terrified, he was taken in restraints and put into a cage in a police van.

ZH was left traumatised and later diagnosed with post-traumatic stress disorder. His father brought claims against the police for assault, battery and false imprisonment; disability discrimination and human rights violations under Articles 3, 5, and 8 of the Human Rights Act – no inhuman or degrading treatment, the right to liberty and the right to respect for private and family life.

The County Court upheld those claims – finding in particular that the child had been subjected to inhuman and degrading treatment. But the Commissioner of the Metropolitan Police appealed – bringing the case back before the Court of Appeal. He objected to suggestions officers should have consulted the carer – arguing it would interfere with the police's "operational discretion". Liberty has intervened to highlight that – in this and other cases involving vulnerable people – negative outcomes can easily result because police are improperly trained and fail to take appropriate advice.

Emma Norton, legal officer for Liberty, said: "In a case like this, simple common sense dictates that the police talk to the carer before deciding to intervene with a disabled child who is not hurting anyone. It also happens to be the law. "The guiding principle is the best interests of the vulnerable person. It would be a good deal easier if the Commissioner of the Metropolitan Police would agree to set up some proper autism awareness training for his officers. As long as the police deny the lessons of this horrifying case, people like ZH continue to be at risk from the very people who are meant to protect them."

European Court of Human Rights -Statisical Information for 2012

In 2012 there were 3,308 applications made by individuals to the Court involving the UK. Of those applications, only 21 (1%) were declared "admissible", which means they were substantially considered by the Court. This means that 99% of applications were struck out (technically disposed of, that is struck out or declared inadmissible) in the very early stages. The 21 UK cases amounted around 2% of the total heard by the Court (1,093). And, of those 21, the Court found a violation against the UK in only ten cases.

Early Day Motion 970: European Court Of Human Rights

That this House notes that Anthony Clayton made an application to the European Court of Human Rights in 2010 (Application: 31251/10); further notes that this application was based on the failure of his legal advisers to enter evidence into court in case HB30448 Smith v Clayton; further notes that it was declared inadmissible by the European Court of Human Rights sitting as a single judge; further notes that no reasons are given bythe European Court of Human Rights; further notes that this difficulty is one that faces many applicants to the European Court of Human Rights; and calls for the Government in its negotiations with the

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, Ray Gilbert, Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
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MOJUK: Newsletter 'Inside Out' No 409 31/01/2013)

CCRC Refers Sentence Of Sharon Logan To Court Of Appeal

Ms Logan was convicted in 2000 at Preston Crown Court of Arson. She pleaded guilty and was sentenced to life imprisonment with a notional determinate sentence of six years. Her application for leave appeal was rejected. Ms Logan applied to the Commission in October 2009.

The Commission has referred the sentence to the Court of Appeal because it considers there is a real possibility that the Court of Appeal will find that Ms Logan would have been made subject to a hospital order at the time of sentence had the sentencing judge been in possession of the information now available, that she meets the criteria now for making a hospital order and that consequently her life sentence should be quashed and substituted with a Section 37 hospital order and Section 41 restriction. She is represented by Switalskis LLP Solicitors

How Prisons Became Asylums, But Worse: Confinement Without Treatment

Sadhbh Walshe, guardian.co.uk, Friday 18 January

The case of Jan Green, placed in solitary when suffering from symptoms, is typical of how prisons warehouse the mentally ill. In July of 2009, Jan Green, a married mother of four, was arrested on suspicion of committing an act of domestic violence, after she apparently attacked her husband with a frying pan. Green had suffered over the years from periodic bouts of mental illness, an issue that came to a crisis on the day of the frying pan incident. She was taken to the Valencia County Detention Center (VCDC) in Albuquerque, New Mexico, where, according to her attorney, it was immediately noted by the staff that she was psychotic and in need of treatment.

Unfortunately for Green – and for the jail staff she is now suing for unspecified damages – the treatment she says she received amounted to being pepper-sprayed in the face and being thrown into a solitary confinement cell. There, she alleges, she was left to rot for the better part of two years, before the charges against her were finally dropped.

According to Green's lawyer, Matthew Coyte, during the two years she spent at the VCDC, she was not only denied medication and therapy, which caused her to deteriorate to the point where she spent hours rocking back and forth in her isolated cell, but also basic sanitary products. Green claims she was allowed to bleed on herself for months at a time. One of the defendants, named only as Jacob in the suit, would taunt Green by waving sanitary napkins in front of her cell window.

When she was occasionally given a sanitary napkin, she was forced to re-use it several times. At one point, due to poor hygiene and lack of exercise, she has deposed, a sock rotted into an open wound in her foot.

Throughout Green's stay in the isolation unit at VCDC, her daughter made several attempts to visit but, the suit alleges, was refused entry. On one occasion, staff said that her mother did not want to see her; on others, they told her she was simply not allowed to see her mother.

When contacted, the jail's warden, Joe Chavez, declined to speak to me or comment about the case. But in an earlier interview with a local newspaper, he had disputed the allegations. He called Green a "tough woman to deal with" and that she "could be abusive". Chavez and County manager Bruce Swingle, also quoted in the article, said Green was never denied medical or mental healthcare; they state that she, in fact, refused both on numerous occasions.

"When she was incarcerated in Valencia County, we didn't just sit on our hands in respect to her," Swingle said. "This is not who we are. This is not what Valencia County is about. I have to say the warden, case manager and staff did an awful lot to try and get this individual help."

Whatever the actuality of Green's treatment (and the outcome of her lawsuit against the county), the most disturbing aspect of how the American criminal justice system dealt with her, as a mentally ill person caught up in it, is that such allegations are far from unusual. The numbers of people with mental health issues in prisons and jails, especially women, are so off-the-charts that it should constitute a national emergency. According to a 2006 report compiled by the Bureau of Justice (pdf), 73% of all women in state prisons and 75% of women in local jails (compared to 55% and 63%, respectively, among men) have a mental health problem.

