

## Deaths/Self-Harm/Assualts in Prison Custody - 12 Months Ending June 2012

193 deaths (a fall of three per cent compared to the previous 12 month period);  
51 self-inflicted deaths (a fall of 19 per cent compared with previous 12 months);  
15 'other' deaths (8% deaths) - fall of one death compared with the previous 12 months.  
23,435 self-harm incidents (decrease of 10% compared with the previous 12 months);  
7,004 individuals self-harmed (an increase of 2% compared with previous 12 months);  
The rate of female individuals who self-harmed fell to 279 per 1,000 prisoners (a decrease of 13 per cent compared with the previous 12 months).

Male self-harm rates have increased over the last five years ending June, from 150 self-harm incidents per 1,000 prisoners to 194 per 1,000 prisoners;

Female self-harm rates have fallen over the last four years ending June particularly over the last year. For the 12 months ending June 2012 there were 1,750 self-harm incidents per 1,000 prisoners (a reduction of 32 per cent compared with the previous 12 months).

Assaults In the 12 months ending June 2012 there were:

15,213 assault incidents (a rise of three per cent compared with the previous 12 months);  
175 assaults per 1,000 prisoners (a rise of one per cent);

3,070 assaults (20 per cent of all assaults) on staff (a rise of five per cent compared with the previous 12 months); 35 assaults on staff per 1,000 prisoners (no change);

258 serious assaults on staff (a fall of 13 per cent compared with the previous 12 months).

Overall assault rates are dominated by what happens in the male prison estate which accounts for some 95 per cent of the prison population. Assault rates in the male prison estate have levelled while those in the female prison estate have fallen.

Natural cause rates have increased by around a half over the last ten years. A minority of the most recent deaths currently classified as 'other' in this report are likely to be classified as natural causes once more information becomes available. As a result, figures for the most recent two years are likely to be under-reported compared with earlier figures. Assuming five of the fifteen deaths are eventually reclassified as natural causes, then the numbers and rates in this report would be under-reported by some four per cent. The uncertainty on these figures will not be entirely removed until after inquest

Comparison of deaths in prison with those in the general population

Mortality rate of the prison population is significantly higher than that of the general population. In seven out of the last ten years, prison mortality has been significantly higher than that of the general population. Self-harm in prison custody is defined as, "any act where a prisoner deliberately harms themselves irrespective of the method, intent or severity of any injury."

Those who self-harm often do so covertly.

**Hostages:** John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinane, 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, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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## MOJUK: Newsletter 'Inside Out' No 397 08/11/2012)

### Double Murder Trial Dismissed

*Crime & Justice Admin 31/10/12*

On November 14 2011 four men were charged with the murder of Jordan Lee Jackson, 20 (24.04.85) and Leyla Djemal-Northcott, 21 (22.01.85), who were murdered in their home in Upper Norwood on 7 March 2006. They were further charged with the attempted murder of Kieran Jackson on the 7 March 2006. In addition Shaun Sutton and Leon Russell were both charged with possession of a firearm with intent to endanger life.

They were: Michael Ennis-Simpson, Shaun Sutton, Leon Lee Russell, and Lee Russell. All four were due to stand trial at Woolwich Crown Court on 13 November 2012.

However, on 17 October 2012 a Terminating Ruling was made by Mr Justice Fulford based on issues regarding identification procedures. Two of the defendants in this case are identical twins and this posed challenges with regard to the identification parades. An appeal by the prosecution against the ruling was heard on 30 October 2012 at the Court of Appeal but was unsuccessful and as a result the trial has been dismissed.

Mr Justice Fulford made it clear in his Terminating Ruling decision that he did not hold anyone from the prosecution responsible for the ruling. He said: "the PACE Code and the relevant jurisprudence do not provide sufficient assistance to the police as to how identification parades in these circumstances should be arranged. The officers concerned took substantial steps to address the problems confronting them, and their failure to cover all the complex difficulties that have been revealed is understandable. The measures they implemented were intelligent and imaginative, if ultimately deficient."

DCI Chris Le Pere, from the MPS Trident Gang Crime Command, said: "We respect the decision of the court. This was a tragic case involving three young people two of which were killed in their own home. The case will remain open and if any new information comes to light it will be thoroughly investigated with the aim of bringing to justice those responsible."

### Police Officers Will not face Court Over Pepper Spray Death

*Paul Peachey, Independent, Thursday 01 November 2012*

The family of a man who died in the back of a police van following a "catalogue of errors" by officers supposed to be monitoring him today spoke of their anger that nobody would face a criminal prosecution over his death. Leonard McCourt, 44, was found collapsed in the back of the van after a short journey to a police station but officers stood with their hands on hips and did nothing for nine minutes to try to resuscitate him, an inquest heard.

Four officers will now face misconduct hearings over the arrest and death of the 44-year-old. They face conduct charges including for the failure to provide proper first aid or monitor 6ft 2in Mr McCourt after he was handcuffed and kept on the floor in the back of the van.

An inquest jury found this week that Mr McCourt died during the journey after twice being pepper-sprayed outside his home in Seaham, County Durham. He confronted police who were called after he had been drinking following a row with his partner, according to his family. The inquest heard that Mr McCourt, who had a heart condition, became quiet on the way to Peterlee police station and there was no interaction between him and the officers during the journey.

Mr McCourt's family said they were devastated when they learned that no officer would face a criminal charge over the death. "The worst that can happen to them now is they will lose their jobs," said Mr McCourt's sister-in-law Tracey. "Whatever happens, it will never bring our Leonard back. We were absolutely devastated when we were told there wasn't enough evidence from criminal proceedings. Once we got all the evidence there was more than enough."

The Crown Prosecution Service (CPS) said that it concluded no charges would be brought because any prosecution would have to prove that McCourt would not have died if officers had acted differently. "The evidence did not enable the prosecution to establish this," said a CPS spokeswoman. "Neither did we consider there to have been sufficient evidence that the police officers wilfully neglected their duty, or that they assaulted or falsely imprisoned him."

