prosecution Service (CPS) – stripping out duplication and bringing swifter justice for victims. Police-led prosecutions can now cover over half of all cases heard in Magistrates' Courts. Under the new measures, officers will be able to prosecute criminal damage cases under the value of £5,000, some alcohol and public order offences and driving without due care and attention.

Home Secretary Theresa May said: 'Giving police more powers to prosecute offenders will slash unnecessary bureaucracy and deliver swifter justice for victims. I want us to be bold and imaginative about transforming policing and the wider criminal justice system to save time and money and deliver a better service for the public.

'Our policing reforms have already stripped away 4.5 million hours of wasted police time - the equivalent of 2,100 officers on the streets. But we must work ever harder to increase efficiency right across the force to help the focus on fighting crime.' The new measures will add more than 90,000 cases every year to those the police can prosecute, stripping out even more bureaucracy from the system and allowing CPS lawyers to focus on more complex cases. The CPS will continue to prosecute cases where a defendant pleads not guilty, is under the age of 16, or where required for police operational reasons. The changes will be tested in nine police force areas to find the best way of working before they are introduced across the country. And they will inform further work between the Home Office, the Attorney General, the CPS and Association of Chief Police Officers, to see if more police-led prosecutions can be introduced. *Ministry of Justice Pronouncement*

Recall of Prisoner on Home Curfew did not Breach Right to Liberty

Rosalind English, UK Human Rights Blog, October 2th, 2012

Whiston, R (on the application of) v Secretary of State for Justice

When a prisoner is recalled from home detention curfew he does not suffer a fresh deprivation of liberty so as to engage Article 5(4) of the Convention. Since this part of Article 5 confers a right on any person who is detained to challenge the legality of the detention determined by a body sufficiently judicial in character, the lack of review would render the decision unlawful. As Lord Elias says in his opening remarks,

. . . . This is one of a growing number of cases which have bedevilled the appellate courts on the question whether and when decisions affecting prison detention engage that Article. Problems arise because of the combination of general and imprecise Strasbourg principles and the complexity of English sentencing practices.

Legal background: The appellant was sentenced to 18 months' imprisonment for robbery. He was released on home detention curfew but was recalled because his whereabouts could no longer be monitored in the community. When he was recalled, he had yet to serve three months of the first half of his sentence, the so-called "custodial period" which confers no entitlement to be released on

judge obliged, now I could understand this if they had an official role to play in the proceedings but they did not they were only coming to watch the trial from the public benches.

With the exception of my DNA, all the evidence led by the crown was against the two Irishmen, the complainer could only speak of what they did; they could say nothing of what I am supposed to have done. In statements made by the complainer not long after the crime happened they spoke of two intruders, it was not until almost two years later, when they were told that a Scotsman's DNA had been recovered, that they conveniently said there impression was there might have been three intruders.

However, under cross-examination they agreed with the original statements they had given but added, it was impossible to say how many were involved. I was convicted with the use of the doctrine "Art & Part" (Scottish law for Joint Enterprise). The crown claimed, in the absence of proof of what I did, I was the third man, this according to the crown was supported by the defence saying I was present at the scene as the crime was being committed (11:15pm), my DNA on the cord and by one of the intruders saying there were three of them and the use of the two names Willie and Stevie and the complainers impression there were three.

At no time during the trial could anyone say what role I played in this. My own defence team assisted the crown by placing me at the scene of the crime as it unfolded, they assisted the crown in convicting me of a crime I did not commit.

The Scottish Criminal Cases Review Commission (SCCRC) investigated my case but refused to refer it to the court of appeal even after the solicitor involved admitted lodging with the court and leading an alibi / defence that he knew to be untrue. The senior Queens Counsel has since retired and has refused an invitation to explain his conduct.

The SCCRC agreed that my credibility was destroyed in court by my defence team's actions. They quoted several cases as their reasons for not referring my case to the appeal court. The SCCRC claim that my "DNA coupled with the complainers impression there were three and the use of the two names by one of them, taken at its highest and being most favourable to the crown, allowed the jury to infer I was the third man".

That is ridiculous. Why would you tell the people you are robbing how many of you there are and give them your accomplice's names? If I had committed this crime then according to the SCCRC, the jury can believe him when he said there are three of them even though he was obviously lying when he gave the names Willie and Stevie as my name is John.