In addition, nearly a quarter of women in state prisons and jails have been diagnosed with a psychiatric disorder by a mental health professional. Yet, the Bureau of Justice freely admits that among those incarcerated with mental health problems, only one in three state prisoners, and one in six jail inmates, has received treatment since admission.

There is no mention in the report about what happens to the majority of mentally ill prisoners who go untreated, but the evidence suggests that they are not just ignored, but actually brutalized by a system that has failed them at every turn. In the late 1980s, under the directive of President Ronald Reagan, most state-run mental facilities were shut down – with the promise that mentally ill patients would receive better, more humane care in community-based facilities. As detailed in this 2009 statement by the ACLU (pdf) for a joint hearing the issue, these more humane, community-based alternatives never materialized.

We have reached a point where prisons are the new asylums. As prisons are designed to punish, and not to treat, the staff is woefully equipped to provide necessary care. As a result, far too many mentally ill prisoners end up in solitary confinement either for disciplinary infractions – they have a hard time following all the rules – or simply because the staff can't cope.

For her 2007 book Women Behind Bars, Silja Talvi visited the Secure Housing Unit (SHU) in Valley State Prison for Women in California. Her account might easily make you think you were reading about the asylums of Victorian London, complete with half-naked, chained-up prisoners, drooling at the mouth and screaming at the top of their lungs.

"One woman has torn off her clothes and is screaming nonstop about something of coherence to no one but her. The only things I can decipher from her speech are the generously laced expletives that pepper her otherwise imperceptible slur of furious outpourings. (The general consensus among the staff is that she is not really insane but puts on an attention-seeking show they seem to find amusing, a common response to women who behave in this manner.) "One of the other women, on the other hand, isn't doing anything at all. She isn't speaking. In fact, she's not even moving. This woman is huddled as far away from the cell window as possible. Every part of her little body is covered by a drab blanket, although she must, apparently, let her face peek out for count."

There are some glimmers of hope on the horizon that this system of using prisons as asylums – minus the treatment – for the mentally ill may be changing. The ACLU has litigated in several states, including New York, New Mexico, Wisconsin, Ohio, and Indiana, and it is currently litigating on this issue in Arizona. According to the ACLU's Amy Fettig, who has been involved in some of this litigation, "states that don't get sued don't change their policy." Unfortunately, it would appear that even states that do get sued, like New Mexico (where Jan Green was incarcerated), do not necessarily change their behavior.

processes are now in place at the prison. NOMS is considering the recommendations made in the chief inspector's report on Lincoln, which was published on 11 December 2012. As with all establishment inspection reports by HMIP, NOMS intends to produce an action plan responding to all the recommendations made in the report between three and six months after the date of publication. I will therefore write to the noble Baroness detailing the response to the recommendations about this matter once the plan has been sent to the chief inspector.

R v Beeden

The appellant pleaded guilty to two counts of breaching a Sexual Offences Prevention Order and was sentenced to 9 months' imprisonment. Prior to being sentenced for the two breaches, the appellant successfully applied to vary the terms of his SOPO. Had the order been originally drawn in the form it was subsequently to take, he would not have been guilty of an offence. It was submitted that insufficient account was taken of that fact in mitigation and that the resulting sentence was manifestly excessive.

The appeal was dismissed. The court held that the appellant should have complied with the terms of the order until such time as it was varied. It was not mitigation to argue that the term that was breached was later removed.

HMP Glen Parva Suicide: Inquest Rules Misadventure

A jury recorded a verdict of misadventure at an inquest into the death of an immigration detainee found hanged at a young offenders' institute. Riliwanu Balogan was found in his cell at Glen Parva in Leicester the day after his 21st birthday. He died a week later in hospital.

The inquest at Leicester Town Hall was told Mr Balogan said he had nothing left to live for. Coroner Martin Gotheridge described the hearing as a "harrowing inquiry". Mr Balogan was transferred to Glen Parva in 2011 after completing an 18-month sentence for wounding and was awaiting deportation back to Nigeria. The jury was told he came to the UK aged seven and had a troubled childhood, much of it spent in institutions. The morning he was found hanged, Mr Balogan was moved to a safe cell because he was considered a suicide risk.

Dr John Grenville, who carried out a clinical review following the death, said: "Even under continuous supervision his chance of carrying out suicide would have remained high." Martin Gotheridge, coroner for Leicester City and South Leicestershire said: "I want to express my sympathies to the prison staff. It can be very disturbing for them even if they are at no way at fault. "I encourage them to continue to take care of the people in their charge and to not be put off by the stressful events relating to this death."

Liberty Intervenes in Case of Autistic Child Restrained By Met Police

Liberty has intervened in the case of "ZH", a severely autistic child who was heavily restrained by police officers while he visited a local swimming pool. During the trip ZH became fixated by the water. His carer tried to gently distract him, being careful not to touch him given his condition. The carer was also concerned any contact would prompt the child to jump into the pool – despite not being able to swim.

ZH presented no danger to anyone but the pool manager called the police. On arrival an officer failed to consult the carer and went straight up to ZH, touched him on the back and started talking to him directly. As feared the child jumped into the pool as a result. He was then forcibly removed from the water and very heavily restrained by seven police officers. Cold, wet and

prison took a zero-tolerance approach to bullying and violence. The violence reduction programme was a good initiative but had yet to be fully evaluated. Suicide and selfharm reduction was now generally well managed, as was the incentives and earned privileges scheme, although management checks were limited. Disciplinary arrangements were generally fair, although the accommodation in the segregation unit had insufficient furniture. Substance misuse was low, and the introduction of the integrated drug treatment system since the last inspection had been a positive initiative.

Despite attempts by the prison to secure capital funds to replace or fully refurbish the older units, it had been unsuccessful and these units remained in a poor state of repair. Elsewhere accommodation varied and many cells remained dirty and lacked furniture. Relationships between staff and prisoners were generally reasonable and the work of personal officers was better than we often see. Diversity and equality work was generally appropriate, although foreign national prisoners required further support from the UK Border Agency. Care plans for prisoners with disabilities who required them were good. The reorganisation of health services had been positive and the refurbished environment was good. Prisoner access to services was reasonably quick, and the pharmacy and mental health services provision were also good.