Mrs McCourt also criticised the decision to grant anonymity to the four officers - two constables, a special constable and sergeant - at the inquest until it was rescinded following a challenge by the Northern Echo newspaper.

Durham's temporary chief constable Mike Barton has apologised to the family and said he was "extremely disappointed" by what had happened. He said he was looking into installing cameras in the backs of vans but said there were technical issues. "I am deeply sorry that what happened, happened," he said.

Britain's largest force, the Metropolitan Police, announced a £4m refit of its vans to install closed-circuit television cameras earlier this year because of concerns about the hidden abuse of suspects. The pledge came after an inquest jury rejected the evidence of police officers after Sean Rigg, 40, a mentally-ill man died after being taken by van to a police station.

The family said that the IPCC had also apologised for failing to include details about how he was put in the back of their van in the report, facts which they claim were key to his death. A jury earlier this week returned a verdict of misadventure and said that his death was caused by factors including heart problems, the effects of alcohol and physical stress.

Nicholas Long, an IPCC commissioner, said: "The arrest and use of incapacitant spray appears to have been fully justified. However, after that there was a catalogue of failures in the care afforded to Mr McCourt. "Attempts at resuscitation did not start for almost nine minutes after Mr McCourt had been discovered collapsed."

In a statement, Durham Constabulary said it accepted the inquest's findings and that lessons had been learned following Mr McCourt's death, but stressed the "verdict recognises the officers involved acted lawfully throughout this incident.

Helen Shaw, co-director of INQUEST which investigates cases of death in custody said the death was just the latest that raised concerns about how police officers responded to people who were unwell. "There must be an urgent review of training in the use of restraint, and where failures have been identified those responsible must be held to account."

### **Report on an Announced Inspection of HMP Onley**

Inspection 11/15 June 2012, report compiled Sept 2012 Published 7th November 2012

Inspectors had some concerns: - minority ethnic prisoners were less positive in our survey and, while the prison had embarked on a radical approach to the promotion of diversity, this was not yet working effectively; - despite prisoners engaged in work or learning having a positive experience, 16% of prisoners were still locked in their cell during the working day doing nothing; and - some improvements were needed in offender management, with a need for better managerial supervision and focus on risk of harm reduction.

### **EDM 623: Family Justice System and Family Courts**

That this House is concerned that care and supervision cases in the Family Courts are taking almost a year to complete; notes that this will have an entirely negative impact on vulnerable children for whom a year is a very long time; is concerned that the Government's court closure programme has led to a worrying increase in the distances that families have to travel to attend a court hearing; further notes that parties, often in conflict, including victims and perpetrators of domestic violence, are forced to share court waiting space due to court closures and lack of resources; and calls on the Government to review the administration of the Family Courts without delay particularly as further courts will close before the proposed single family court is established.

*Sponsors: McDonnell, John / Lavery, Ian / Llwyd, Elfyn*

### **Man Shot and Tasered by Police Officers "Not Guilty" of GBH**

George Asare, from Forest Hill, south-east London, was found not guilty of attempted Grievous Bodily Harm (GBH), and affray with intent by reason of insanity; the court said he is to remain in hospital till he is deemed fit. He was arrested in February whilst lying in his hospital bed, suffering from gunshot wounds to his chest, abdomen left leg and right hand in February, just 10 days after an encounter with police officers, who inflicted the injuries. He was taken to a psychiatric unit after he was released from intensive care on March 13th. Police claimed Asare attacked them with a blade after they responded to calls about a man breaking into a vehicle. Fury erupted in the community after witnesses claimed Asare was shot five times and tasered three times by officers, with many questioning why officers used such force.

The Independent Police Complaint Commission (IPCC) began an investigation after Asare's mother, Elizabeth Benin, complained about the speed in which lethal force was deployed against him. She said: "Why wasn't there a standoff? I want to know why the police did not try and talk to George. George is not a bad person, he is a good person but he was not well, I don't understand why they had to shoot him. I just thank God that he was not killed".

Andre Clovis at Tuckers Solicitors also said then that the "IPCC have been asked to investigate whether George was in fact tasered after, rather than before he was shot by the firearms officers".

### **Azelle Rodney Inquest, Family ask - 'How many more lies are you going to tell?'**

The family of a suspected gangster shot dead during an armed operation seven years ago accused police of tampering with evidence to make it seem that the dead man had been carrying a weapon, a public inquiry heard. The policeman who fired the fatal shots, named only as E7, angrily denied any wrong-doing and rejected suggestions that he was "trigger-happy" after he killed two people and wounded two others during a police operation in the 1980s.

The officer was in one of four unmarked police cars following the VW Golf carrying Mr Rodney and two other men who were believed to be on their way to rip off a group of Colombian drug dealers in north London.

E7, who was responsible for covering colleagues as they leapt out of their cars, said that he believed that their lives were in danger. He opened fire with two deadly bursts in less than a second after his car pulled alongside Mr Rodney who was sitting in the back seat

The officer said it was "outrageous" and "insulting" to suggest that police had put a gun on the back seat after the shooting. Counsel for Mr Rodney's family, Leslie Thomas, said: "We say that the gun that was found subsequently on the back seat of the car was put there, removed from one of the bags in the car. It was not next to Mr Rodney." *(to be continued)*

appeal proceedings which lasted over ten years. A substantial proportion of the delay had been caused by the applicant's own conduct. However, there were also periods of inactivity where the courts had failed to take steps to progress matters of their own motion, and this led the Court to find a violation of the right to trial within a reasonable time.

As regards Mr Beggs' numerous challenges to the fairness of the trial proceedings, the Court found that his trial was fair and declared all of his complaints inadmissible. It also declared inadmissible his complaints under Articles 8, 13 and 14 of the Convention.

Just satisfaction (Article 41): The Court awarded the sum of 2,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,000 in respect of legal costs and expenses for the violation found.

