of his two sons. A sentence of life imprisonment was imposed with a punishment part of 21 years. The SCCRC has decided to refer the case to the High Court because the Commission believes that there may have been a miscarriage of justice on the basis that it appears that he may suffer from a mental disorder which was undiagnosed at the time of his plea and which might have entitled him to plead that his responsibility was diminished. The Commission is also satisfied that it is in the interests of justice that the case be referred.

Prisoners Win Big Payouts For Parole Delays *Brian Brady, Indpendent, 20/01/13*

Murderers, rapists and kidnappers have received compensation totalling hundreds of thousands of pounds from the Government after complaining that delays in their parole hearings breached their human rights. The Parole Board has admitted that a backlog of cases has forced it to pay out more than £300,000 in the past three years to compensate scores of prisoners for "distress" caused by the delays. The total bill for compensation in 2012 was more than £100,000 and includes a £9,000 payout to a murderer who sued the authorities when they missed the deadline for deciding whether he should be freed on parole. The Parole Board yesterday blamed the soaring costs on the increased workload caused by Imprisonment for Public Protection (IPP) sentences introduced in 2003. But a Conservative MP said the figures were "an indictment" of the justice system. "The public will be astonished that people like murderers and rapists can make a profit from proceedings designed to help them get out of prison early," said the Shipley MP Philip Davies. "This is not about wrongful imprisonment." More than 6,000 people in English jails are serving IPPs, introduced for a range of violent and sexual offences. Courts must set a tariff reflecting the seriousness of the crime, and once this has expired the Parole Board has to consider them on a regular basis for release on licence. Ministers admitted last year that the average interval between an IPP sentence being referred to the Parole Board for a review and the case being heard – scheduled to be six months – had stretched to seven and a half months. The delays sparked an avalanche of compensation claims under the European Convention on Human Rights, from prisoners claiming their reviews had been unfairly delayed.Samuel Sturnham, who was jailed for manslaughter in 2007 after killing a man in a pub brawl, won £300 at the High Court after he claimed waiting for his parole review had caused him "anxiety and distress". The parole hearing, when it was eventually held, refused to let him out of prison. Almost 80 criminals, half of them convicted killers, have received sums ranging from £300 to £9,000 in the past three years, according to figures obtained under freedom of information legislation. In 2010, there were 23 successful claims, amounting to £54,100; in 2011, the totals rose to £156,500, shared between 26 claimants; and last year a record 30 prisoners received £102,550. The successful claimants included 38 murderers, seven rapists and five people serving time for manslaughter.

Hostages: Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, 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, 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,

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

MOJUK: Newsletter 'Inside Out' No 408 24/01/2013)

Justice 4 Darren Waterhouse

Darren used to the serve with the Cold Stream Guards, and was honoured for his highly commendable actions by way of a Military Cross, and also presented with a Radar People of the Year Award

Darren Waterhouse was convicted in 2005 for the Murder of Craig Barker and sentenced to 30 years in prison. Darren has always professed his innocence to the crime and still does to this day.

This involved the shooting of Craig Barker from Liverpool, Darren had associates from that area, that he had meet whilst in prison previously whilst on a drugs charge, yes he was no angel as far as being involved in drugs was concerned, but he certainly is not a killer.

For one reason and another he became involved in the drug culture having left the army. Whilst serving his prison sentence he met his co-defendant William Moore, they became friends and associated outside of the prison environment. William had a brother John, there appeared to be some discontent with a notorious family "The Gee's" in Liverpool.

On the night Craig was killed, Darren had agreed to attend Liverpool to see William, he travelled up in his own car, using his own mobile phone to keep in contact with William and taking his dog with him. The prosecution allege that Darren attended Liverpool as a contract killer, and that Darren Gee was the intended victim, not Craig. This occurred on Robson Street on the Grizedale estate in Everton on April 6 2004. Craig was in a car with 3 of his friends, Darren Gee, Ian Gee, Mark Richardson, the driver of the car was usually Darren Gee, (the one who the Moore's was having trouble with) Darren Gee has just got In the back of the car as he was playing with a computer game that had just been installed so Craig was the driver. They were driving around the Everton area, when a car was parked up and a male jumped out and opened fire on the galaxy car they were in. Shots were fired all over the car, in what was described as in an uncontrolled manner, Craig was shot several times as he scrambled around in the car, 2 passengers received no injuries, and one (Ian gee) received injuries to his leg/thigh. The gunman left the scene in his car, which was later discovered, burnt out.

The police attended the scene and all parties refused to cooperate with the police. Later that evening Craig died from his injuries. Later on further statements were obtained from the other occupants of the car; Darren Gee gave a description of the gunman as a "red/ginger hair looking male wearing an alpine hat".

Darren was arrested in Luton at his home address. Whilst at the police station Darren was asked to co-operate in an identification parade, which he consented. The ID suite was new at Luton police station, and Darren had been arrested with no clothing on his upper body (it was a hot summers day) and the police ID suite did not have any clothing to offer Darren but the officer investigating the crime had a spare t- shirt. The t- shirt was taken and worn by Darren on the parade (it was a video parade). The T-shirt was navy, and the other volunteers on the parade were specifically selected who wore a navy t-shirt as well to blend in with the t-shirt Darren had been given.

By the time the video had made its way up to Liverpool, the volunteers had been changed by the inspector as not being suitable, and the volunteers wearing a navy t-shirt had now been removed. The video was thereafter shown to the 3 occupants in the car, who had now

changed their mind and decided to cooperate with the police, Ian picked out Darren from the video parade albeit in his statement he had said "i didn't see him fire or what he was firing because i ducked down straight away, i can only recall both were white males and that is all really. I can't recall any clothing or ages or sizes, it all happened too fast, my head was down in my lap area. The others did not make a positive identification.

An anonymous witness stood approximately 12 foot from the junction, phoned the police and gave a description of the gunman, as wearing a balaclava hat (cricket style) and coveralls and gloves on. Darren was charged with the Murder along with William and John Moore.