Time out of cell was limited and a disappointing number of prisoners were still locked in their cells during our roll checks. Purposeful activity, however, had greatly improved and there were now considerably more activity places. Attendance in activities had improved and quality improvement arrangements had been introduced. Library use had increased, and there was an extensive range of formal and informal PE activities. Resettlement arrangements were generally good. All sentenced prisoners were now allocated to an offender supervisor, and the focus and level of contact were generally appropriate. However, there was still little custody planning for prisoners on remand. Resettlement pathway work was broadly appropriate, although the children and families pathway required more focus. The range of accredited programmes broadly reflected the needs of the prisoner population and some one-to-one support was also available.

Overall this was a good inspection and we are pleased to report the prison's progress. We have identified some key areas that require further work, in particular, the residential accommodation and the amount of time prisoners spend out of their cell. Nevertheless, the governor and staff at HMYOI Glen Parva can be proud of the progress achieved since the last inspection.

Prisons: Lincoln Prison House of Lords / 21 Jan 2013 : Column WA178

Asked by Baroness Stern to ask Her Majesty's Government what action they have taken to respond to the finding of HM Chief Inspector of Prisons set out in his report on Lincoln Prison published in October 2012 that the prison was not safe.

The Minister of State, Ministry of Justice (Lord McNally): I refer the noble Baroness to the Written Answer I provided on 9 January 2012 referred to in Hansard (col. WA 101) where I explained that, NOMS accepts that the performance at HMIP Lincoln was declining at the time of the inspection. The inspectorate report concluded that Lincoln was not effectively applying NOMS violence reduction policies and that conclusion has been fully accepted. Since the inspection of HMP Lincoln, a new governor has been appointed and he has introduced various measures to improve safety, decency and the regime.

NOMS is fully committed to ensuring that prisons are safe places for all those who live and work there and one of its primary aims is delivering safer custody procedures and practices to ensure that a safe environment is provided for staff and prisoners. The governor has introduced a full time safer custody manager with administrative support, and better violence reduction

According to Green's deposition, the guards in the VCDC mocked and degraded her, rather than ensuring she got necessary care. Once she was finally moved to a state hospital, her attorney says, it took just four days of medication and treatment to restore her basic humanity. Despite this turnaround, and like many other mentally ill prisoners incarcerated instead of treated, she may never fully recover.

'Kiss My Arse' Executed Killer's Last Words *New York Daily News 17/01/13*

Unrepentant killer Robert Charles Gleason Jr. was happy to be strapped to the electric chair Wednesday night (16/01/13), but left a parting shot as his final words: "Kiss my ass." Gleason, who was serving life in prison for a 2007 murder and also killed his cellmate, actually uttered his remarks in Irish Gaelic — the phrase “Pog mo thoin.” The 42-year-old inmate is the country’s first execution of 2013, and the first to die by electrocution in Virginia since 2010. He vowed he would strike again if he wasn’t put to death. Despite pleas from his former court-appointed attorneys, who believed he needed a mental competency evaluation, Gleason was pronounced dead at 9:08 p.m. at the Greensville Correctional Center. The unusual choice followed a series of other shocking moves. In Virginia and nine other states, inmates can choose between electrocution and lethal injection.

Gleason had fought last-minute attempts by former attorneys to stop the execution. He told The Associated Press he deserved to die for what he did. “Why prolong it? The end result’s gonna be the same,” Gleason said from death row in his thick Boston accent in one of numerous interviews he’s given to The AP over three years. “The death part don’t bother me. This has been a long time coming. It’s called karma.”

Gleason was serving life in prison without parole when he killed his cellmate in 2009. When the system wasn't moving fast enough, he strangled another inmate in 2010 and warned that the body count would rise if they didn't heed his warnings. “Someone needs to stop it. The only way to stop me is put me on death row,” repeating his threats in court on numerous occasions.

Deputies had to use a stun gun on him during a violent outburst in court in 2008 before he pleaded guilty to a shooting death that sent him to prison for life. Despite there being little evidence against him, Gleason admitted to shooting Mike Jamerson, whose son was cooperating in a federal investigation into a methamphetamine ring that Gleason was involved in. A year later, he got so frustrated when prison officials wouldn't move his new, mentally disturbed cellmate, 63-year-old Harvey Watson Jr., that Gleason hogtied, beat and strangled the older man. Gleason remained in the cell with Watson's lifeless body for more than 15 hours before officers discovered the crime.

While awaiting sentencing at a highly secure prison in the mountains that is reserved for the state's worst inmates, Gleason strangled 26-year-old Aaron Cooper through the wire fencing that separated their individual cages on the recreation yard. Gleason claims he’s killed others — perhaps dozens more — but he has refused to provide details. He claims he's different from the other men on Virginia's death row for one important reason: He only kills criminals.

Winson Green Prison: Man Remanded After Guards Attacked

Ahmed Al-Sharif has been remanded in custody charged with wounding four members of staff at HMP Birmingham. His also accused of assaulting a fifth employee at HMP Birmingham during two incidents in November last year. He was not asked to enter a plea during the hearing at Birmingham Magistrates' Court on Wednesday 23rd May. Al-Sharif, aged 52, is scheduled to reappear at Birmingham Crown Court on 1 May.

Prisoners: Marriage

Robert Flello: To ask the Secretary of State for Justice (1) what arrangements are in place for parties to a marriage to visit each other when both parties are serving a prison sentence;

(2) what arrangements are in place for parties to a civil partnership to visit each other where both parties are serving a prison sentence.