### **New Definition of Domestic Violence and Abuse to Include 16 and 17 Year Olds**

Victims of domestic violence and abuse aged 16 and 17 will be recognised under a new cross-government definition, deputy prime minister Nick Clegg announced on Wednesday 19 September 2012. The extension of the definition of domestic violence to include people under 18 is the latest move by the government to tackle domestic violence. The decision follows a government consultation which saw representatives from the police, voluntary organisations and local authorities call overwhelmingly for this change. Extending the definition will increase awareness that young people in this age-group experience domestic violence and abuse, encouraging more of them to come forward and access the support they need – for example, speaking to someone about the abuse or contacting a helpline or a specialist service.

This follows the government's successful teenage relationship abuse campaigns and is backed up by the British Crime Survey 2009/10 which found that 16-19-year-olds were the group most likely to suffer abuse from a partner. 12.7 per cent of women and 6.2 per cent of men in this age group suffer abuse, compared to seven per cent of women and five per cent of men in older groups.

### **Europe's Biggest Brothel – to Open in Austria** Telegraph, 06/10/12

When opened in 2014 the giant brothel, officially dubbed the "FunMotel", will have capacity for 1,000 "guests" a day with around 150 sex workers employed in the £12 million project. Along with room for buses it will also have 350 parking spaces and a three-metre high perimeter wall to ensure privacy. Peter Laskaris, the businessman behind the project who already operates a brothel in Vienna, said that the glitzy bordello's "four-star hotel" facilities will be the sex industry's shift from "grocer to supermarket".

The FunMotel will offer "swinger parties, gangbangs" and "porn stars" along with more mundane hotel attractions such as restaurants, beauty salon and gym. But 8Quadrat Developers, the Vienna-based company developing the project, claim that "the number of females" and the "affordable prices" will "ensure absolute satisfaction for male customers".

### **Report on an Unannounced Inspection of HMP Northumberland**

Inspection 11/15 June 2012, report compiled Sept 2012 Published 6th November 2012

Inspectors had some concerns: - although Northumberland's training regime had potential, there were insufficient places to meet the needs of the population, allocation arrangements were poor meaning existing places weren't fully utilised and punctuality was erratic; - a third of the population were locked up doing nothing during the working day; and - further work was needed to improve offender management, as caseloads were too high and some structures and processes were weak.

### **Angry Bereaved Families March on Downing Street**

*Harmit Athwal, IRR*

On Saturday 27 October, over 500 people gathered to march from Trafalgar Square to Downing Street for the annual United Families and Friends Campaign remembrance procession for those that have died in state custody.

The march made its way slowly down Whitehall, led by the sons, daughters, grandchildren, nieces and nephews of those that have died. A symbolic coffin on which was written all the names of the deceased was carried. The march was joined this year by new families as well as those veterans that have marched each of the last fourteen years that the commemorative march has been held. Banners, placards and t-shirts recalled Mikey Powell, Roger Sylvester, Azelle Rodney Ricky Bishop, Sean Rigg, Jimmy Mubenga, Sarah Campbell, Christopher Alder, Anthony Grainger, Olaseni Lewis, Billy Spiller, Kingsley Burrell, Demetre Fraser, Philmore Mills, Paul Coker, Mark Duggan and Mark Nunes.

This year, a number of other groups and campaigners also concerned about the extension and abuse of state powers, marched in solidarity with the families. These included Hamja Ahsan (Free Talha Ahsan Campaign), Joint Enterprise Not Guilty by Association (JENGbA), the London Guantánamo Campaign, the Save Shaker Aamer campaign, Defend the Right to Protest, Black Mental Health UK, anti-fascists, members of the Public and Commercial Services union and Rail and Maritime and Transport union members. As the procession reached Downing Street the chants began: 'No Justice, No Peace', 'Who are murderers? Police are the murderers', 'What do we want? Justice. When do we want it? Now!'

A letter handed in at Downing Street by the families of Sean Rigg, Mark Duggan, Anthony Grainger, Kingsley Burrell and Olaseni Lewis said: 'We believe it is essential that the police (the least reformed of all public services) be scrutinised and urgently reformed, and that state officials are subject to the same judicial system as any ordinary member of the public.' It goes on to demand:

- Fundamental reform of the Independent Police Complaints Commission to ensure open robust transparent and thorough investigations;
- Officers and officials directly involved in custody deaths be suspended until investigations are completed;
- Immediate interviewing of officers and all officials concerned with the death;
- Full disclosure of information to families;
- Prosecutions should automatically follow 'unlawful killing' verdicts at Inquests and officers responsible for those deaths should face criminal charges, even if retired;
- The end of means testing of families for legal aid.

Despite attempts by English Defence League (EDL) members to disrupt the rally and march, it went ahead easily and many moving and emotional speeches were made. Stephanie Lightfoot-Bennett, the twin sister of Leon Patterson, who died in November 1992 after spending a week in custody Stockport police station, told those gathered: 'A lot of you recognise me. I've been making this journey for fourteen years and every year I have seen a new family ... I can't take it any more, seeing these fresh faces ... The sad children the sad mothers ... United we stand divided we fall... Every man has an equal right to live to matter what race colour or class. We are all united in this, death has no preference of colour.'

Samantha Patterson, sister of Jason McPherson, who died in January 2007 after being arrested and taken to Notting Hill police station after a stop and search, said: 'We need to make sure when they make Rule 43 reports that what they actually say is implemented. Because it never ever is.'

They don't learn from their mistakes. If they had've learned from their mistakes my brother would never have died in Notting hill police station. Sean Rigg would never have died. Mark Duggan would never have died. All the names, all the people you are here for today would not have died if they listened fourteen years ago ... Nothing ever happens ... We don't want the IPCC taken away, we want them to fix-up because if we start from scratch each time, it will be another disaster and we will be here fifteen years from now shouting and chanting about the same things.'