One final point, I stood trial alone, the two brothers have never been arrested the last I heard they returned to the Republic of Ireland; I have also been informed by the police that the case is now closed. Considering I was convicted with the use of the doctrine 'Art and Part' and there is outstanding evidence against others then why is the case closed?

John Keelan (18965) HMP Addiwell, Station Road, Addiwell, EH55 8QA

Systemic Failings Contributed to the Death of Tony Doherty in HMP Wormwood Scrubs

The Inquest into the death of Tony Doherty before HM Assistant Deputy Coroner for West London concluded on 17 October 2012. The jury found that Tony took his own life, and his death was contributed to by systemic deficiencies. They stated the following deficiencies contributed to Tony's death:

1) Not collating, sharing and using information about suicide/ self harm consistently;
2) Not carrying out night patrols in accordance with the prison policy;
3) The failure of the cell call sounder alarm to activate; and
4) Not responding promptly to the cell call light.

The Jury felt these deficiencies reflected potential weaknesses in the training and management of staff. Tony, who was 22 years old, was found hanging in his cell in the segregation unit at HMP Wormwood Scrubs on 3 December 2010.

On the night prior to his death CCTV showed that checks of prisoners on the segregation wing were not completed as required by the staff member on duty, and despite Tony ringing his cell at 11.55pm this remained unanswered when he was found at 2.37am, over 2 ½ hours later. Evidence was heard at the Inquest that Prison Officers had been able to disable the cell bell audible alarm for more than 18 months prior to Tony's death, and by the date of his death it had been permanently damaged. Despite checks of the system purportedly having to take place every day no repairs were requested. One of the Governors called to give evidence for the Prison Service accepted that this was "totally unacceptable". Another Governor accepted that the deficiencies were the result of "mismanagement". Some of the critical evidence in the Inquest had only been disclosed to the family on the day before the Inquest started and had never been disclosed to the Prisons & Probation Ombudsman.

Tony's mother Theresa Doherty expressed the wish that following the verdict changes would be made at HMP Wormwood Scrubs to prevent further deaths. Tony's family were represented by Clair Hilder from Hodge Jones & Allen LLP and Jonathan Glasson of Matrix Chambers.

Solicitor Clair Hilder commented following the verdict; "A series of failings were found which contributed to Tony's death. This case raises concerns about not just the care Tony received but others in prison. Despite extensive investigations into the events of Tony's death the prison were unable to explain whether this was an isolated incident or if other staff members were also failing to complete night patrol checks and respond to cell bells. As one of the jurors asked the Governor, after an incident when a prisoner died showed a 100% failure rate why didn't the prison consider investigating other nights to see whether the same failure rate was found?"

Deborah Coles, co-director of INQUEST said: "In light of the rise in self-inflicted deaths in prison this case gives cause for serious concern. With ever-decreasing resources we hope the findings of this inquest send a message to all prisons that corners cannot be cut when dealing with vulnerable prisoners. This death may well have been prevented had there not been a blatant disregard for policy and procedure."

Catalogue of Failures may have Contributed to Death of Jacob Michael in Police Custody

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.

The jury found that the police officers and staff that dealt with Jacob were:

- ineffectively trained - they failed to follow force procedures
- they failed to perform a timely medical assessment, leading to a delayed call for medical assistance - there was a lack of communication
- The jury also said that Jacob's fear, flight and fight response may have contributed to Jacob's death. This refers in part to the violent arrest and restraint that expert evidence said could have been avoided.

year sentence he was taken to hospital where he remains two months later after spending overa week in intensive care; further notes that his mother, his GP, the former HM Chief Inspector of Prisons, Lord Ramsbotham, disability and other organisations, including Ataxia UK, Liberty and WinVisible and over 1,400 people who signed a petition, have warned that a return to prison would amount to a death sentence for him; welcomes the decision of the Secretary of State for the Home Department to stop the extradition of Gary McKinnon because it would subject him to inhuman and degrading treatment and endanger his life; and calls on the Secretary of State to show the same compassion to Daniel Roque Hall by allowing him to serve the rest of his sentence at home, where he can receive the appropriate care and medical support and be supervised by probation services.