Jeremy Wright: Visits may be allowed, on application, between close relatives when both parties are prisoners at separate establishments and these are normally referred to as inter-prison visits. Within the definition of close relative is a spouse/partner or civil partner. Where a request is made for an inter-prison visit involving two prisoners, including those who would not normally be held in the same type of establishment due to gender or age, governors should make reasonable efforts to accommodate the visit subject to security considerations. The National Offender Management Service policy for this can be found in Prison Service Instruction (PSI) 16/2011, entitled 'Providing Visits and Services to Visitors'.

Ricky Tomlinson Demands Government Disclose Papers On Shrewsbury 24

Matthew Taylor, The Guardian, Sunday 20 January 2013

The actor Ricky Tomlinson, who was one of the building workers imprisoned in one of the most controversial cases involving trade unionists in the past 40 years, is calling for the government to "lift the veil of secrecy" from the case.

Chris Grayling, the justice secretary, has told surviving members of the "Shrewsbury 24" that documents relating to the case will be withheld for a further 10 years. The ban will be reviewed again in 2021. In a letter to campaigners, Grayling said the documents were being withheld under section 23 of the Freedom of Information Act, a section relating to national security. A Ministry of Justice spokesman said the lord chancellor had renewed the decision made by his predecessor in not releasing remaining papers. "The majority of papers relating to this case are already available from the National Archives. Where necessary material can be held for longer than 30 years under the Public Records Act."

But Tomlinson said his co-workers were convinced that the Tory government of the time had been behind the prosecutions. He has called for ministers to release all the relevant information. Tomlinson said: "We were building workers trying to get decent wages and working conditions. What's that got to do with 'national security'? We were convicted for conspiracy in 1972. We knew we were innocent. And now the government continue to throw a security blanket over what really happened … and the role of the security forces. We believe the prosecutions were directed by the government."

The pickets were arrested in 1972 during the first ever national building workers' strike, which lasted 12 weeks and led to a pay rise. But the union's picketing tactics enraged the construction industry and government. Five months after the strike ended 24 people were arrested and charged with offences, including conspiracy to intimidate and affray. They were convicted at Shrewsbury crown court in 1973 and six were jailed. Tomlinson got two years and Des Warren three years.

Their case became a cause célèbre for the left and unions, which believe the builders were victims of a government plot to make an example of trade union activists who took part in successful picketing.

Last year a letter obtained under the Freedom of Information Act revealed there was discussion at the highest level of the Heath government over the decision to prosecute the men.

the last decade, there remained on occasion a tendency towards "over caution". Mr Satchwell added that judges sitting alone or with other judges, should be above prejudice. All journalists have training in the law and no journalist would want to prejudice justice, because of the enormous cost of retrial. It is important that the courts should remember that the first principle of British justice is that it should be fair and the second is it should be open. When you take away that openness, the reason should be explained and it must be a very good reason. The court should remember that secrecy breeds suspicion".

Is this a new first for CCRC, refuse to disclose to applicant or their solicitor, full details of why they are referring the case?

CCRC Refers 1985 Conviction of Martin McCauley to Northern Ireland Court of Appeal. Mr McCauley was tried at Belfast Crown Court in 1985, charged with the unlawful possession of three rifles. He pleaded not guilty but was convicted and received a suspended sentence of two years' imprisonment. Mr McCauley did not appeal against his conviction at the time. In November 2005 he applied to the Commission for a review of his case. Having considered a range of issues, the Commission has decided to refer Mr McCauley's conviction to the Northern Ireland Court of Appeal. The decision is based on information obtained by the Commission that was not known by the trial judge and that, in the Commission's view, raises a real possibility that the Court of Appeal will now quash the conviction.

The information is of a sensitive nature. As a result, the Commission has only been able to supply Mr McCauley and his representative with a summary of the reasons for the referral. A full account of those reasons has been provided in a confidential annex to the Court of Appeal and the Public Prosecution Service. It will be for the Northern Ireland Court of Appeal to make any further decisions on disclosure of the information concerned.

Mr McCauley represented by Madden & Finucane Solicitors, 88 Castle Street, Belfast. BT1 3JF.

Unannounced Short Follow up Inspection of HMYOI Glen Parva

Inspection 31 July–2 Aug 2012 by HMCIP, report compiled Oct 2012, published 32/01/13

Inspectors were concerned to find that: - many cells remained dirty and lacked furniture; - time out of cell was limited; - foreign national prisoners required further support from the UK Border Agency - there was little custody planning for prisoners on remand.

Introduction: Glen Parva a young offender institution in Leicester with a capacity of 800 sentenced, unsentenced and remanded young male prisoners aged 18 to 21. At the time of this inspection prison was operating well below its capacity with 120 available spaces.

On our last visit to Glen Parva in 2009 we reported on a generally safe and respectful establishment that focused appropriately on the role of resettlement and offender management but we raised concerns about the lack of purposeful activity. This unannounced short follow-up inspection reviewed progress in implementing the recommendations we made at our last inspection. A short follow-up inspection such as this focuses only on the progress the prison has made in implementing the recommendations made at the last inspection and so does not provide a complete picture of the establishment as a whole. In total, 73% of all our recommendations had been achieved or partially achieved. We concluded that the prison was making sufficient progress against all four healthy prison tests.

Most prisoners felt safe on their first night although too many were still transferred on overcrowding drafts from HMYOI Feltham. The management of vulnerable prisoners had improved and the

ing a separate inspection into the relationship between the Ombudsman's office and the PSNI.

Justice Minister David Ford welcomed the resumption of historic investigations by the Police Ombudsman. He said: "I am conscious of the distress the decision to suspend the investigations caused the families, police and the wider public. It is however vitally important that there is public confidence in the way in which investigations are carried out and reported. The recommendation by CJI, as an independent and impartial organisation, that OPONI can resume their historic investigations is a positive development." The Department of Justice is also finalising a package of reforms for the Police Ombudsman's office. Mr Ford said: "Of primary importance to me will be to ensure OPONI fulfils its functions with the confidence of the public and the police."

Media Gagged by Lord Chief Justice Declan Morgan

Declan Morgan Lord Chief Justice of Northern Ireland, has gagged the Media over quashed conviction retrial's of Brian Shivers and the three men in the Micheal McIlveen Murder.