Patricia Coker, mother of Paul Coker who died in August 2005 after being arrested by police at his home and being taken to Plumstead police station, said: 'As my son lay dying, he was denied medical access to a doctor. A police officer kicked his leg and stepped over him as he lay on the floor. That was in 2005. Shortly after that we became part of the United Families and Friends movement. A great movement. Stay strong. Stay together ... The pain and the grief unites us. But our determination and strength to continue fighting against the injustices in the criminal justice system must remain. The government was to be tough on crime and punishment. I tell them today, they need to be tough, TOUGH, on the injustices within the criminal justice system and make a real change ... Men women and children are dying at the hands of the functionaries of the state.'

Janet Alder, the sister of Christopher who died on the floor of Queens Street police station in Hull, said: 'In 1998 Christopher Alder was murdered by Humberside police. Nothing has changed. Nothing at all. They are still getting away with murder. They are trying to put it down to neglect. These men are dying violent deaths at the hands of the British state. You've got the British government, which is well aware and is protecting those police officers that are responsible. We have a right to justice.'

#### **HMP Guys Marsh Inmates Call for Action Over 'Gang Violence'** *BBC News 02/11/12*

A group of inmates at a Dorset prison have signed a petition demanding action is taken to stop violence and attacks by fellow prisoners. The petition signed by inmates at Guys Marsh in Shaftesbury was sent to solicitor Rhonda Hesling, secretary of the Prison Injury Lawyers Association. She said they claim two wings at the jail are "out of control" and they are "frightened there will be a death". The document was signed by more than a dozen prisoners and had been smuggled out of the site, Ms Hesling said. She said it read: "There is no CCTV here at Guys Marsh, staff are never patrolling or around, we could be killed or injured on the wings. There is a high level of assaults here by prison gangs who roam without challenge and bullying makes everyone feel unsafe, please help us."

'Out of control' - Ms Hesling, also a senior partner with Hesling Henriques solicitors, said the petition was passed to her by a prisoner who had contacted her after being seriously assaulted inside the prison. She said two wings in particular were "running out of control" and "there's an absence of prison officers. It's clearly not something that is just one prisoner's view," she said. It would seem there's a systematic failure in the managing of these wings, which is resulting in robbery by other prisoners upon perhaps those who are more weakened and vulnerable. There's an atmosphere of intimidation and fear, and a real fear of physical violence. The weak and vulnerable are being beaten up and they are being bullied." Ms Hesling said the Prison Injury Lawyers Association was investigating the claims and was speaking to all parties involved.

The Prison Service said in a statement: "Violence or intimidation in prisons is not tolerated in any form and we take the responsibility of keeping staff, prisoners and visitors safe extremely seriously. That's why we have a violence management system in place to deal with incidents quickly and robustly with serious incidents referred to the police immediately."

apply. The Defendant clearly intended to kill in my judgement.

The only factor that I take into account in mitigating the length of the minimum period is that the period should not be so long as to prevent the Parole Board releasing the Defendant when he is old and is no longer capable of being a threat to anyone.

Had I been sentencing you for both killings at the same time I would have ordered that you should serve a minimum period of 40 years and that is in effect the minimum term that I order you to serve. As you have already served very nearly 8 years I direct that the minimum period that you should serve is 32 years from today. None of the time that you have spent in custody to date will count towards that sentence. It should be borne in mind by everyone who considers this sentence, that that does not mean that you will be released at the end of that period. You may very well not be

#### **Scottish Criminal Appeal Proceedings Lasting 10 Years Were too Long**

Chamber judgment in the case of *Beggs v. the United Kingdom* (application no. 25133/06), which is not final", the European Court of Human Rights held, unanimously, that there had been: a violation of Article 6 § 1 (right to a fair trial within a reasonable time) of the European Convention on Human Rights.

The Chamber judgment concerned Mr Beggs' complaint about the excessive length of the appeal proceedings in his case and the decision concerned his complaints about the unfairness of his trial. The right to a "fair ... hearing within a reasonable time" is specifically set out in the text of Article 6 § 1 of the Convention. In 2011 the Court found a violation and awarded compensation for breaches of this right in 341 cases. The vast majority of the cases involved Ukraine, Turkey, Greece, Bulgaria, Germany, Hungary, Italy and Poland. There was only one finding of a violation in respect of the United Kingdom.

Principal facts: The applicant, William Frederick Ian Beggs, is a British and Irish national who was born in 1963 and is currently serving a sentence of life imprisonment in HM Prison Peterhead for murder. Mr Beggs was convicted of murder on 12 October 2001 and sentenced to life imprisonment with a minimum term of 20 years. He lodged an appeal against his conviction and sentence, raising a number of challenges to the fairness of his trial and the length of the minimum term imposed. On 9 March 2010 the Appeal Court upheld Mr Beggs' conviction and on 16 December 2010 his application for leave to appeal to the Supreme Court was refused. On 12 May 2011 the Appeal Court found the challenge to the applicant's sentence to be incompetent and on 21 March 2012 the Supreme Court refused leave to appeal.

Complaints, procedure : Mr Beggs lodged a number of complaints with the Court under Article 6 (right to a fair trial within a reasonable time) of the Convention in two applications (nos. 25133/06 and 15499/10). He complained, among other things, that the appeal proceedings had violated his right to a hearing within a reasonable time; that media reports published at the time of his arrest had prejudiced the fairness of his trial; that the charge against him was not sufficiently clear; that evidence had been unfairly admitted by the trial judge; and, that the lack of reasons given by the jury had breached his right to a reasoned decision. He also lodged complaints under Articles 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the Convention.

Applications were lodged with the ECtHR on 20 June 2006 (no. 25133/06)

Judgment and decision of the Court: On 17 October 2012 the Court adopted a judgment and a decision on the applications. It found that the appeal proceedings had lasted ten years, three months and 21 days. Although the case was complex, this did not in itself justify

that the report will be made available for checking today.

I believe that these checks are necessary in order to meet the legal obligations on me. Following the approach used for the checking of the Bloody Sunday Inquiry, Billy Wright Inquiry and Rosemary Nelson Inquiry reports, Sir Desmond de Silva has given permission for members of the review's legal team to be present during the checking process. At all times, members of the review's legal team will be acting as representatives of the review and not as advisers to me or the checking team.

I want to publish the report in its entirety. Should any concerns about the safety of any individual arise, my first course of action would be to consider whether these can be addressed through alternative means. Were I to reach the conclusion, on advice, that a redaction to the text might be necessary, I would consult Sir Desmond de Silva. In the unlikely event that any redaction was deemed necessary, my intention would be to make this clear on the face of the report.

Once the checking process has been completed I will make another statement to this House regarding its outcome and announcing the date of publication. The report must be published first for this House, and I intend to publish the report as soon as possible once the checking process has been completed. However, I acknowledge the importance of this review's findings in the lives of a number of individuals. As with the publication of the Bloody Sunday Inquiry, Billy Wright and Rosemary Nelson Inquiry reports, I intend to grant advance sight to those who the review has recommended as being interested parties.

#### **Christopher Nudds Convicted of a Second Murder on second Alleged Cell Confession**

Though no body was ever found Mr. Nudds was convicted in February 2006 of killing Fred Moss. It was claimed Nudds admitted to a cell mate while on remand in jail that he killed Mr Moss. Convicted paedophile Darren Horner told the court that the murder was described to him as "100% personal". Nudds denied making that confession and said the last he saw of Mr Moss was on 30 November 2004 - when he was driven away in a Mercedes car with three other men. For this Nudds was sentenced to life 30 years.

On Monday 5 November Nudds was again found guilty of murder this time of Robert Workman again on an alleged cell confession. But not the same cell mate as for the murder of Fred Moss, this time the confidant was not named. Despite the judge warning the jury of the dubiousness of cell confessions they found Nudds guilty

Judges sentencing remarks: I do have to fix a minimum period that the Defendant must serve before his release on licence is even considered. That period is to reflect the seriousness of the offence. It does not take into account the danger that this man presents to the public as that is reflected in the Life sentence.

I have to select from schedule 21 of the CJA 2003 an appropriate starting point. I will, as I have said, deal with the case as if the Defendant had been tried and convicted of both murders in the same trial. I cannot be sure that any of the matters specified in para 4 (2) have been proved.

While the fact that a gun was used on both occasions indicates a degree of planning, I cannot be sure that it was substantial. I take as my starting point 30 years. Because any sentence of life imprisonment has to be served concurrently with any existing sentence, I have to take into account both murders in fixing the minimum period. There are a number of matters which cause the minimum sentence to be increased. There are two separate features which result in a starting point of 30 years: the use of a firearm in each case and the fact of two murders.

The victim was vulnerable by reason of his age and ill health. None of the mitigating factors

#### **New Approach to Community Payback Begins in London** *Ministry of Justice 31/10/12*

A new approach to Community Payback that will see offenders completing tougher, more intensive punishments begins today in London. Serco, with London Probation Trust, will run Community Payback so it better tackles reoffending and delivers greater value for money.

The four-year London contract will save taxpayers £25 million and ensure:

- Community Payback begins within days of sentencing
- Offenders work seven hour days as a minimum requirement
- Links with communities so offenders pay back in area/street, their crime was committed
- Unemployed offenders work over four full days a week with a fifth day spent job seeking
- Swift, robust action is taken against offenders who misbehave or fail to attend.

Jeremy Wright, Minister for Probation, said: 'Community Payback is a sound principle, with offenders being punished through unpaid work in the neighbourhoods where they have brought misery and fear. But it is not meeting its full potential and does not always command public confidence. This partnership will bring innovation and deliver a tougher, swifter Community Payback service that offers real value for the taxpayer.'

Jeremy Stafford, Chief Executive of Serco UK & Europe CEO, said: 'We are delighted to have been chosen to deliver this crucial public service for London. With our partners in London Probation Trust we can make Community Payback a really effective part of the criminal justice system, giving offenders challenging and demanding work which will directly benefit the communities affected by their crimes. Serco is proud to play a part in making justice visible and efficient and to help break the cycle of re-offending.' More than 15,000 offenders are ordered to carry out Community Payback each year in London. Community Payback sees offenders carrying out tough physical unpaid work in high visibility jackets so communities can clearly see them paying back. Projects include renovating community centres, clearing rivers banks and removing graffiti from public spaces.

#### **Implications of the Cadder Ruling Continue to Unravel a Year on**

When judges at the Supreme Court in London ruled that a crucial procedure of Scotland's criminal justice system breached international human rights it caused widespread embarrassment to the legal profession and sparked a major and costly overhaul. On the face of it, a teenager appearing at Glasgow Sheriff Court on breach of the peace and assault charges would do little to stir much attention, but the implications of the Cadder ruling have created a radical change in policy and a major shift in the way police and the legal profession operate in criminal proceedings.

It is now a year since the Supreme Court ruled that the Scottish practice that allowed police to interview a suspect for up to six hours without legal representation breached the European Convention on Human Rights (ECHR) and ministers had to force through emergency legislation. For many, the Cadder ruling is also seen as the starting point for a major constitutional feud that has developed between the SNP administration at Holyrood and the Londonbased court throughout the last 12 months.

The Cadder ruling related to a European court judgement in 2008 that stated Turkey had infringed the rights of an 18-year-old called Yusuf Salduz, who was denied access to a lawyer when he was detained. The Strasbourg court then ruled in favour of similar complainants in cases in Russia, Ukraine, Poland and Cyprus – despite this, Scottish authorities continued to resist change. The Cadder appeal was then taken to the Supreme Court in London, where it was ruled Scotland's position of not providing legal representation did breach ECHR.

The Cadder ruling jeopardised 3471 cases; with 867 subsequently collapsing, including nine High Court cases, of which seven were alleged sexual assaults.

## The 21st Century Coroner

*Jim Duffy, UK Human Rights Blog*

The Coroners and Justice Act 2009 has created the office of Chief Coroner, plucked at the very last minute from the Coalition's 'bonfire of the quangos'. On Friday, the first Chief Coroner, His Honour Judge Peter Thornton QC, delivered The Howard League for Penal Reform's 2012 Parmoor Lecture.

Six weeks into his post, Judge Thornton presents a frank exposition of the challenges facing the system he now heads, sets out what he considers to be its purpose, and charts its remarkable genesis.

Coroners have, it seems, occupied for the best part of a millennium a peculiar pocket of public life, adapting their function and purpose over time in a manner not always understood by those working outside the system, or even by they themselves. From the Articles of Eyre to the 2009 Act, via Robin Hood and Richard the Lionheart (the latter does not come out well), the Chief Coroner describes how 'crownors', as they were originally known, have evolved from lay magistrates or collectors of fines, to the judges they are today.

Judge Thornton's trip through the annals of coronial history illustrates the journey the coroner has taken, from protecting for the King the spoils of the business of dead bodies, to delivering important answers to the loved ones of those who die in unexplained, unnatural or violent circumstances. It is a role particularly crucial to our democratic society where the state is involved in a death either through direct responsibility for causing it, or by failing to prevent it.

The purpose of the 21st century coroner is identified by the Chief Coroner himself, given the remarkable continuing lack of a stated purpose within the 2009 Act or anywhere else. The purpose he sees reflects a modern coroner's system, one that not only looks back but also forward, one that lies in 1) the need to know, and 2) the prevention of future deaths. The need to know extends not only to family members and those who knew the deceased, but also to the public, something some journalists argue has hitherto been prevented within some coroners' courts. He says the post-2009 system will afford greater flexibility, with a rationalisation of coroner areas replacing the "rigid jurisdictional concept of coroner territoriality." He points to a new emphasis upon the whole investigation into a death rather than just the inquest. A more coordinated complaints system and compulsory training are other positive developments, with the Judge vowing to reduce delays within the system and to improve quality and consistency.

The dual purpose Judge Thornton describes is reflective of the increasing centrality of the inquest to the state's capacity to discharge its procedural duties under Article 2 of the European Convention of Human Rights. He notes that of the half a million deaths a year, 30,000 lead to inquests, 450 of them with juries. Article 2-compliant investigations must achieve purposes that align broadly with those identified by the Chief Coroner with respect to the system he now heads. These were most famously set out by Lord Bingham in by the House of Lords in *R (Amin) v Secretary of State for the Home Department* [2004] 1 AC HL [at 31]:

- The purposes of such an investigation are clear: to ensure so far as possible that the full facts are brought to light; that culpable and discreditable conduct is exposed and brought to public notice; that suspicion of deliberate wrongdoing (if justified) is allayed; that dangerous practices and procedures are rectified; and that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others.

The influence of Article 2, particularly post-2000 and the coming into force of the Human Rights Act 1998 (HRA), has even resulted in two types – perhaps even two tiers – of inquest – the Middleton inquest where there is an arguable breach of the state's positive duty to

tryside is on the decline owing to modern pesticides brought about by new ways of farming. I often wonder if I would have done more travelling before settling down I certainly felt I would like to return to Australia. I consider the things that might have been and the things that will be. I have been denied my own family life, a partner and fatherhood. I didn't imagine being single at 51 of course but in the future I feel a sense of excitement and exploration. It will be strange to start with but I will embrace and enjoy every moment of my liberty. I want to ramble through the countryside and return to farming in a small way. I want someone to share my life with and all of the simple things, perhaps a country dweller, someone who is in tune with the seasons. I want to do all of the caring and loving that the condition of imprisonment denies me." *I just want to be free, Jeremy Bamber, November 2012*

## Patrick Finucane Review [Preparing the Whitewash] *Hansard 31 Oct 2012*

Secretary of State for Northern Ireland (Mrs Theresa Villiers): In anticipation of the publication of the report of the Patrick Finucane Review, I have today asked a team of officials to commence the checking of the review's report in relation to human rights and national security matters, as outlined below. I intend to adopt the same approach as was used for the checking of the reports of the Bloody Sunday Inquiry, Billy Wright Inquiry and the Rosemary Nelson Inquiry.

I am responsible for publication of the review's report, once it is delivered to me. I am advised that I have a duty, as a public authority under the Human Rights Act, to act in a way that is compatible with the European Convention on Human Rights. To fulfil this duty, I need to take steps to satisfy myself that publication of the report will not breach article 2 of the convention by putting the lives or safety of individuals at risk. I am advised that these obligations must be met by me, in my capacity as Secretary of State for Northern Ireland. I am not entitled to rely on the review to satisfy my article 2 obligations. I also have a duty to satisfy myself that publication will not put national security at risk, for example by disclosing details of sources of confidential information.

During the course of the review, the Government submitted to the review team some material that was relevant to its work but which was too sensitive to be disclosed publicly, usually because it contained information which had been provided to the security forces by individuals. If those individuals or others could be identified from information contained in the report it would endanger their lives. I understand that the review does not intend to refer to any material which would constitute a breach of article 2, or compromise national security, but I have a duty to satisfy myself before publication that none of this material has inadvertently been revealed in the report. The review also agreed that the identities of a small number of individuals who were engaged on highly sensitive duties should not be disclosed and I need to be assured that these individuals and others whose lives could be endangered have not been identified.

I have established a small team of officials and legal advisers to assist me in carrying out this necessary exercise. The team will be led by the Northern Ireland Office's principal legal adviser, but will also include members drawn from the Ministry of Defence, Security Service, and Police Service of Northern Ireland who are familiar with the sensitive material provided to the review. The team will be granted access to the report under strict terms of confidentiality and for the sole purpose of carrying out the necessary checks, and will report directly to me alone. Sir Desmond de Silva has agreed that this team can carry out the necessary checks on the review's premises while the report remains in his custody, before it is submitted to me. I have confirmed to Sir Desmond de Silva that I am content with this proposal. I understand

Our analysis in relation to clauses 1-5 of the Bill and schedule 1 concludes that:

- Proposals to improve oversight of the activities of the Security Services are a welcome.
- However, further reforms than those proposed to the Intelligence Service Committee and Intelligence Services Commissioner are required to ensure effective independent oversight.
- In particular the role of the Prime Minister in relation to the appointment, functions and reports should be transferred to the Intelligence and Security Committee (ISC) or to Parliament.