Primary sponsor: McDonnell, John / Bottomley, Peter *House of Commons 24/10/2012*

Community Sentences to Deliver Proper Punishment

The Government has published new legislation, in the Crime and Courts Bill, that will mean adult community sentences will now contain a punitive element. In a move to restore public confidence, adult community sentences will now have to include some form of punishment, such as a fine, unpaid work, curfew or exclusion from certain areas. The new measures will mean more offenders could be forced to undertake activities such as cleaning up graffiti, clearing litter and helping to rejuvenate their communities.

Currently only around two-thirds of community orders contain a punitive requirement, such as a curfew or community payback. Under the reforms announced today that will rise significantly to almost all adult community sentences. The inclusion of a punitive requirement in community sentences, alongside supervision, has also been shown to be more effective in reducing reoffending than supervision alone, according to new research also published today by the Ministry of Justice.

Justice Secretary Chris Grayling said: "We're putting punishment back into community sentencing. This is about sending a clear message to offenders and the public that if you commit a crime, you can expect to be punished properly. Community sentences are not a soft option any more.Alongside this, we are introducing a raft of other measures to make community sentences much more effective. We will use the latest GPS technology to track offenders' movements, and are giving the courts new powers to set fines that hit offenders in their pockets and provide proper compensation to victims."

Alongside the punitive element, community sentences will be reformed to:

Make use of new technology to track offenders during their sentence to protect the public and help prevent criminals committing further offences

Make clear that courts can take into account criminals' belongings as well as their income when setting financial penalties. We will also review whether existing court powers to seize property (including items of significant value) in lieu of unpaid financial penalties give the courts the tools they need, or whether further powers are required.

Give the courts access to benefits and tax information from Department of Work and Pensions and Her Majesty's Revenue and Customs, so financial penalties can be set at level that will bite on offenders and be more effectively enforced.

Remove the £5,000 cap on compensation orders in the magistrates' courts

Give courts powers to defer sentencing so that restorative justice can take place between victims and offenders, to encourage criminals to face up to the consequences of their actions.

Grand Chamber hearing Vinter, Bamber and Moore v. the United Kingdom

28 November 2012 at 9.15 a.m: (nos. 66069/09, 130/10 and 3896/10)

The applicants, Douglas Gary Vinter, Jeremy Neville Bamber and Peter Howard Moore, are British nationals who were born in 1969, 1961 and 1946 respectively. All three men are currently serving sentences of life imprisonment for murder

Mr Vinter was convicted of stabbing his wife in February 2008, having already been convicted of murdering a work colleague in 1996. Mr Bamber was convicted of shooting and killing his adoptive parents, sister and her two young children in August 1985. Mr Moore was convicted of stabbing four men with a large combat knife between September and December 1995. When convicted the applicants were given whole life orders, meaning they cannot be released other than at the discretion of the Secretary of State on compassionate grounds (for example, if they are terminally ill or seriously incapacitated).

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, all three applicants complain that their imprisonment without hope of release is cruel and amounts to inhuman and degrading treatment.

The applications were lodged with the European Court of Human Rights on 11 December 2009, 17 December 2009 and 6 January 2010, respectively. In its judgment of 17 January 2012,the Court held, by four votes to three, that there had been no violation of Article 3 of the Convention. The case (covering all three joined applications) was referred to the Grand Chamber at the request of all three applicants".

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High Rate of Reoffending

A quarter of offenders released from prison went straight back to crime, committing almost 500,000 offences last year. More than half of these were committed by criminals with 11 or more previous offences to their name, Ministry of Justice figures show. More than 50,000 were by 10,000 criminals who had been jailed at least 11 times.

Prisoners Y'all go FK Yourselves,You Won't Vote on my Watch**

I do not want prisoners to have the vote, and they should not get the vote—I am very clear about that. If it helps to have another vote in Parliament on another resolution to make it absolutely clear and help put the legal position beyond doubt, I am happy to do that. But no one should be in any doubt: prisoners are not getting the vote under this Government. *David Cameron, 24/10/12*

Early Day Motion 631: Daniel Roque Hall

That this House notes that Daniel Roque Hall is a 30-year-old severely disabled man with Friedreich's Ataxia, a multi-system and fatal illness, now so advanced that he cannot use his arms or legs, has blurred vision, damaged speech, heart failure, cardiac arrhythmia and Type 1 diabetes; further notes that he was imprisoned for attempting to bring cocaine into this country, but recognises that, given the seriousness of his condition and the complexity of his care needs, prison is not suitable for him, bearing in mind that seven weeks through his three-

Ann Michael, Jacob Michael's mother said: "We believe that, if the police had not stormed into Jacob's bedroom, he would still be alive. Instead he died on the floor of Runcorn Custody Suite while handcuffed face down and with police officers treading on his legs. The evidence and the verdict revealed shocking ineptitude and complacency both of police officers and staff, individually and organisationally. I hope that Cheshire Police will start to learn the lessons that may prevent similar deaths in the future."