This legislation could be used to gag the Justice for the Craigavon Two group, and is clear censorship, the Courts and Public Prosecution Service (PPS) used the Media extensively to profile the accused in all of these trials, the public must have transparent justice.

In the case of Brian Shivers, his is a Diplock non jury trial, is the Lord Chief Justice saying the media may prejudice the single judge who will hear the retrial.

The Explanation for the media blackout is dubious and raises serious suspicion as to the fair and open course of justice for the defendants in the three retrials in question.

Ronan Carty - PRO Justice for the Craigavon Two

Media body warns over new reporting restrictions

A Body that campaigns for media freedom has said the placing of reporting restrictions on a series of retrials could "breed suspicion". Lord Chief Justice Declan Morgan last week imposed total reporting restrictions on three retrials, preventing the media publishing any aspect of the court hearings. Using contempt of court legislation Sir Declan banned any "reporting and/or broadcast of all court proceedings and/or judgements". The surprise intervention relates to two murder cases and a third Crown Court case all due for retrial. One is a Diplock trial, where the judge sits without a jury.

One of the three is that of Co Derry man Brian Shivers (47) who will stand trial in connection with the murders of Sappers Mark Quinsey (23) and Patrick Azimkar (21). They were shot dead outside Massereene barracks in Antrim in March 2009. Another is the trial of three men who are charged in connection with the killing of Co Antrim schoolboy Micheal McIlveen.

The media ban is to stay in place "until such time as the retrial in each of these cases has been disposed of in its entirety, including judgement of the court having been given" Asked for the reasons behind the unprecedented move, a spokeswoman for the Lord Chief Justice's Office said "reporting restrictions have been applied to avoid the risk of prejudice to the administration of justice arising from the reporting of evidence from the first trial being understood by the public as evidence in the second trial, the possibility that members of the public may think the evidence comprises that in both trials and the risk that the defendant may conclude that the reporting of the first trial prejudiced him even before a judge alone"

The Society of Editors, which campaigns for media freedom, published an update set of guidelines on open justice and reporting restrictions in criminal courts four years ago. Chief executive Bob Satchwell said while there had been a shift away from such restrictions over

In the document, dated 25 January 1973, Sir Peter Rawlinson, the attorney general, told the home secretary, Robert Carr, that the strike had produced "instances of intimidation of varying degrees of seriousness" and that he had to decide whether the men should be prosecuted. But he said: "The intimidation consisted of threatening words and … there was no evidence against any particular person of violence or damage to property." Rawlinson said that Treasury counsel, to whom the director of public prosecutions had referred the cases, "took the view that the prospects were very uncertain, and … I agreed with him that proceedings should not be instituted". Despite this assessment, three weeks later the 24 men were charged. The Tory government had close links with the building industry and was always suspected of being under pressure from that quarter to act.

Director of Public Prosecutions v Gautam Chajed

Immediately following conviction counsel raised a further legal issue with the bench. As a result of the legal submission the bench retired and then returned to acquit the defendant, purporting to having reopened the case pursuant to section 142 Magistrates' Courts Act 1980.

Held: The point raised by counsel was a poor point. However, whether a good point or not, section 142 is a slip rule and cannot be used to reopen a conviction. The defendant should have challenged the conviction either by appeal to the crown court or by way of case stated. The point raised did not affect the safety of the conviction so the acquittal would be set aside, restoring to the record the initial finding of guilt.

HM Courts and Tribunals Service Trust Statement (2011-12)

House of Commons / 18 Jan 2013 : Column 48WS

The Parliamentary Under-Secretary of State for Justice (Mrs Helen Grant): Her Majesty's Courts and Tribunals Service (HMCTS) has prepared a trust statement providing an account of the collection of revenues which are due to be paid to HM Treasury. The statement includes the value of fines and confiscation orders imposed by the judiciary; fixed penalties imposed by the police; the value of collections; the balances paid over to third parties including victims of crime, the Home Office and HM Treasury; and the balance of outstanding impositions. We welcome the Comptroller and Auditor-General's (C&AG) report on the trust statement which recognises the improvements HMCTS has made in its accounts. The statement shows in 2011-12 HMCTS collected more than £484 million from offenders. A record £22.3 million in compensation has been paid to victims of crime—funded by criminals' cash and assets recovered through confiscation orders. During 2011-12 the total value of outstanding impositions decreased from £1.9 billion to £1.8 billion. We recognise that more must be done to tackle this outstanding debt. Seventy-five per cent of the orders imposed in 2011-12 have already been paid in full. Of the balance outstanding, £1.2 billion is made up of confiscation orders. Around one third of this is money that cannot be collected—

£141 million (12%) relates to individuals who are deceased, deported or who cannot be located, £40 million (3%) relates to orders which are being appealed and cannot be enforced while under appeal; and £154 million (13%) relates to orders where following the conclusion of financial forensic investigations the assets have been assessed as hidden. Also, £278 million is interest which has accrued on confiscation orders which are outside the agreed payment terms.

Cracking down on those who do not pay is an absolute priority. The agencies involved in enforcement, including the Ministry of Justice, the Home Office, the Serious Fraud Office and the Crown Prosecution Service take every step to tackle outstanding debt including target-

ed fine blitzes, taking deductions from offenders' benefits or their earnings and by seizing and selling their property and goods. Those who do not pay can go to prison.

Criminals go to extraordinary lengths to hide the proceeds of their crimes by transferring funds abroad and disguising it with friends and family, but we are succeeding in recovering more money every year. The agencies responsible for enforcement are building better relationships with overseas authorities and engage specialist forensic teams to track down hidden assets. Crucially, an outstanding order stops the criminal benefiting from the proceeds of crime and from using it for further criminal activity. If they ever surface, the assets will be seized.

HMCTS is actively seeking a commercial partner to help increase fine collection, reduce enforcement costs and importantly, ensure more criminals pay. Also, a new system is being implemented to improve the collection of fixed penalty notices, making payment easier and further improving the financial information. The continuing improvement the agencies are making, combined with our future plans will ensure that more criminals pay and that taxpayers get better value for money.

Regina v Nelson (Gary)

An allegation of assault by beating did not amount to or include, whether expressly or by implication, an allegation of common assault. It would not, therefore, be open to a jury to acquit a defendant of assault by beating but to convict him of common assault, unless the offence of common assault was charged as a separate count in the indictment.

The Court of Appeal, Criminal Division, so held when allowing an appeal by the defendant, Gary Nelson, against his conviction on 23 January 2012 in the Crown Court at Leeds (Judge Kearl QC and a jury) of common assault, as an alternative to assault by beating (count 1). He was acquitted of assault occasioning actual bodily harm (count 2) by direction of the trial judge.

Section 6(3) of the Criminal Law Act 1967 provides: "Where, on a person's trial on an indictment for any offence except treason or murder, the jury find him not guilty of the offence specifically charged in the indictment, but the allegations in the indictment amount to or include (expressly or by implication) an allegation of another offence falling within the jurisdiction of the court of trial, the jury may find him guilty of that other offence or of an offence of which he could be found guilty on an indictment specifically charging that other offence."

Keith J, giving the judgment of the court, said that the defendant was a prisoner serving life imprisonment. He threw a punch at a prison officer because, as was said on his behalf, the officer had been moving an electronic metal detector in what was described as a threatening way, but the punch missed. He was charged with an offence of assault by beating but the judge decided, on the basis of a passage at para 19-232 of Archbold Criminal Pleading, Evidence and Practice 2012 (reproduced in identical terms in the 2013 edition), to leave common assault to the jury as an alternative, although he had earlier refused to allow the indictment to be amended to add a count of common assault. The jury acquitted the defendant of assault by beating but convicted him of common assault so they were to be regarded as having been sure only that the defendant threw a punch at the prison officer and not having been sure that the punch landed.

This appeal raised the issue whether common assault could be left as an alternative to an offence of assault by beating. That turned on the application of section 6(3) of the Criminal Law Act 1967 which meant that, if the jury was to be able to convict a defendant of common assault on an indictment alleging assault by beating, all the ingredients of the offence of common assault had to be included in the ingredients of the offence of assault by beating.

cost to the Prison Service in respect of each suspended member; and (vi) the combined total cost in the Colin Bell and the John Derry cases.

Response: As less than five members of staff were suspended and subsequently dismissed from the Northern Ireland Prison Service, in both cases cited, the information has been withheld. This is to protect the identity of the individuals concerned as disclosure would be contrary to the Data Protection Act 1998.

Northern Ireland: 150 Unsolved Murder Cases Restarted *Belfast Telegraph, 23/01/13*

The Northern Ireland Police Ombudsman is to re-start investigations into 150 unsolved murders linked to the Troubles. Dr Michael Maguire said new structures had been put in place to help deal with complaints about sensitive and complex cold cases. He said: "Under the law, the PSNI's Historical Enquiries Team has had to refer certain incidents during the Troubles to my office for independent investigation. Members of the public across the community have also made complaints about serious matters, including deaths, during this period. It is important that these matters are dealt with."

Work on historical cases was suspended in September 2011 after the Criminal Justice Inspectorate (CJI) raised concerns about the handling of controversial high profile cases. The CJI found reports had been heavily influenced and buffeted by feedback from non-governmental organisations, families, their legal representatives and the Police Service of Northern Ireland (PSNI). There was also an inconsistent approach to how families were briefed. Chief executive Sam Pollock also resigned, claiming the Ombudsman's office lacked independence.

In its latest report which is published today, the CJI said public confidence in the Police Ombudsman's office had been restored. Inspectors found substantial progress had been made since Dr Michael Maguire was appointed last July. They also said there was a sea change within the organisation since the departure of Canadian Al Hutchinson and noted new quality assurance processes had been implemented. CJI chief inspector Brendan McGuigan said: "This review found evidence that substantial progress had been made against our initial recommendations since September 2011.

"New structures and processes had been put in place within the OPONI (Office of Police Ombudsman Northern Ireland), which focused on providing comprehensive and robust quality assurance of investigations into historical cases and the subsequent production of public reports. "Given the important role the OPONI has in terms of providing independent oversight of policing in Northern Ireland and the impact this has on public confidence, it is my intention to return to this issue again when a number of historic reports have progressed through the process and been published."

The Ombudsman's historic investigations unit, which has a staff of 40 and an annual budget of £2 million, will now look into allegations of police involvement in criminality between 1968 and 1998. It is expected to complete two complex investigations - some of which may be linked to 20 others - and six stand-alone cases each year.

According to the CJI, the history department's skills base had been enhanced by the recruitment of experienced senior investigating officers. This was the first time the CJI has published a report since Dr Maguire, a former CJI chief inspector, took up his post as Ombudsman. The Criminal Justice Inspectorate was set up under the Good Friday Agreement to hold criminal justice agencies to account. The police, courts, probation and prison services are among the key criminal justice organisations inspected regularly. The oversight body is also conduct-

He ranked it as one of the top three threats of corruption to the service, alongside the misuse of police information systems and steroid abuse amid fears that the supply of the drugs in gyms will lead to officers fraternising with serious criminals and quickly getting out of their depth.

It comes after Pc Stephen Mitchell was jailed for life in January 2011 for a string of sexual assaults and rapes on drug addicts and shoplifters who had been arrested. The Northumbria Police constable offered them help while in custody, then demanded sexual favours afterwards. Trial judge Mr Justice Wilkie said Mitchell, formerly of Whitley Bay, North Tyneside, was a "ruthless sexual predator" who was a danger to women.

The IPCC called for more vetting of officers in specific situations, such as those dealing with vulnerable people, last September after it uncovered more than 50 cases in two years which showed corrupt behaviour by officers which was considered to be sexual exploitation or assault.

Mr Cunningham, the lead on professional standards for the Association of Chief Police Officers, said both police leaders and the police watchdog "saw cases of officers abusing their powers for sexual favour, sometimes with vulnerable people, victims of domestic abuse". While the Mitchell case was the "most serious", he said that "we found when we asked force professional standards departments that most forces were investigating allegations against officers abusing their positions for sexual favours". *By Wesley Johnson, Telegraph, 22/01/13*

5) Officer Shooting Death: Force Guilty *Jack Sommers - Police Oracle 23/01/13*

Greater Manchester Police has pleaded guilty to breaching health and safety law over the death of one of its officers during firearms training in what was dubbed a "justice milestone" for his family. PC Ian Terry (32) died in June 2008 during an exercise at Newton Heath, when he was shot. He was not wearing body armour. On January 22 at Liverpool Crown Court, the force pleaded guilty to the charge of breaching section two of the Health and Safety At Work Act 1974. Two GMP firearms officers, whose identities are protected by a court order, have also denied one count each of breaching section seven of the same act. This compels employees "to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work" and to co-operate with colleagues in their duties "so far as is necessary to enable that duty or requirement to be performed or complied with".

The prosecutions were brought by the Health and Safety Executive, following its own investigation. In a statement, an HSE spokesman said: "We welcome Greater Manchester Police's guilty plea. Ian's death has caused his family considerable suffering and grief, and today marks a significant milestone in securing justice for them and for Ian. "We will not be saying any more at this time as there is an ongoing prosecution against the two individual officers, who have entered not guilty pleas." The force will be sentenced for the breach on March 20 at Preston Crown Court. The maximum penalty is an unlimited fine. The two officers are due to appear at Manchester Crown Court in June for a trial. A spokeswoman for the force declined to comment.

Deaths in custody of Colin Bell and John Deery at HMP Maghaberry

To ask the Minister of Justice for Northern Ireland Assembly, in relation to the staff suspended from duty and subsequently dismissed following the investigations into the deaths in custody of Colin Bell and John Deery at Maghaberry Prison, to detail the (i) start and end date of each suspension; (ii) dates of recommendations by Adjudicating Governors to dismiss the staff members; (iii) the staff who appealed to the Prison Service and the date that each appeal was determined by the Head of Human Resources and Organisational Development; (iv) the result of each appeal; (v) the total

The offence of common assault was committed when the defendant did something of a physical kind which caused someone else to apprehend that they were about to be struck. It followed that an ingredient of common assault was that the assault had to have been apprehended by the person who was alleged to have been the victim of that assault. Such an apprehension, however, was not required for the offence of assault by beating. Accordingly, an allegation of assault by beating did not amount to or include, whether expressly or by implication, an allegation of common assault and it had, therefore, not been open to the jury to convict the defendant of common assault by virtue of section 6(3) of the 1967 Act. However, if there had been an alternative count of common assault on the indictment, there would have been nothing to prevent the jury from convicting the defendant of common assault once he had been acquitted of assault by beating. Their Lordships sympathised with the judge, faced as he was with the passage in Archbold to which reference had been made. What that passage did not do was to identify for which offences a verdict of common assault could be returned as an alternative.

The Crown then asked that a conviction of attempted assault by beating be substituted for the defendant's conviction of common assault, pursuant to the Court of Appeal's power under section 3 of the Criminal Appeal Act 1968. The difficulty there was that section 1(4) of the Criminal Attempts Act 1981 provided that a defendant could only be guilty of attempting to commit an offence where the offence, if it had been completed, "would be triable in England and Wales as an indictable offence". In their Lordships' judgment, although the offence of assault by beating was, by section 39 of the Criminal Justice Act 1988, a summary offence, this particular offence was part of a series of offences charged against the defendant of which one was the indictable offence of assault occasioning actual bodily harm. It followed that the offence of assault by beating was one which was triable in England and Wales as an indictable offence, and it was open to the court to substitute a conviction of the offence of attempted assault by beating for the conviction of the offence of common assault.

But should the court do so in this case? The state of the evidence at the close of the Crown's case on whether the punch had landed caused the defence to make the tactical decision not to pursue any longer its other line of defence that the defendant had not been acting unlawfully, and was a factor in the defendant's decision not to give evidence. That tactical decision might have been very different if, before the defendant had elected not to give evidence, he had known that he was liable to be convicted of common assault even if the punch had not landed. The question then arose of whether the jury must have been satisfied of those facts which would have proved the defendant's guilt of the offence of attempted assault by beating. The jury must have been satisfied of those facts, but their decision would have been based on the fact that the lawfulness of the defendant's throwing of the punch had not been asserted. But for the judge's initial refusal to add a count of common assault to the indictment as an alternative to count 1, the tactical decision made by the defence might have been different, and if the defendant had given evidence, it might have resulted in the defendant's acquittal on the alternative charge of common assault. If he had been acquitted, the opportunity for the Court of Appeal to substitute a verdict of guilty of attempted battery would not have arisen.

The power to substitute a conviction for an alternative offence under section 3 of the Criminal Appeal Act 1968 was discretionary, and was to be exercised in the light of what would be just in all the circumstances of the case: see R v Peterson [1997] Crim LR 339. In their Lordships' judgment it would not be just to substitute a conviction of attempted assault by beating for the conviction of common assault. In those circumstances the appeal would be

allowed and the conviction of common assault quashed.

Their Only Doing Their Job, Tra la, Tra la, Tra la la la la la!

1) Man Shot With Taser by Police Dies in Hospital *Guardian, Sunday 20 January 2013*

A man shot by police using a Taser during his arrest has died in hospital. Martin Baskeyfield, 44, was detained for motoring offences on 29 September last year. During the arrest he was subdued by officers who shot him using the Taser stun-gun. Five days later he was admitted to the University Hospital of North Staffordshire. He died on 14 January. Charges of motoring offences levelled against Baskeyfield were withdrawn after his death. Medical tests are being carried out to determine whether there is a link between the use of the Taser, more than three months ago, and his death. Following his arrest, Baskeyfield's relatives made a complaint to Staffordshire police over the level of force used. The force referred the incident to the Independent Police Complaints Commission.