Our analysis in relation to clauses 13 and 14 of the Bill concludes that:

- Government has not provided sufficient evidence to justify removal of Norwich Pharmacal jurisdiction

### **Jeremy Bamber: A Life of Less Liberty**

Final article in marking 26 years of wrongful conviction and 27 years of wrongful imprisonment.

“My hopes for the future have evolved considerably during my time in prison simply because I never thought I would stay in jail. But I can’t help thinking about all the things I might do when I am free. I used to think I would like to travel a lot or have a farm somewhere like Australia or New Zealand. The many friends I have had over the years have often led me to think about doing things I’d never thought about before like skiing or surfing. I’ve thought about having a little Chateau in France with a vineyard or spending time by the sea. The nearest I have been to the beach recently was when I called a friend on a mobile phone and I could hear waves of the sea lapping on the beach where he was, it stirred up happy memories.

Now I just think about living an ordinary, uncomplicated life with simple pleasures and enjoying the company of good friends. I want to visit the supermarket and choose from an abundance of foods, walk freely about this beautiful country and picnic in the sunset on a summer’s day. I want the the freedom of choice to go to live music concerts, football matches, the theatre, cycling or just staying in, cooking a nice meal and lounging on the sofa with a glass of wine and listening to music.

Other prisoners have visits from their family and while I have lots of friends, the thing I miss the most is my family. Losing them has been more difficult to bear than 27 years of wrongful imprisonment. Our families are always there for us no matter what, they transcend time that friends or lovers lose when they might come and go but family is permanent and consistent. Many miscarriage of justice cases have family to fight for them, support and love them. I will keep fighting to prove my innocence and clear the name of my family which was portrayed as "dysfunctional" simply by the stigma of Sheila’s mental illness.

When I think about what life might have been like had I not lost my family so tragically and come to jail, I imagine my parents growing older and when I speak to friends whose parents are becoming ill and infirm with age, some living into their late eighties and nineties, I feel cheated that I’ve not had all of those years to share and all that time to care. I never got to see my Dad retire or my Mum continue with her work for the WI and Church. I often wonder what it would have been like for my parents to see Sheila’s boys grow up and have children themselves; there would have been another joy for them being great-grandparents as many older people are today. I wonder what my parents would have made of modern farming. I often think of how things might have been for Sheila if her mental health had been managed properly and we had known how to support her, she could have gone on to marry again if her condition was improved.

I think about what might have become of my own life, one can only guess but I know I would have continued with farming which has always been my passion, and I feel sad that modern farming continues to struggle through financial troubles. I worry that wildlife in the coun-

protect life, and the Jamieson inquest where it is not. Jeremy Hyam has previously argued that such a categorisation is unhelpful, and that Article 2 is relevant also to the Jamieson inquest. That much is plain, given the far-reaching positive and negative duties that Article 2 encompasses whether a death implicates state bodies, private actors, or both, and whether the death in question occurred pre- or post-HRA, in Birmingham or in Basra.

The forward looking, preventative role of the coroner is given a statutory footing in paragraph 7 to Schedule 5 of the 2009 Act, which mandates a coroner’s report and a response to it where in the coroner’s opinion action should be taken to prevent the occurrence or continuation of circumstances creating a risk of other deaths. He is no longer a fact-finder – the effective coroner, it seems, has a new dynamism and is now instrumental to future public safety. He has, in theory, a role akin to that of the Office of the Chief Coroner of Ontario, to whose motto Judge Thornton refers: - We speak for the dead to protect the living.

The Chief Coroner delivers an impassioned vision of this modern purpose. But the frustration over the missed opportunities of the last forty years is palpable if not express. Despite repeated recommendations for a unified operational structure, coroners continue, even post-the 2009 Act, to suffer from what Judge Thornton describes as the “localness” of the system. Whilst policy is set by the Ministry of Justice, coroners are appointed by local authorities and are thereafter subject, on an operational level, to funding and resourcing by that authority as they plough an independent and fairly lonely furrow in isolation from their hundred or so coroner peers. The tension between the need for independence and impartiality of these judges, and the ever-present external influence of local purse strings, is clearly problematic. It has also led to criticisms in terms of the consistency of inquests nationally. Judge Thornton seems to rue a ‘major casualty’ of the change of government – the removal of the Chief Coroner’s appellate jurisdiction that one might have expected to help increase the quality of final decisions and ensure heightened consistency.

Is the current patchwork of coroners working across a loose and largely meaningless national ‘Society’ the way to achieve the aims of Judge Thornton’s coroners system? Viewed against the recommendations of Brodrick (1971), Luce (2003) and Smith (2003) for a unified system, the creation of a Chief Coroner at national level is a modest development. Perhaps the streamlining of the coroners system into one cohesive, national administration would make meeting the international, and statutory, investigative obligation a more straightforward one to meet.

It might also help a Chief Coroner ensure quality and consistency of decision-making nationwide across a forum that has over the centuries become increasingly important in the eyes of the public.

### **Iti Atiba Inquest: Jury Expresses Concerns Over Resourcing Negotiations**

The inquest into the death of Idi Abdullah Atiba, who died on 24 January 2011 of a single gunshot wound to his chest, has concluded at Dunstable Coroner’s Court. For almost 16 hours prior to his death Mr Atiba had been contained by armed officers of Bedfordshire Police on Leagrove Common, Luton in what has been described as the most significant incident of this nature for Bedfordshire Police in a 16 year long period. The Coroner directed the jury that they could not return a verdict of suicide because the evidence heard in the course of the three day inquest did not support that. The jury heard from firearms officers and negotiators who felt certain that the discharge of the gun was accidental.

Mr Atiba’s mother, Rosemary O’Garrow, his sister, Rosalee Noel and brother Gregory O’Garrow were represented at the inquest to raise their significant concern that the com-

manding officers did not give proper consideration to using Rosemary or other family members as intermediaries, or to use them to obtain information about Mr Atiba which might have been used to bring matters to a peaceful conclusion. They also raised concerns about the communications equipment used at the scene, and access to psychological advice.

The jury's verdict was that Mr Atiba died of a self inflicted gun shot wound to the chest. They also agreed that there should be "increased resources directed at intelligence gathering; structures and equipment; the use of psychological/psychiatric assistance; and the potential use of third party intermediaries; to run concurrent to the containment strategy".

The coroner said that he wanted to consider whether or not a Rule 43 letter was appropriate. That is a formal letter written where a coroner believes that the evidence heard in an inquest gives rise to a concern that circumstances creating a risk of other deaths will occur, or will continue to exist, and that action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances.

Mr Atiba's family paid tribute to him today. Rosemary O'Garrow said: "People, and indeed the police, may see Idi as just a man with a gun who may harm others. Yes Idi had his domestic issues, but he was a human being, a hurting human being who was having difficulty dealing with issues in his life. Idi was also a good big brother who took his role seriously and will be sorely missed.

"We as a family are so disappointed that we did not have an opportunity to be part of the negotiation process. We believe that at some point in those 16 hours we should have been allowed to let him know we were there for him and if we had been able to do that, he may not have died.

"My advice to other hurting young men having difficulties is to speak to your family. You may think your family may not understand or care but usually that's not the case. Faith in God is very helpful. I am so grateful to my Church family, family and legal professionals and Inquest, who have all helped us."

*Inquest press release, 01/11/12*

### **Justice for the Bradford Three - Framed by Friends...Cheated by the Justice System!!!!**

Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub

Part two: An Overview of the Case - Shazad Hussain, who was 21 at the time, was shot twice at close range through the window of his Honda Civic as he sat in the vehicle in an alleyway between Amberley Street and Gladstone Street in the Leeds Road area of Bradford early on September 25, 2004. The first shot shattered the driver's window and injured Mr Hussain in the right arm. The second shot hit him in the chest, killing him.

Eye witnesses at the time of the murder described events in Amberley Street around the time of the murder. One reported seeing two white women passengers in a Mitsubishi Shogun, one in the front with shoulder length ginger hair, and another in the back with long dark hair. The car had its engine running and lights switched off and was parked on the right of Amberley Street, facing away from Leeds Road. The car was two to three years old and dark in colour. It rear spare wheel had a cover with a large red letter K on it, with five or six white letters to the right.

When the vehicle's alarm activated the girls were heard screaming and there was the sound of running footsteps and a girl's voice saying: 'What have you done to him, BOB?' and another girl saying: 'Run, run, Robert.' The witness heard a man saying something like: 'Just wait, I'll bring my cassette'. According to Detective Supt Brennan, the leading officer at the time, another witness heard two shots being fired and women's voices saying: 'Run Bob, run Robert'. Two women were seen running towards Durkheim Court, one with loose, short, dark hair, 5ft 4in to 5ft 5in, possibly wearing a dark denim jacket or coat. A car was heard speed-

ing off but the witness did not see the women get into a vehicle. A car alarm was also heard sounding. Yet another person, describing the same event, heard a man say words to the effect of: 'I am just going to get the tape,' the officer added.

What happened next? Well the people described by many eye witnesses at the time of the murder were never traced or should I say no attempts were made. This is because police arrested Mohammed Niaz Khan along with his co-defendants shortly after due to their names being given from certain members of the public. As a result it appears that police had decided it was them at that point and so did not even attempt to focus their investigations elsewhere, i.e. perhaps if they had followed up eye witness testimony who knows what they would have found?

Anyway, although they were initially arrested the Crown Prosecution Service had no evidence that met the criteria to charge them with murder. Of course, they wouldn't have because these men were innocent people. As a result they were released without charge.

It was after nearly two years of further investigation when the police still could not find the killers that a few witness statements surfaced. With no tangible evidence against them - Neither Forensic Nor Eye Witnesses - police found a few misguided souls who either held a grudge or who were going to benefit from their incarceration and as a result 'The Bradford Three' were convicted to life imprisonment in July 2007 for a crime they did not commit.

Victims of a grave Miscarriage of Justice - The Bradford Three were convicted under Joint Enterprise Law. Mohammed Niaz Khan was convicted 'Primarily on Hearsay Evidence'.

Phone evidence shows Mohammed Niaz Khan was not at the murder scene at the time of the murder. - His co-defendants were also nowhere near the scene. - No forensics on Mohammed Niaz Khan and Sharaz Yaqub. - No eyewitness testimony linking Mohammed Niaz Khan, Abid Hussain and Sharaz Yaqub at the scene of the crime. - False statements given. - Retractions had then been made by some witnesses after having a change of heart. Guilty Consciences no doubt! - Credibility of these witnesses was never questioned. - Solicitor cleared of wrongdoing. - Detective charged for dishonesty- production of a false document, linking to statements made in the case. Part one appeared in "Inside Out" issue 386

### **Justice & Security Bill - Legal Opinion of the Human Rights Commission**

The Commission has analysed the proposals for the Justice and Security Bill in light of the requirements of the Human Rights Act 1998. We have also sought a legal opinion from leading Counsel on the proposals in clauses 6-11 of the Bill on the use of closed material procedures in civil claims.

In summary, the legal opinion concludes that:

- The provisions of the Bill relating to the introduction of a closed material procedure are incompatible with the common law right to a fair trial of an excluded party;
- The options to invoke a closed material procedure and to make a closed material application are incompatible with article 6 of the European Convention on Human Rights (the Convention) notwithstanding clause 11(5)(c) of the Bill; and
- The options given to a relevant person to elect not to comply with orders of the court for disclosure and to provide a summary of evidence. referred to as 'gisting', are likewise incompatible with article 6 of the Convention notwithstanding clause 11(5)(c) of the Bill.

In addition our analysis on clauses 6-11 notes that:

- There is no clear definition of national security or what constitutes sensitive material. Furthermore clause 6(3) prohibits a court from considering whether the interests of justice outweigh those of national security.