Deborah Coles, INQUEST co-director said: "This was a shocking death. Yet again, another inquest into a death following use of force has found failures at an individual and senior management level and those responsible must be held to account. Jacob Michael was an extremely vulnerable young man who called police for help and yet was subjected to cruel and degrading treatment. The sheer lack of compassion shown by these police officers towards a man who was clearly unwell, let alone their failure to follow proper procedure, is hugely worrying. There must be an urgent review by Cheshire police of the way officers are trained to respond to people in crisis with drugs or mental ill health."

Kate Maynard, solicitor instructed by the family, said: "The Coroner has drawn to the attention of the Chief Constable of Cheshire that there have now been two deaths in his custody within a short period of time where the individuals have not been recognised as being in urgent need of medical attention. The family hopes that Cheshire police learns lessons from the harsh criticisms from the jury and Coroner today so that other families do not have to go through what Mrs Michael has gone through."

200 Deaths of Imprisoned Children and Young People in Ten Years

New Report 'Fatally Flawed' Calls For Urgent Action

A new evidence based report examining the experiences and treatment of children and young people who died in prison custody in England and Wales was launched by INQUEST and the Prison Reform Trust today. 'Fatally Flawed: Has the state learned lessons from the deaths of children and young people in prison?' is an in-depth analysis of the deaths of children under 18 and young people aged 18-24 while in the care of the state.

A packed meeting in parliament Wednesday 24th October, chaired by Lord David Ramsbotham heard moving testimony from two families of young people featured in the report - Yvonne Bailey, mother of 16 year old Joseph Scholes who died in Stoke Heath Young Offender Institution in 2002, and Chris Pryor, father of 18 year old Chay Pryor who died in HMP High Down in 2008. Deborah Coles of INQUEST and Juliet Lyon of the Prison Reform Trust also spoke.

Following the death of Joseph Scholes, there was widespread public and parliamentary concern and calls made for a public inquiry. That inquiry never took place and since Joseph died on 24 March 2002, nine children and 191 young people aged 24 and under have died in prison or, in the case of two of the children, imprisoned in a secure training centre.

The report, commissioned by the Prison Reform Trust as part of its Out of Trouble five year programme to reduce child and youth imprisonment, supported by the Diana, Princess of Wales Memorial Fund, is based on the unique dataset compiled by INQUEST through its specialist advice and casework service, supporting the families of children and young people through the investigation and inquest process. In particular, the experiences of 98 children and young people who died between 2003 and 2010 are looked at in detail, forming the basis for the findings and recommendations contained in the report.

For the first time, this analysis reveals the systemic failings that have contributed to

some of the deaths of young people aged 18-24. Often overlooked and neglected in a regime that does not differentiate between young adults and adults, there is little institutional understanding of, or attention to, their specific needs.

The report found that the children and young people who died:

- were some of the most disadvantaged in society and had experienced problems with mental health, self-harm, alcohol and/or drugs;
- had significant interaction with community agencies before entering prison yet in many cases there were failures in communication and information exchange between prisons and those agencies;
- despite their vulnerability, they had not been diverted out of the criminal justice system at an early stage and had ended up remanded or sentenced to prison;
- were placed in prisons with unsafe environments and cells;
- experienced poor medical care and limited access to therapeutic services in prison;
- had been exposed to bullying and treatment such as segregation and restraint;
- were failed by the systems set up to safeguard them from harm.

The analysis also found there had been inadequate institutional responses to the deaths of children and young people in prison. Investigations and inquests are subject to lengthy delay and mechanisms are currently inadequate to ensure learning is acted upon by all relevant agencies.

Deborah Coles, co-director of INQUEST said: "These deaths are the most extreme outcome of a system that fails some of society's most troubled and disadvantaged children and young people. This shocking death toll has been obscured for far too long and for the first time, we now have a clear picture of the extent of the problem and the fatal consequences of placing vulnerable young people in unsafe institutions ill equipped to deal with their complex needs.