During the trial, it emerged that Craig's mother had given the police a list of several names that she believed were responsible for killing her son and all the names on this list have since been shot and killed. There was also another male who was ginger haired from the area, and who had a fractured relationship with the “GEE'S” who had secured his alibi as he had been in an off licence around the time of the shooting where his girlfriend worked, and had secured the CCTV footage from the shop and lodged with it his solicitors even before he had been arrested and questioned. Slightly strange behaviour!!

Darren accepted that he was in Liverpool that night but not to shoot or kill any person. During his trial an ex-soldier attended the trial, who was now a serving Police Officer and stated that Darren was an expert with firearms and a uncontrolled shooting was not his style or how they had been trained to shoot, they had been taught a “double tap” when shooting to kill in the Army, two shots to the chest and two to the head, without sounding like boasting, he was too much of an expert to shoot in such a haphazard way.

Darren Waterhouse and William Moore were convicted by the Jury and sentenced each to 30 years in prison. The CPS proceeded to have another trial with John, who then pleaded guilty on the basis he knew harm was going to be caused but not death.

Some years after the conviction, Darren Gee sent Darren Waterhouse a Xmas card stating that his brother had been able to pick him out on the ID parade as the police had told him what t shirt Darren was wearing. A statement was taken from Darren Gee by the solicitor.

During the disclosure of the trial, the CPS refused to disclose the 999 call recording stating “it did not assist the defence or undermine the prosecution case”.

Mark Richardson phoned 999 when the car was under attack, and there are specific questions that the operator asks especially in particular to descriptions of suspects.

Based on this new evidence, an application was made to the Court of Appeal (COA) who considered this “new evidence from Darren Gee” and dismissed the application stating that Darren Gee was not a credible witness and could not be believed. An argument was presented by John Cooper QC (acting on behalf of Darren) that the 999 call was relevant in light of this new indication. The COA refused to see the relevance of this and did not agree the 999 call should be disclosed. If the 999 call does not undermine the prosecution or assist the defence, then why has this recording not been disclosed?

The Solicitors stated that in most cases the 999 transcript is served, then why was it not served in this case, this in itself makes it highly suspicious!!

Darren is adamant this 999 tape recording will prove his innocence unless we can find another witness who comes forward who is seen to be credible, or further new evidence is found.

This is a complete Miscarriage of Justice - here is a highly trained solider who on the prosecution's case could not carry out a contract killing on the right victim, used his own car and phone, and had to spray a car with 9 bullets from 3 feet away. The very same man, who,

their way through case material - saving significant time and money.

Damian Green said: 'Maidstone Magistrates' Court and the Crown Prosecution Service (CPS) are leading the way in delivering swift and efficient justice. They have done a fantastic job implementing video-technology which has helped speed up court cases, made it easier for vulnerable witnesses to give evidence, and delivered savings in time and money. I want the justice system to respond more effectively to the needs of victims, witnesses and professionals and what I have seen today is a great example of this being delivered locally.'

Liam Campbell: Extradition to Lithuania Won’t Happen *BBC News, 16 January 2013*

A man held liable for the Omagh bombing should not be extradited to Lithuania to face weapons smuggling charges, a judge in Belfast has ruled. Mr Justice Burgess refused to order Liam Campbell's transfer. He said he was likely to be held in inhuman and degrading conditions if extradited. Campbell, 49, from Dundalk, is wanted in the Baltic state over allegations he was part of an operation to buy guns and bombs for the Real IRA. His lawyers resisted extradition proceedings by arguing that it would breach his human rights. They brought in a special adviser to the British Home Office and the Council of Europe's Committee for the Prevention of Torture as part of their case. Prof Rod Morgan visited Lukiskes Prison in Vilnius and delivered a critical assessment of prison regimes in Lithuania. Campbell's case centred on an argument that extradition would breach his right to freedom from torture, inhuman or degrading treatment or punishment under European law.

Mr Justice Burgess pointed out that reports of human rights violations were not in themselves evidence that a person would be at risk. The determining factor was whether violations were systemic and the extent to which an individual could be specifically vulnerable to them. After referring to an earlier judgment which detailed severely overcrowded and unsanitary conditions at Lukiskes Prison, the judge said he was satisfied that extraditing Campbell to Lithuania would expose him to a real risk of inhuman and degrading treatment by reason of the jail conditions. His decision is expected to be appealed by the Lithuanian authorities.

Meanwhile, Liam Campbell remains in custody pending a bail application which could take place this week. He has been in prison since he was arrested after crossing the border into south Armagh in May 2009. A month later he was found liable, along with convicted Real IRA leader Michael McKevitt, for the Omagh bombing. That verdict followed a landmark civil action brought by relatives of some of the 29 people killed in the August 1998 atrocity.

Mr Justice Morgan, now the Lord Chief Justice Sir Declan Morgan, said at the time there was cogent evidence that Liam Campbell was a member of the Real IRA's Army Council. Two other men originally held responsible, Dundalk-based builder and publican Colm Murphy and Seamus Daly, from Cullaville, County Monaghan, are currently facing a civil retrial after the findings against them were overturned on appeal.

Colin Ross to the High Court of Justiciary

Scottish Criminal Cases Review Commission (SCCRC): On 19 December 2006, at Edinburgh High Court, Mr Ross was convicted of attempted murder. An Order for Lifelong Restriction with a punishment part of 20 years was imposed upon him. The Commission has decided to refer Mr Ross’s sentence to the High Court because it believes that the punishment part is excessive.

Ashok Kalyanjee to the High Court of Justiciary

On 26 November 2008, at the High Court at Glasgow, Mr Kalyanjee pled guilty to the murder

The focus of the Claimants' arguments was that the sexual activities of Mark Kennedy fell outside those of an undercover officer that could be authorised for the purposes of the 2000 Act (and therefore the jurisdiction of the IPT).

In an important ruling in respect of the activities of undercover police officers and other Covert Human Intelligence Sources, Tugendhat J held that where these interfere with a fundamental right they cannot be authorised under the 2000 Act. However where the conduct interferes with a right that is less than a fundamental right (such as the right to privacy, for example) this is capable of being authorised as part of the conduct engaged in when acting as a CHIS. The definition of a sexual relationship "is too broad and uncertain a concept for the whole range of such possible relationships to be characterised as degrading and so outside the scope of any possible authorisation" said the judge, an opinion that is likely to be controversial.

In terms of the questions the Court was asked to answer, unsurprisingly perhaps in light of Tugendhat J's views on the scope of conduct capable of being covered by the 2000 Act, he was of the view that the IPT had exclusive jurisdiction.

As to the second question relating to non-Human Rights Act claims, the judge held that the IPT had no jurisdiction to hear these. Section 65 did not apply as the proceedings were not a complaint as they would be required to be under section 65(2) (b) and (4).

But what should the court do in respect of the common law proceedings issued pending the resolution of matters before the IPT? Counsel for the Police said they should be either struck out or stayed. In an interesting approach to this issue the Police argued that they could not have a fair trial in the High Court as it would undermine, amongst other things, the principle of neither confirming nor denying (NCND) an allegation which, if true, would relate to sensitive information or practices.

Counsel relied on the decision in Al Rawi v Security Service [2012] 1 AC 531 (UKHRB post) which held that secret hearings in civil proceedings were not permissible unless there was legislation permitting this (and hence the current Justice & Security Bill on the subject). This argument was rejected by Tugendhat J, who concluded there was no evidence that the Claimants' rights to bring non-Human Rights Act claims "are outweighed by the public interest in ensuring that information about police operations are not disclosed to the public at large".

Importantly the judge held that the policy of 'neither confirm nor deny' "does not give the equivalent of an immunity from claims in tort". The proceedings were not an abuse of process in the circumstances and would not be struck out. However, the interests of justice would be better served by hearing the IPT proceedings first and pending this, the proceedings would be stayed.

[Investigatory Powers Tribunal: The Tribunal can investigate complaints about any alleged conduct by, or on behalf of, the Intelligence Services - the Security Service (sometimes called MI5), the Secret Intelligence Service (sometimes called MI6) and GCHQ (Government Communications Headquarters). The scope of conduct the IPT can investigate concerning the Intelligence Agencies is much broader than it is with regard to the other public authorities. The IPT is the only Tribunal to whom complaints about the Intelligence Services can be directed.]

Faster Miscarriages of Justice - Improving Justice Through New Technology?

Video-technology is currently used between Maidstone Magistrates' Court and 12 police sites to: Enable vulnerable and intimidated witnesses to give evidence in a separate location to the defendant; Save valuable police time as officers give evidence from their local station rather than going to court; Speed up the court process with hearings taking place via video from the police station or prison. The use of tablets allows prosecutors to easily navigate

was awarded the military cross for his bravery and leadership, and served 14 years, most of which he was an instructor in weapons tactics. He also served on covert ops.

It's shocking that Darren has to potentially spend the rest of his life in jail until he can prove his innocence. How can this be fair justice?? Why won't the CPS disclose the 999 recording?? This is vital evidence to prove Darren's innocence. Furthermore, Darren had 2 mobile phones on his person when he was arrested, both of which were seized by the police, and yet only evidence was served from one phone, why did they not serve the interrogation report from the second phone?

The prosecution suggested that Darren received money for the killing, there was no evidence that funds had come from William Moore. Yes Darren did have money but that was from cultivating cannabis, the police said that the crop had not come to fruition, and served an account statement from the electricity company which showed money had been put on the electricity meter from November 17th 2003 to January 22 2004 in the sum of £210. After the court case his defence team managed to obtain a full electricity statement which showed that £1650 of electricity had been used from July 2004 and a full crop of cannabis had been grown by this stage, contrary to what the police/prosecution suggested.

If anyone has any information regarding this matter, then please contact us at justice4darren@gmail.com If you have any information relating to this case we would love to hear from you. Even if you think what you have to say isn't important, it could make a difference. All information provided here will be treated with the strictest of confidence. Or write directly to Darren

Darren Waterhouse: A7071AL, HMP Whitemoor, Longhill Road, March, PE15 0PR

Another Joint Enterprise Hits the Rocks of Belated Justice Or does It?

A man jailed for murdering two soldiers at Massereene Army base in Antrim has had his convictions quashed. Brian Shivers, 47, from Magherafelt, challenged his convictions for the murders of Sappers Mark Quinsey, 23, and 21-year-old Patrick Azimkar in March 2009. The victims were shot by the Real IRA as they collected pizza. On Tuesday 15th January 2013, the Court of Appeal ruled the verdict was unsafe. The court said that no finding was made on when Shivers allegedly became aware of the murder plot. Shivers will now remain in custody until the Public Prosecution Service decides whether to seek a retrial.

Last February, Shivers was ordered to serve a minimum 25 years in prison for his part in the killings. At that time, he was also found guilty of six counts of attempted murder and one of possession of two firearms with intent to endanger life. His co-accused, Colin Duffy, a 45-year-old republican from Lurgan, County Armagh, was acquitted of all charges, including the two murders. Shivers, who suffers from cystic fibrosis, was originally found guilty as a secondary party who aided and abetted by setting fire to the getaway car. DNA analysis had established a link to matches found in the partially burnt-out Vauxhall Cavalier used by the gunmen. But Shivers' lawyers argued that it was legally impossible for him to he convicted of murder because there was no actus reus, or criminal act, prior to the murder.

Lord Chief Justice Sir Declan Morgan said the trial judge had not dealt with the concept of a joint enterprise. "The issue for the court was whether it should be inferred that there was a common enterprise to which the appellant agreed prior to the attack to carry out a shooting attack with intent to kill," Sir Declan Morgan pointed out. The learned trial judge made no finding on this issue." Sir Declan, sitting with Lord Justices Higgins and Girvan, held that the test applied by the trial judge required no knowledge of the attack until a rendezvous with the gunmen. On that basis he stated: "We do not accept that a person who provides assistance after

a murder with full knowledge of what has happened thereby becomes guilty of murder. There is no authority to support such a proposition. The learned trial judge made no findings as to when the appellant had the relevant knowledge." We conclude, therefore, that the appeal must be allowed." Counsel for the Public Prosecution Service is expected to confirm on Wednesday whether it is seeking fresh criminal proceedings.

Shivers, who maintained his innocence, appeared by prison video link to hear the outcome of his appeal. His lawyer said he was relieved by the verdict but expressed concerns about his health. "This is an example of the justice system working, however, we are gravely concerned at our client's ongoing acute medical condition. He has been admitted to hospital for 56 days across three separate admissions since the hearing of his appeal in May and he is routinely refused access to his medication. Mr Shivers has been through a terrible ordeal whereby he has been repeatedly assaulted /abused whilst in prison and in hospital where he is continuously under armed guard. Mr Shivers looks forward to the end of this ordeal and hopes that this judgement is the first step towards that."

Brian Shivers, to be Tried Again After His Murder Conviction Quashed

Northern Ireland's court of appeal ruled on Wednesday 16th January, that Brian Shivers must be tried again in relation to the Real IRA double murder outside Massereene army base in March 2009. Crown barrister Terence Mooney said Shivers still had a case to answer. He told the three appeal court judges: "We submit it's in the interest of justice that you may order a new trial." Mooney said there was still a matter to be decided of whether Shivers, who was in court for the hearing, had foreknowledge of the attack and was part of the wider murder conspiracy.

Counsel for the defence argued that as the appeal judge had rejected key elements of the original prosecution and trial, if the same evidence was to be relied upon in a retrial, as it undoubtedly would, then that could potentially call into question the integrity of the administration of justice.

However, after considering the submissions, the lord chief justice, Sir Declan Morgan, said a retrial was in the interests of justice. He said issues about the integrity of the evidence could be argued in front of the trial judge, who would be hearing the case in the absence of a jury or before another court.

Convicted Killer Filmed 'Passing Lie Detector Test'

Luke Mitchell, convicted murderer of a Scottish schoolgirl has become the first prisoner to post a video on YouTube showing him apparently passing a lie detector test to prove his innocence. Luke Mitchell was given permission by prison officials to release a 16-minute film, in which he denies killing his 14-year-old girlfriend Jodi Jones in 2003. The 24-year-old, who is serving a life sentence at Shotts Prison in Lanarkshire, Scotland, has consistently denied the murder. In the footage filmed last April, he is seen being questioned by an independent expert, Terry Mulllins, secretary of the British Polygraph Association. When asked: "Were you present when Jodi was stabbed?", he replies "No". And when questioned: "Did you stab Jodi on 30 June, 2003?" he again replies "No" – and further denies knowing for certain where her body would be found. During the interview process, which took two-and-a-half hours in its entirety, Mr Mullins also asks Mitchell a series of "comparison" questions to help him assess the truthfulness of his responses to the three key questions.

It is understood that Mitchell hopes releasing the clip on YouTube will help persuade the public he was wrongly convicted. The film, which was posted online on Saturday, is believed to be the first time a convicted British prisoner has been seen taking and passing a polygraph test while in jail. Mitchell's mother Corrine spoke of her happiness at the public being able

Human Rights Claims Against Undercover Police to be Heard in Secret

Simon McKay, UK Human Rights Blog, 18/01/13

AKJ & Ors v Commissioner of Police for the Metroplis & Ors [2013]

The High Court has ruled that the Investigatory Powers Tribunal was the exclusive jurisdiction for Human Rights Act claims against the police as a result of the activities of undercover police officers, authorised as Covert Human Intelligence Sources, where such conduct was not a breach of a fundamental right. The Tribunal did not have jurisdiction to determine proceedings brought by Claimants at common law.

The decision of AKJ and related litigation is the latest instalment of the fallout from the activities of undercover police officer or Covert Human Intelligence Source (CHIS) Mark Kennedy and another police officer. Kennedy infiltrated environmental protest groups including those that resulted in convictions following events at Ratcliffe on Soar power station. The convictions were later quashed following revelations about Kennedy's activities which included allegations he had engaged in sexual relationships with a number of female protestors and other prosecutorial impropriety. A number of those affected by Kennedy's actions subsequently brought claims in tort (for example alleging deception) and under the HRA 1998.

This ruling by Mr Justice Tugendhat relates to which court or tribunal should hear the victims' claims for compensation as a result of section 65 of the Regulation of Investigatory Powers Act 2000 (the 2000 Act) and the Supreme Court decision of R (on the application of A) v Director of Establishments of Security Service [2010] 2 AC 1 also referred to as A v B. The alternatives were the normal courts (in this case the High Court) or the highly secretive Investigatory Powers Tribunal (IPT).

The background: The background to A v B is very interesting. A was an MI5 officer who wished to publish a book about his experiences with the organisation. He followed what was then the procedure laid down by the court in the David Shayler case which was by way of first asking the organisation to agree to publish and if they refused to bring a judicial review of the refusal. However, MI5 (the Security Service) argued that following the 2000 Act the procedure had changed. This argument appeared something of an afterthought at the time since the 2000 Act was in force by the time the Shayler case was decided but the Supreme Court dealt with this by stating somewhat unsatisfactorily that no one had referred them to the 2000 Act during the course of the proceedings.

In the event the Supreme Court held in A v B that in respect of challenges by members of the intelligence agencies (as opposed to the police) the IPT was the appropriate venue to determine the issue of whether permission should be given.

The questions the court was required to answer in AKJ v CMP were threefold: 1. Did section 65 of the 2000 Act mean that the Claimants had to have their Human Rights Act claims decided by the IPT? - 2. Could the IPT hear the other claims brought in tort? - 3. If the IPT could hear the non-Human Rights Act claims what should happen to the proceedings issued in the High Court in the interim? The Court dealt with the powers of the IPT at paragraphs 98 to 103 before addressing the three questions set out above. Importantly section 65 of the 2000 Act states that the IPT is the exclusive tribunal for proceedings under section 7(1) (a) of the Human Rights Act 1998 (an act by a public authority incompatible with rights of the individual under the European Convention on Human Rights). This includes the acts of undercover police officers that take place in challengeable circumstances.

training to take on such significant responsibilities.

Accommodation ranged from badly equipped, shared standard cells with poorly screened toilets to units with communal facilities and in which men had free movement, to units with modern cells and en-suite toilets and showers. Some units were used for specific sections of the population, such as category D prisoners or those attending offending behaviour programmes. However, there appeared to be little link between the quality and restrictions of the accommodation and the progress the prisoners it housed were making. There was an opportunity to make virtue out of necessity and use the different types of accommodation to provide more meaningful incentives for prisoners to progress than was done by the largely ineffective incentives and earned privileges scheme.

Relationships with staff were generally good and there was a more effective personal officer scheme that we usually see. However, too many residential officers were shut away in their offices during exercise and association periods, losing opportunities for the sort of day-to-day interactions that should underpin safety and security.

Diversity work was generally underdeveloped and over dependent on a small number of specialist staff. The perception of prisoners from minority groups was often worse than those of the population as a whole, and we found good reason for why this might be so in too many cases. Prisoners were dissatisfied with health services but we found services to be reasonable. On the other hand, prisoners were very dissatisfied about the food - and we concluded they were justified in being so.

The prison made good use of the activity places it had. Most were good quality and helped prisoners obtain useful qualifications. Attendance and punctuality were also good and there were strong links with local employers. However, for a training prison, there were simply too few places available. The prison made good use of prisoners as orderlies in a number of roles, but about 20% of prisoners were underemployed in wing domestic duties, and we found 15% of prisoners unemployed and locked in their cells during the working part of the day.

Offender management was the issue that caused us most concern. Intentions were good - there was a decent strategy, structure and policies but these were undermined by a lack of contact between prisoners who were assessed or presenting a high risk of harm and their supervisor. A backlog of assessments had built up and supervisors had been diverted from direct contact to address this. Planned contact for those assessed as lower risk was limited to an annual review, although wing surgeries mitigated the effect of this to some extent. Help with practical resettlement needs was better, but the prison was in an isolated location a long way from most prisoners' homes - and poor visiting arrangements made it difficult for men to maintain contact with their families.

In some ways Highpoint was a microcosm of the prison system as a whole. It held men in accommodation that reflected wide variations in approaches to prison design over a number of decades. Despite the evident challenges of managing such a large site and population, the prison provided a generally safe and decent environment - although there were inconsistencies and prison managers were unsighted on some areas of concern. The prison tried hard to maximise the number of prisoners engaged in purposeful activity but there were insufficient activity places to ensure all men could participate in purposeful activity. As we too often see, a sensible strategic approach to addressing men's offending behaviour was undermined by simply too little contact between prisoners and the staff responsible for supervising their progress in this area. While much of what we saw was typical of similar prisons elsewhere, visits arrangements and facilities were noticeably poor.

to see her son apparently proving his innocence. "He says he has never had anything to hide so he didn't hesitate when he had the chance to take it," she said. "Luke told me he believes the test is a crucial indication of his innocence to go along with other issues, such as the lack of forensic evidence linking him to the crime." Mrs Mitchell is also reported to have passed her own lie detector test supporting her story that her son was at home at the time of the killing.

Schoolgirl Jodi was found dead on a remote path with her throat slashed and cuts to her eyelids, right cheek, left breast, abdomen and right forearm. She had been on her way to meet Mitchell, who was also just 14 at the time, shortly before the killing. Her body was later found by him near his home in Dalkeith, Midlothian.

During his trial, the prosecution said only someone with "guilty knowledge" could have found her so quickly at night in poor search conditions, but Mitchell insisted his dog led him to her body. Mitchell's case is currently being reviewed by the Scottish Criminal Cases Review Commission, which investigates potential miscarriages of justice and can recommend new appeals. Currently polygraph tests are inadmissible in Scottish courts, but a report on Mitchell passing the lie detector has been included in his submission to the commission.

Boot Camp Justice On the Way Back Says Crispin Blunt

Offenders will be made to do a full five day week of hard work and job-seeking, under new proposals for community sentences confirmed today by Minister, Crispin Blunt. The work will include hard manual labour, improving public areas by clearing up litter, cleaning graffiti and maintaining parks and other green spaces.

The new instructions will see unemployed criminals forced to work a minimum of 28 hours over four days, with the fifth day spent looking for full time employment. Prior to today's announcement, Community Payback programmes could be spread out over 12 months with some offenders working for a minimum of just six hours per week. The new, more intensive scheme, will also be delivered more immediately after sentence, imposed on offenders within seven days of sentencing, instead of the two weeks it currently takes following the court appearance.

About 100,000 individuals are sentenced to Community Payback each year across England and Wales with over 8.8 million hours of unpaid work completed last year. The public can nominate jobs for offenders via direct.gov. Offenders can also be required to undertake hard manual labour such as working on a community farm, as in the attached case study.

These proposals for community sentencing are part of the Government's plans to reform sentencing and tackle the root causes of offending. As well as giving something back to communities affected by crime, they will help bring structure to offenders' lives. This will encourage them back into the routine of hard and meaningful work, in line with Government plans for Working Prisons for those who receive custodial sentences.

Crispin Blunt said: 'If you are unemployed and on Community Payback you shouldn't be sitting idle at home watching daytime television or hanging about with your mates on a street corner, you should be out paying back to your community through hard, honest work. The public want to see offenders giving something back to their communities, but they are rightly not satisfied with seeing only a handful of hours a week dished out. Decent, law-abiding people can work a full five day week and so should offenders. If we are to reduce the scandalous reoffending rates, it is essential that we help turn offenders into ex-offenders. The introduction of regular, meaningful hard work is proven to help break the cycle of crime and encourage a law-abiding life. This means fewer criminals, fewer victims of crime and much reduced costs

for the taxpayer – a wholly positive result for society.'

Earlier this year the Ministry of Justice announced that Community Payback will be competed out to approved companies and probation trusts. The purpose of the competitions is to drive efficiencies in public protection and further help to cut re-offending. This is one of a number of proposals to make community sentences more punitive. The Ministry of Justice recently confirmed that tagged offenders will be confined to their homes for up to 16 hours every day for a year.

Other measures being taken forward in the Legal Aid, Sentencing and Punishment of Offenders Bill include a review of Imprisonment for Public Protection sentences, with a view to replacing them with a tougher determinate sentencing regime and a greater use of life sentences. The Government is also looking to introduce a new offence of aggravated knife possession, with a mandatory prison sentence of at least six months.

Early Day Motion 932: Prison Closures And Privatisation

That this House is concerned by the Government's recent announcement that seven of Her Majesty's prisons in Bullwood Hall, Camp Hill, Canterbury, Gloucester, Kingston, Shepton Mallet and Shrewsbury are to be closed at a time when the prison population is high and prisons are already overcrowded; notes that this will put further pressure on remaining prisons, make rehabilitating prisoners more difficult and put safety at risk; further notes that as well as damaging prison services it will lead to massive job losses harming the economies of the local communities where the prisons are based; further notes that with the Government announcing in November that four more prisons are to be privatised, the decision to close public prisons and build new blocks in three private prisons will mean a higher proportion of jails are now being run for profit; and calls on the Government to launch an independent review of prison privatisation and for them to reconsider the proposals to close these prisons and to focus on reducing prison overcrowding through improving rehabilitation and reducing reoffending.

Drug Dealer'S Ex-Girlfriend Left With 535K Bill *Crime & Justice, January 16, 2013*

Daniella Green has been ordered to pay £535,000 within twelve months or face 7 years in jail. She pleaded guilty to being concerned in an arrangement which she knew facilitated the retention of criminal property at Manchester Crown Court. She was sentenced to six months imprisonment, suspended for two years. Originally the girlfriend of David Statham, a notorious drug dealer who was jailed in 2001 following a National Crime Squad investigation into the importation of £7.5 million of cannabis. After initially escaping from custody, Statham was recaptured in the south of France and pleaded guilty to a number of offences, including drug importation from Spain to mainland UK. Assets to the tune of £107,000 were later confiscated from Statham. He was killed in a road traffic collision in 2006. Statham made three failed applications for a plot of land on Higher Starring Lane in Littleborough, before Green successfully acquired it in July 2003. By 2005, a mansion had been built, and was worth £1.2 million. Its value today is in the region of £600,000.

The police investigation uncovered evidence that following Stathams death Green had taken over the running of the house. The same inquiry also uncovered evidence of criminality involving Green's most recent partner, Scott Baker. Baker, pleaded guilty to theft and was sentenced to nine months imprisonment, suspended for two tears. A director of the Saddleworth Hotel in Delph, Baker stole £47,000 from the Saddleworth Hotel and hid it away in a safety deposit box.

Detective Constable John Conroy said: "This has been a long, protracted criminal inves-

Article 1 of Protocol No.1 - Protection of property. The Court observed that the hasty manner in which the applicants had been transferred from Izyaslav Prison to the two other detention centres, without any chance to collect their personal belongings, was corroborated by sufficient evidence. In the absence of any evidence provided by the Government to prove that the applicants had eventually received their property, the Court concluded that at least some of it had to have been lost. That interference with the applicants' rights was not lawful and had not pursued any legitimate aim. Accordingly, the Court found a violation of Article 1 of Protocol No. 1.

Just satisfaction (Article 41): The court held that Ukraine was to pay to each of the 17 applicants 25,000 euros (EUR) in respect of non-pecuniary damage and to one of the applicants EUR 10,000 in respect of costs and expenses.

Report on an Announced Inspection of HMP Highpoint

Inspection 10–14 Sept 2012 by HMCIP, report compiled Novr 2012, published, 16/01/13

Inspectors were concerned to find that: - there was a marked discrepancy between prisoners' own perceptions of safety, which were worse than in comparable establishments, inspectors' own observations, and the prison's data;

- prisoners said there were significant gang issues in the prison and their accounts were credible - prison managers had not identified this;
- Offender management was the issue that caused us most concern
- the standard of accommodation was mixed;
- the perception of prisoners from minority groups was often worse than those of the population as a whole;
- there were too few activity places available, and around 15% of prisoners were unemployed and locked in their cells during the working part of the day; and
- its isolated location was a long way from most prisoners' homes and poor visiting arrangements made it difficult for men to maintain contact with their families.

Introduction from the report: Highpoint is a large, category C training prison near Newmarket in Suffolk that holds about 1,300 adult men on two distinct sites, Highpoint North and South, which were for some time run as separate establishments.

There was a marked discrepancy between prisoners' own perceptions of safety in the prison, which were worse than we see in comparable establishments, and our own observations and the prison's data, which found generally sound processes for ensuring prisoners were safe and a calm atmosphere. However, prisoners' perceptions that there were significant gang issues in the prison appeared to be well founded; prison managers had not identified this.

The large perimeter and rural location were a security challenge. The threats posed by illegal drugs and mobile phones were proactively managed. Nevertheless, positive drug testing rates were high and there had been significant finds of both. A quarter of prisoners told us it was easy to get drugs in the prison - although this was a lower proportion that we sometimes see elsewhere.

Reception and first night processes were poor. Reception areas and some first night cells were dirty. Some prisoners did not have an opportunity to make a telephone call or have a shower on the day they arrived. All of these processes were heavily dependent on prisoner orderlies to deliver. For the most part this was appropriate and worked well but it went too far. Some staff seem to have avoided their own responsibilities and left it to the orderlies to carry out confidential and sensitive procedures, such as first night risk interviews. Orderlies were anxious about this and told us they were concerned they did not have the experience or

proceedings on several occasions - that the investigation had been incomplete. In the Court's view, the authorities had hastily searched for any reason to discontinue the proceedings.

Moreover, the investigation had been entrusted to the prosecutor who was also in charge of supervising compliance with the law in penal institutions. The Court had already found in previous judgments in cases against Ukraine that the status of such a prosecutor, his proximity to prison officials and his integration into the prison system did not offer adequate safeguards such as to ensure an independent and impartial review of prisoners' allegations of ill-treatment on the part of prison officials.

Finally, no evidence in the case file showed that any of the decisions taken in the proceedings had been duly served on the applicants. Their right to participate effectively in the investigation had thus not been ensured. The public at large had been denied detailed information about the investigation which had hindered the possibility of public scrutiny.

In conclusion, the investigation had been inadequate. The Court therefore dismissed an objection of the Ukrainian Government to the effect that the applicants' complaint before the Court was premature since they had not exhausted the national remedies. The Court accordingly found a violation of Article 3 as regards the investigation of the applicants' complaints of ill-treatment.

Article 3 (treatment) : While the national authorities had acknowledged the use of limited physical force only with regard to two of the applicants, the Court found it established that all 17 applicants had been subjected to the treatment of which they complained. The Court was not convinced by the medical records noting that five of the applicants did not have any external injuries, given that the examination had taken place more than a week after the security operation and given that there were methods of applying force that did not leave any trace on a victim's body.

Assessing the facts on the basis of the remaining materials in the case file and the findings in another case against Ukraine concerning a similar security operation which had earlier been carried out in Zamkova Prison (neighbouring Izyaslav Prison), the Court noted in particular the involvement of the special forces unit, a paramilitary formation equipped and trained for carrying out antiterrorist operations. It observed that Ukraine had subsequently repealed the legal provisions providing the basis for the existence of such a unit as being unconstitutional and against the Court's case-law. The Court further noted that while before the operation almost all detainees of the prison had participated in a hunger strike to complain against the detention conditions, no complaint was recorded after the operation. Such a drastic change of opinion in a few hours could only be explained by indiscriminate brutality against the prisoners.

The prison authorities had resorted to large-scale violent measures under the pretext of a general search and security operation, which had in fact been targeted against the most active organisers of the hunger strike. The prisoners' protests had been confined to a peaceful refusal to eat prison food and the events had taken place in a prison where all inmates were serving a first sentence for minor or medium-severity offences. Moreover, the officers involved had outnumbered the prisoners targeted in the operation by more than three to one. As regards the two cases in which the use of force had been acknowledged, the authorities had not shown that the violence had been necessary in the circumstances. The Court therefore had no doubt that the authorities' brutal action had been grossly disproportionate given that there had been no transgressions by the applicants. The violence had been intended to crush the protest movement, to punish the prisoners for their peaceful hunger strike and to discourage any further complaints. In those circumstances, the Court found that the applicants had been subjected to treatment which could only be described as torture. There had accordingly been a violation of Article 3 on that account.

tigation by GMP's Money Laundering Unit. "Not only did Daniella Green have full knowledge of Statham's criminality, and not only did it provide her with a lavish lifestyle, she acquired this property knowing that it represented criminal property and indeed took it after his death. It is undeniably in the public interest for us to investigate people like Daniella Green as without them organised crime would not be able to flourish. This house may be made up of bricks and mortar, but it was built on the foundations of criminality; I hope it reassures the public that it will now need to be sold, and the money raised will be reinvested into our communities."

A number of criminal charges against Daniella Green have been ordered to lie on file.

Handcuffing of Konstantin Sizarev in Hospital - Violation of Article 3

63. During his stay in Yevpatoriya City Hospital from 27 April to 13 May 2004 the applicant was handcuffed to his bed. The ward in which he was held had bars on its windows and a lock on its door. Three police officers guarded the applicant at all times. 64. On 11 May 2004 the applicant's lawyer complained to the Yevpatoriya and Crimea prosecutor's offices about the applicant's permanent handcuffing in hospital, which, according to him, was an unnecessary and humiliating measure unsupported by any legal grounds. 65. On 22 May 2004 the Yevpatoriya police department, to which the above-mentioned complaints had been forwarded, completed its "internal investigation" into the matter. It concluded that the handcuffing of the applicant during his treatment in hospital was not contrary to Section 18 of the Pre-Trial Detention Act, which prohibited this measure only in respect of specific categories of detainee (pregnant women, the elderly, the disabled and minors), into none of which the applicant fitted (see paragraph 81 below). Moreover, the applicant had remained under constant medical supervision. In addition, the handcuffs had been removed during meals, when the applicant took his medicine, during hygienic procedures, and additionally for a further thirty to forty minutes per day. 135. The applicant submitted that the handcuffing he had undergone while in hospital had been unlawful, unjustified and humiliating.

136. The Government contended that the applicant had been handcuffed in compliance with domestic legislation and that it had been a necessary measure given the applicant's attempts to leave the hospital ward, as well as the attempts of his supporters to enter it.

137. The Court notes that handcuffing does not normally give rise to an issue under Article 3 of the Convention where the measure has been imposed in connection with lawful detention and does not entail the use of force, or public exposure, exceeding what is reasonably considered necessary. In this regard, it is important to consider, for instance, the danger of the person's absconding or causing injury or damage (see Raninen v. Finland, 16 December 1997, § 56, Reports 1997 VIII, and Hénaf v. France, no. 65436/01, §§ 50-53, ECHR 2003 XI).

138. Turning to the present case, the Court notes that the applicant was continuously handcuffed throughout his sixteen-day stay in hospital, with some brief respite. According to the Government's submissions, this was necessitated, in particular, by his supposedly numerous attempts to leave the hospital ward, as well as the attempts of his supporters to enter the ward The Court is not convinced by this explanation. As suggested by the facts of the case (namely, applicant's admission to the hospital late in the evening on 27 April 2004 and the fact that he was handcuffed on that very date), applicant was restrained from the very outset of his stay there and not following any attempt to escape. Having regard to these circumstances, the Court finds it difficult to imagine how the applicant could have undertaken "numerous attempts" to escape while shackled to his bed. The Government's submission in that respect lacks supporting evidence.

139. The Court further notes that the applicant was guarded by three police officers at all

times, the windows of his ward were barred and the door was equipped with a lock. These measures appear largely sufficient to prevent the applicant's escape, as well as any unauthorised visits to him. The Court also notes that at no point was it asserted that the applicant had behaved aggressively towards the hospital personnel or the police, posed a threat to his own safety or been likely to commit suicide. 140. In these circumstances the Court considers that the handcuffing of the applicant in the hospital was disproportionate to the requirements of security and an unjustifiable humiliation, whether or not intentional. It thus amounted to inhuman and degrading treatment.

141. There has therefore been a violation of Article 3 of the Convention on this account.

Case Of Sizarev V. Ukraine (Application no. 17116/04)

Protection of Personal Property Whilst in Prison

This ECtHR Judgement should be of interest to all prisoners, who have lost property fault of the prison, whilst being transferred from one jail to another. Personal property, no matter that you are serving a prison sentence, is protected by Article 1 of Protocol No.1 of the European Convention on Human Rights

Ukraine: Prisoners tortured in search and security operation following their hunger strike

In Chamber judgment in the case of Karabet and Others v. Ukraine (application nos. 38906/07 and 52025/07), which is not final, the European Court of Human Rights held, unanimously, that there had been: two violations of Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, on account of the applicants having been subjected to torture and on account of the lack of an effective investigation into their allegations of torture; and a violation of Article 1 of Protocol No.1 (protection of property)

The case concerned the treatment of a group of detainees during and after a search and security operation conducted in January 2007 in Izyaslav Prison. The Court held in particular that the large-scale violence against the prisoners, intended to punish them for their peaceful hunger strike, had amounted to torture.

Principal facts: The applicants are 18 Ukrainian nationals who were born between 1968 and 1988. They were all serving prison sentences in Izyaslav Prison, where, on 14 January 2007, they participated in a hunger strike to protest about the conditions of their detention, together with almost all the 1,120 prisoners detained there at the time. On 22 January 2007, the prison authorities conducted a security operation, in which 137 officers - a number of whom belonged to a special forces unit - were involved and which included, in particular, searches of the premises and body searches of a group of 41 detainees. Immediately after the search, 41 prisoners, whom the authorities considered to be the organisers of the hunger strike, including 17 of the 18 applicants, were transferred to different detention facilities in a rushed manner without the possibility to collect their personal belongings. The official report of the search operation noted that "measures of physical influence" were applied to eight prisoners, including two applicants. The report noted no complaints from prisoners.

The applicants allege that, during and/or following the operation: they were brutally beaten by masked security officers and by prison guards - to the point of fainting in the case of some of them; they were tightly handcuffed; they were ordered to strip naked and adopt humiliating poses; they were transported in an overcrowded van; they were deprived of access to water or food and exposed to a low temperature without adequate clothing; and, no adequate medical assistance was provided to them.

Following the operation, many of the applicants' relatives - who had no information about the

applicants' whereabouts - complained to various State authorities, including the Ombudsman, the regional prosecutor's offices and the prison administration, about the alleged ill-treatment and arbitrary transfer of the prisoners. Eight days after the operation, on 30 January, the regional prosecutor questioned seven of the applicants and on the same day they were examined by a forensic medical expert, who noted that two of them had bruises on their buttocks which could have been inflicted by a rubber truncheon. The reports for the other five applicants were all worded identically and were confined to the statement that "no external injuries" had been discovered.

On 5 February 2007, the prosecutor initiated disciplinary proceedings against the governor of Izyaslav Prison, who under the applicable provisions would have been required to inform the prosecutor in advance of the search operation, but had failed to do so. On 7 February 2007, the prosecutor refused to institute criminal proceedings against the prison administration or other authorities involved in the operation. According to the applicants' submissions, their lawyer was only informed of this decision in July 2008. The investigation was reopened in September 2007 and subsequently closed and reopened on a number of occasions, without any further action having been taken.

Complaints, procedure and composition of the Court Relying on Article 3, the applicants complained of having been ill-treated during and after the security operation. They further complained, under Article 13 (right to an effective remedy), that the investigation into these allegations was ineffective. Finally, relying on Article 1 of Protocol No.1, they complained that their personal belongings had not all been returned to them following their hasty transfer to different detention facilities. The case originated in two applications, which were lodged with the European Court of Human Rights on 27 August 2007 and on 21 November 2007, respectively. The Court declared the application inadmissible in the part pertaining to one out of the 18 applicants, as according to the submissions, he was not among the prisoners subjected to the ill-treatment and loss of property complained of and could therefore not claim to be a victim, within the meaning of Article 34 of the Convention (individual applications), of a violation of his Convention rights. The Court delivered its judgement (see below) in respect of the remaining 17 applicants, one of whom died in the course of the proceedings and whose application was pursued by his mother on his behalf.

Decision of the Court - Article 3 (investigation): The Court considered it appropriate to examine the applicants' complaint concerning the investigation of their allegations under Article 3. Given the magnitude of the operation of which the applicants complained and the fact that it had been conducted under the control of the authorities and with their full knowledge, the Court found that the applicants had an arguable claim of ill-treatment. The State authorities had therefore been under an obligation to carry out an effective investigation into the allegations. However, the Court found that the investigation had not been thorough or independent, had not been prompt and had lacked public scrutiny.

In particular, a forensic medical examination had only been arranged for the group of seven applicants who had been transferred to one detention centre, while the remaining ten who had been placed in another detention facility had not undergone any such examination. As regards the first group, only a visual examination had taken place, without a serious attempt to establish all the injuries and determine their cause. As to the applicants' questioning, it had not been ensured that they were protected from intimidation. In particular, there was no evidence that the questioning sessions had taken place without the presence of detention officers. Furthermore, the Court could only agree with the authorities' criticism - when reopening the