"The IPCC is independently investigating the arrest of Martin Baskeyfield in Stoke-on-Trent. During the arrest in Cotterill Grove, he was Tasered and was later charged with offences and released on bail. "On 9 October 2012, Staffordshire police received a complaint about the police use of force during the arrest. The IPCC investigation continues into the full circumstances of the arrest. Sadly, Mr Baskeyfield passed away in hospital on 14 January this year. A Home Office postmortem is being conducted to determine cause of death and the coroner has been informed." Staffordshire police said it was co-operating fully with the IPCC investigation.

2) Police Tasered Dale Burns Four Times in Under a Minute Before Death

Dale Burns, 27, from Barrow-in-Furness, Cumbria, died hours after being repeatedly hit "without warning" by the electric shock gun and pepper-sprayed in the face, as officers tried to hold him with handcuffs and leg restraints, the hearing was told. Burns, a father of two, was described as a "gentle giant but with a drug habit" who had taken a "gram of Madcat", an illegal drug, on the day he died, the inquest at the County Hall in Kendal heard. Burns died at Furness General hospital two hours after police were first called to his flat on 16 August 2011.

Alan Sharp, the deputy coroner for south and east Cumbria, told the jury of five women and six men they may have to see distressing CCTV footage of a wild-eyed and agitated Burns in the police van after his arrest for criminal damage. Outlining the case, Sharp told the jury that at around 6pm a woman living in the flat below Burns noticed water coming through her ceiling. The landlord's agent was called and broke into Burns's flat to find him undressed, thought to be high on drugs and possibly self-harming. The police were called at 6.33pm. Two police cars and a police van arrived, with a total of six officers. They found Burns in his flat naked from the waist up, sweating and very agitated. "Dale told PC Milby, 'I have taken one gram of Madcat'," said Sharp, referring to the drug MDPV, or methylenedioxypyrovalerone. The officers decided to call an ambulance and "tried to engage Dale" in the living room, with the situation seemingly under control. But when the paramedics arrived, Burns "indicated in clear terms" he did not want treatment and they left.

As the bathroom toilet, extractor fan and light fitting were broken, Burns would have to be arrested for criminal damage, the inquest was told. He was becoming increasingly agitated and aggressive, throwing things around the room and objects out of the flat window on to the street below. "After throwing a glass out of the window, Dale turned towards PC Milby and approached him, eyes rolling into the back of his head with fists clenched," Sharp told the jury. "He was fearful he would be attacked and feared for his own safety. The officers said there was simply no time to issue a warning."

At 6.50pm PC Kilby fired the Taser for the first time, with the barbs lodging on Burns's torso, and a five-second pulse of electrical charge struck him. It caused him to fall backwards

then forwards, knocking his head on a TV cabinet, said Sharp. Three seconds later the officer discharged the Taser again, for a further five seconds, but this allegedly did not stop Burns, who struggled as officers tried to handcuff him. Twenty-three seconds later the Taser was used again. Between the second and third discharge another officer used a pepper spray on Burns. The third discharge was "not successful" in enabling the officers to handcuff him, and at 6.50pm and 52 seconds the Taser was used on him for a fourth and final time. The officers then managed to get handcuffs and leg restraints on him, and decided to carry him down the three flights of stairs to the police van outside to take him directly to hospital. "During all this time, Dale was said to be struggling violently with the officers," Sharp said.

Burns was carried to the emergency ward at Furness hospital in Barrow, where medics administered diazepam at 7.35pm and he calmed down. But at 7.43pm he had a seizure that lasted several seconds. He was connected to a monitor that showed he had high heart rate, blood pressure and temperature, plus low blood-sugar levels. Burns then suffered a heart attack, and despite hospital staff and a police officer giving CPR for 40 minutes, he was pronounced dead at 8.41pm. A postmortem examination revealed there was no abnormality in Burns's heart, but there were traces of MDPV in his blood. *guardian.co.uk, 21/01/13*

3) Police Corruption: Criminals 'Give Officers Steroids'

Dozens of police officers are being investigated over their use of anabolic steroids supplied by criminals in gyms, an anti-corruption report has revealed. It warns that the many officers who use drugs to boost their strength risk corruption if they depend on dealers. The Association of Chief Police Officers (ACPO) in England and Wales ordered the report from the anti-corruption group Transparency International. It says some officers also abuse their power to obtain sexual favours.

The report urges "zero tolerance" on corruption and says forces should not "fire-fight" their way from crisis to crisis. Acpo's spokesman on professional standards, Staffordshire Chief Constable Michael Cunningham, said the problems caused by officers taking steroids were "a significant threat". He said almost all of the 43 forces in England and Wales were investigating police officers involved in bodybuilding who had formed inappropriate relationships with people supplying the drugs. "In most forces there will be a police officer who is into bodybuilding and the gym and who would abuse steroids," he said. Such cases would often start with officers going to gyms, starting to experiment with steroids - "then the relationships they form when they're using steroids become corrupt and corrosive", and other top risk factors for corruption included the misuse of information systems.

Chief constables will meet to talk about how best to tackle corruption allegations. They will discuss plans including making gross misconduct hearings open to the public and the media as well as setting up ethics committees - independent of the police and crime commissioners - for each force. In December, the Inspectorate of Constabulary called on forces to improve plans to combat corruption. Investigations into corruption are rising but too few forces are gathering intelligence to prevent it happening, it found. *BBC News, 23/01/13*

4) Sexual Exploitation By Police Top Threat To Police

Dozens of officers are under investigation for abusing their position for sexual favours as police leaders warned it was one of the top three threats of corruption which strikes at the heart of public trust. Chief Constable Mike Cunningham said most forces across England and Wales were investigating officers accused of abusing their position for sexual favours, sometimes with vulnerable victims of domestic violence.