"Working on a daily basis with bereaved families we see inquest after inquest raising the same issues and despite promises of change the deaths continue as illustrated by the self inflicted deaths of two children and eight young people already this year.

"It is difficult to comprehend how despite the persistent death toll there has been a repeated refusal and resistance to holding a holistic inquiry to examine the wider systemic and policy issues underlying the deaths of children and young people in custody. This report must prompt an independent review as a matter of urgency as there is a pressing need to learn from the failures that cost these young people their lives."

Yvonne Bailey, mother of Joseph Scholes, said: "I have read the report with sorrow. It is now over a decade since my son Joseph died in fear and distress hanging from the window bars of his squalid cell in a children's prison. While I welcome the changes and improvements that have taken place in the prison estate during the last ten years - changes which would almost certainly not have taken place had it not been for the tireless work carried out by INQUEST, the Prison Reform Trust and others - the deaths of a further nine young boys are devastating evidence that the changes implemented were yet again wholly insufficient to fulfil the duty on the state to protect the right to life of the children it imprisons. I am saddened and perplexed by the continuing and repeated refusal of successive governments to properly investigate through a public inquiry the circumstances that have led to the deaths of child prisoners."

Juliet Lyon, Director, Prison Reform Trust, said: "Every young death in custody is a tragedy made all the more harrowing when such deaths could be prevented by effective safeguarding measures and greater cooperation between health, welfare and criminal justice agencies. After 200 deaths in ten years it is time to learn that locking up our most vulnerable children and young people in our bleakest institutions is a process that is fatally flawed."

Former Chief Inspector of Prisons, Lord Ramsbotham, writing in the foreword to the report, said: "Too often 'tough' talk about crime and punishment does not result in the authoritative action needed to rectify the flaws in our criminal justice system.

This system and services in the community, whose failures are described in the report, have demonstrably let young people down, for all the wrong reasons, for far too long. I wholeheartedly endorse this report's final recommendation that an independent review be established, with the proper involvement of families, to examine the wider systemic and policy issues underlying the deaths of children and young people in prison."

Grand Chamber hearing Allen v. the United Kingdom (no. 25424/09) 14/11/12

The applicant, Lorraine Allen, is a British national who was born in 1969 and lives in Scarborough. On 7 September 2000 Ms Allen was convicted of the manslaughter of her four-month old son and sentenced to three years' imprisonment. The conviction was based on evidence given at her trial by expert medical witnesses who testified that her son's injuries were consistent with "shaken baby syndrome", also known as "non-accidental head injury" ("NAHI"), because of the presence of a triad of intracranial injuries.

In her appeal, Ms Allen claimed that new medical evidence suggested that the triad of injuries could be attributed to a cause other than NAHI. In the meantime, she was released from prison, having served her sentence.

On 21 July 2005 the Court of Appeal quashed Ms Allen's conviction on the grounds that it was unsafe. It found that the new evidence might have affected the jury's decision to convict Ms Allen and therefore her conviction was unsafe. The prosecution did not apply for a re-trial given that, by the time Ms Allen appealed her conviction, she had already served her sentence and a considerable amount of time had passed.

Ms Allen lodged a claim with the Secretary of State under section 133 of the Criminal Justice Act 1988, which provides that compensation shall be paid to someone who was convicted of a criminal offence but has subsequently had that conviction reversed on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice. Her claim was refused on 31 May 2006 on the grounds that the new medical evidence in her case did not count as a new or newly discovered fact.

She brought judicial review proceedings challenging this decision. In December 2007 this claim was also dismissed. The judge considered the meaning of the phrase "miscarriage of justice" and concluded that new evidence which created the possibility that a jury might acquit a claimant fell well short of demonstrating beyond reasonable doubt that there had been a miscarriage of justice in Ms Allen's case.

Her appeal was also subsequently dismissed by the Court of Appeal in July 2008 on the ground that the acquittal decision did not begin to carry the implication that there was no case for the applicant to answer, and that the test for a miscarriage of justice had accordingly not been made out. Leave to appeal to the House of Lords was refused in December 2008.

Relying on Article 6 § 2 (presumption of innocence), Ms Allen alleges that the decision not to award her compensation breached the presumption of innocence.

The application was lodged with the European Court of Human Rights on 24 April 2009 and a statement of facts was communicated to the parties for observations on 14 December 2010. On 26 June 2012 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber",